



Staff Report

Human Resources

Report To: Committee of the Whole
Meeting Date: December 04, 2017
Report Number: FAF.17.146
Subject: Update on Integrity Commissioner Policy Review
Prepared by: Jennifer Moreau, Human Resources Manager

A. Recommendations

THAT Council receives the Staff Report FAF.17.146 "Update on Integrity Commissioner Policy Review" for information.

B. Overview

As directed by Council, the Town's Integrity Commissioner is reviewing the following Town policies:

- 1) Workplace Violence and Harassment Program,
- 2) Code of Conduct for Members of Council
- 3) Complaint Protocol.

This staff report provides notice to Council and the public, that the policy review is complete and the Integrity Commissioner will be present on January 8, 2018 to present the draft policies to Council to consider adopting.

C. Background

On November 14, 2016 at a Committee of the Whole meeting Staff Report FAF.16.99 Town's Workplace Harassment and Violence Program as attached as Appendix "4" 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 Program.

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 as attached as Appendix “5” 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 Program 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 Program, 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 following policies:

1. Code of Conduct for Members of Council
2. Complaint Protocol
3. Workplace Violence and Harassment Program

The draft policies are provided as Appendix “1” “2” and “3” of this report.

D. Analysis

The work on policy revision with the Integrity Commissioner is complete. The Integrity Commissioner will be present at the January 8, 2018 Committee of the Whole meeting to recommend adoption of the policies to Council. This report presents the proposed policies to Council and interested Public to allow ample time to review the policies prior to the Integrity Commissioners presentation to Council. Bill 68 being the bill to modernize Ontario’s municipal legislature has been considered while drafting the policies and changes have been included in each draft to reflect legislative revisions.

E. The Blue Mountains Strategic Plan

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

F. Environmental Impacts

Not applicable

G. Financial Impact

Having policies in place helps to ensure clarity and consistency and should assist in reducing costs associated with requiring outside legal review and Integrity Commissioner review.

H. In consultation with

- Janet Leiper, Integrity Commissioner
- Shawn Everitt, Acting Chief Administrative Officer

I. Attached

1. Workplace Harassment and Violence Program Draft
2. Code of Conduct for Members of Council Draft
3. Complaint Protocol Draft
4. Staff Report FAF.16.99
5. Staff Report FAF.17.02

Respectfully Submitted,

Jennifer Moreau
Manager Human Resources

For more information, please contact:
Jennifer Moreau, Human Resources Manager
hr@thebluemountains.ca
519-599--3131 extension 244



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:
Council or Board Member	CAO or Manager of HR/Integrity Commissioner via Town Clerk 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.	Mayor/CAO/Manager of HR All Complaints with a Council Member/Board Member as a respondent are to be directed to the Integrity Commissioner via the Town Clerk.
Employee	CAO/Manager of HR or Health and Safety Coordinator. 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. 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.

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

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.



Code of Conduct for Members of Council and Local Boards

POL.COR.

Policy Type: Corporate Policy (Approved by Council)
Date Approved: December 14, 2007
Department: Administration
Staff Report:
By-Law No.: 2017-

Policy Statement

Policy direction for the behaviour of Members of Council in the performance of their duties and responsibilities as elected community representatives.

Purpose

Subsection 223.2(1) of the *Municipal Act, 2001* authorizes a municipality to establish codes of conduct for Members of the council of the municipality and of local boards. Subsection 223.3(1) also authorizes a municipality to appoint an Integrity Commissioner who would be responsible for performing in an independent manner the functions assigned by Council with regard to the application of a Code of Conduct.

Subsection 223.2(1) of the *Municipal Act, 2001* requires a municipality to establish codes of conduct for Members of the council of the municipality and of local boards. Subsection 223.3(1) also authorizes a municipality to appoint an Integrity Commissioner who is responsible for performing in an independent manner the functions assigned by Council with respect to the application of the code of conduct, the application of any procedures, rules and policies of the municipality and local boards governing the ethical behaviour of members of council and of local boards, the application of sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act* to members of council and of local boards, requests for advice by members of council and of local boards about obligations under the code of conduct, procedures, rules, policies or the *Municipal Conflict of Interest Act* and the provision of education information to members of council, members of local boards, the municipality and the public about the

municipality's codes of conduct for members of local council and members of local boards and about the *Municipal Conflict of Interest Act*.

Where a municipality has not appointed an Integrity Commissioner, subsection 223.3(1.1) of the *Municipal Act* requires it to make arrangements for all of the responsibilities set out in subsection 223.3(1) to be provided by the Commissioner of another municipality.

The Code of Conduct sets minimum standards for the behaviour of Council Members in carrying out their functions. It has been developed to assist Council to:

1. Understand the standards of conduct that are expected of them and the law that applies in relation to these standards;
2. Fulfill their duty to act honestly and exercise reasonable care and diligence; and
3. Act in a way that enhances public confidence in local government.

Application

This policy applies to Members of the Council of The Corporation of the Town of The Blue Mountains in the performance of their duties and responsibilities as elected community representatives, as well as Members of Town Committees and Local Boards.

Definitions

Municipality – means The Corporation of the Town of The Blue Mountains.

Members – means Members of Council, Town Committees and Local Boards of the Town of The Blue Mountains.

Committee - means any advisory or other committee, subcommittee or similar entity of which at least 50 per cent of the Members are also Members of one or more Councils or local boards.

Local Board - means a local board established or exercising any power under any Act with respect to the affairs or purposes of one or more municipalities but does not include The Blue Mountains Police Services Board or The Blue Mountains Public Library Board, a school board, a hospital board or a conservation authority.

Integrity Commissioner -The person appointed by Town Council By-Law in accordance with Section 223.3 of the *Municipal Act, 2001* and who is responsible for performing in an independent manner the functions assigned by the municipality with respect to the application of the Code of Conduct for Members of Council and Local Boards.

Integrity Commissioner -The person appointed by Town Council By-Law in accordance with Section 223.3 of the *Municipal Act, 2001* and who is responsible for performing in an independent manner the functions set out in subsection 223.3(1) 1-7.

Procedures

1. Statement of Principle

A written Code of Conduct helps to ensure that the Members of Council, Committees and Local Boards of the municipality share a common basis of acceptable conduct. These standards are designed to provide a reference guide and a supplement to the legislative parameters within which the Members must operate. These standards should serve to enhance public confidence that The Blue Mountain's elected and appointed representatives operate from a base of integrity, justice and courtesy.

Members are responsible for making honest statements. No Member shall make a statement when they know that statement is false. No Member shall make a statement with the intent to mislead Council Members and the public.

The Town of The Blue Mountain's Code of Conduct is a general standard that augments Provincial laws and municipal policies and by-laws that govern conduct. It is not intended to replace personal ethics.

This Code of Conduct is consistent with the existing statutes governing the conduct of Members. (i.e. the *Municipal Act, 2001*, the *Municipal Conflict of Interest Act* and the *Municipal Freedom of Information and Protection of Privacy Act*) The *Criminal Code of Canada* also governs the conduct of Members of Council.

All Members whom this Code of Conduct applies to shall serve their constituents in a conscientious and diligent manner. No Member shall use the influence of office for any purpose other than the exercise of his or her official duties.

2. Gifts and Benefits

No Member shall accept a fee, advance, gift or personal benefit that is connected directly or indirectly to the performance of his or her duties of Office, unless permitted by law. Members shall make decisions based on impartial and objective assessment, free from the influence of gifts, favours, hospitality and entertainment.

Members shall decline any personal gift where the acceptance of such gift would imply a contractual agreement with or obligation to the donor. In particular, Members shall decline any gift, payment, hospitality or entertainment paid for by a person or persons seeking to do business with the Town or of anyone known to the Member to be lobbying a Member on behalf of such a person.

This section does not apply to tokens, mementoes, souvenirs, or such gifts or benefits up to and including a value of \$300.00 that are received as an incident of protocol or social obligation that normally accompanies the responsibilities of office. Tokens, mementoes, souvenirs or gifts with a value of greater than \$300.00 shall be the property of the municipality.

This section does not apply to compensation authorized by law, services provided without compensation by persons volunteering their time, a political contribution otherwise reported by law, in the case of Members running for office or food, lodging, transportation and entertainment provided by provincial, regional and local governments or political subdivisions of them, by the federal government or by a foreign government within a foreign country, or by a conference, seminar or event organizer where the Member is either speaking or attending in an official capacity.

No Member shall seek or obtain by reason of his or her office any personal privilege or advantage with respect to Town services not otherwise available to the general public and not consequent to his or her official duties.

3. Confidentiality

All information, documentation or deliberation received, reviewed or taken in closed session of Council and its Committees and Local Boards are confidential.

Members shall not disclose or release by any means to any Member of the public either in verbal or written form any confidential information acquired by virtue of their office, except when required by law to do so. Where a matter has been discussed at a closed session meeting and the information remains confidential, no Member shall disclose the content of the matter or the substance of deliberations of the closed session meeting.

Members shall not permit any persons other than those who are entitled thereto to have access to information that is confidential.

Particular care should be exercised in ensuring confidentiality of the following types of information:

- Labour relations and personnel matters;
- Information about suppliers provided for evaluation which might be useful to other suppliers;
- Matters relating to the legal affairs of the Town of The Blue Mountains;
- Information that infringes on the rights of others (i.e. sources of complaints where the identity of the complainant was given in confidence);
- Items under litigation or negotiation;
- Price schedules in contract tender or Request for Proposal submissions if so specified;
- Information deemed to be “personal information” under the *Municipal Freedom of Information and Protection of Privacy Act*; and

- Statistical data required by law not to be released (e.g. certain census or assessment data).

This list is provided as an example and is not exclusive. It is recommended that requests for information be referred to the Office of the Clerk to be addressed as either an informal request for access to municipal records or as a formal request under the *Municipal Freedom of Information and Protection of Privacy Act*.

4. Use of Town Property

Subject to Section 5, no Member shall use for personal purposes any Town property, equipment, services, supplies or services of consequence other than for purposes connected with the discharge of Town duties or associated community activities of which Town Council has been advised.

No Member shall obtain financial gain from the use of Town developed intellectual property, computer programs, technological innovations or other patentable items, while an elected official or thereafter. All such property remains the exclusive property of the Town of The Blue Mountains.

No Member shall use information gained in the execution of his or her duties that is not available to the general public for any purposes other than his or her official duties.

5. Use of Town Technology Resources

The Town of The Blue Mountains licenses the use of computer software from a variety of vendors. The Town does not own the software or its documentation. Software is normally copyrighted, and no individual may copy or distribute the software unless expressly permitted to do so under the applicable licence.

6. Work of a Political/Personal Nature

Members shall comply with Town Policy A.POL.01, Use of Corporate Resources for Election purposes and no Member shall use Town facilities, services or property for his or her re-election campaign. Further, no Member shall use the services of Town employees for his or her re-election campaign, during hours in which the employees are in the paid employment of the Town.

No Member shall use Town facilities, services or property for his or personal business gain. No Member shall use the services of Town employees for his or her personal business during the hours in which the employees are in the paid employment of the Town.

7. Conduct at Meetings

Members shall conduct themselves with decorum at Council, Committee and Local Board meetings in accordance with the provisions of the Town's Procedural By-law.

Respect for deputations and for fellow Members and staff requires that all Members show courtesy and not distract from the business of Council, Committees and Local Boards during presentations and when other Members have the floor.

8. Representing the Town

Members shall make every effort to participate diligently in the activities of the Agencies, Committees and Local Boards to which they are appointed.

9. Respect for the Role of Staff

Members shall be respectful of the fact that staff work for the Town as a body corporate and are charged with making recommendations that reflect their professional expertise and corporate perspective. Members must not falsely or maliciously injure the professional reputation of staff Members. Members shall be further respectful of the fact that staff carry out the directions of Council and administer the policies of the municipality, and are required to do so without any undue influence from any individual Member or group of Members of Council.

Where a Member has a concern about personnel matters, he or she should speak with the Mayor and/or the Chief Administrative Officer about the concern or alternatively raise the issue with Council during an *in camera* session.

Members must not invite or pressure any Member of staff to engage in partisan political activity nor subject staff to discrimination or reprisal for refusing to engage in such activities.

10. Business Relations

No Member shall borrow money from any person who regularly does business with the Town unless such person represents an institution or company whose shares are publicly traded and who is regularly in the business of lending money.

No Member shall act as a paid agent before Council or any Committee or Local Board of Council or any Agency at which the Town is represented.

11. Expenses

Members shall comply with the provisions of the Town's applicable policies relative to per diem payments and expenses governing reimbursement for attendance at conferences, seminars, training courses and workshops.

Members shall be reimbursed for their out-of-pocket expenses incurred in accordance with approved Town policies while attending official functions and representing the Town in their official capacity.

12. Encouragement of Respect for the Town and its By-Laws and Policies

Members shall encourage public respect for the Town and its by-laws and policies. Members shall abide by the provisions of any policies adopted by Council, committees or local Boards which apply to the conduct of Members.

13. Discrimination and Harassment

Members have a duty to treat members of the public and one another with respect and without abuse, bullying or intimidation.

All persons shall be treated fairly in the workplace in an environment free of discrimination and of personal and sexual harassment. Members are not to engage in any course of conduct or make comments that would constitute workplace harassment.

Harassment may be defined as any behaviour by any person that is directed at or is offensive to another person on the grounds of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, age, handicap, sexual orientation, marital status, or family status and any other grounds under the provisions of the Ontario Human Rights Code.

Members are responsible for communications that may constitute harassment, whether in person, in writing, by public comment and on-line, including via social media.

14. Advice

Members seeking information about their responsibilities under this Code of Conduct are encouraged to request advice from the Integrity Commissioner appointed by Town Council.

A request by a Member for advice from the Integrity Commissioner under the Code of Conduct, any procedure, rule or policy of the municipality or of the local board, as the case may be, or for advice respecting their obligations under the *Municipal Conflict of Interest Act* shall be made in writing. If the Integrity Commissioner provides such advice, that advice shall be in writing.

Advice provided by the Integrity Commissioner to a Member may be released with the member's written consent. If a member releases only a part of the advice provided to the member by the Commissioner, the Commissioner may release part or all of the advice provided to the Member without obtaining the Member's consent.

15. Respect for Code of Conduct

Members should respect the process for complaints made under the Code of Conduct. Members shall not act in reprisal or threaten reprisal against a person who makes a complaint or against a person who provides information to the Integrity Commissioner during an investigation.

Consequences of Non-Compliance

Where Council or a Local Board (as applicable) receives a report from the Integrity Commissioner that there has been a violation of the Code of Conduct by a Member of Council or Local Board, Council or the Local Board may impose either of the following penalties on the Member as permitted by the *Municipal Act, 2001*:

- (a) a reprimand;
- (b) a suspension of the remuneration paid to the Member in respect of his or her services as a Member of Council for a period up to 90 days.

Council or the Local Board as the case may be, may, on the basis of a recommendation from the Integrity Commissioner take any or all of the following actions and require that the Member:

- (i) provide a written or verbal apology;
- (ii) return property or make reimbursement of its value or of money spent;
- (iii) be removed from the Membership of a Committee; or
- (iv) be removed as chair of a Committee.

References and Related Policies

The *Municipal Act, 2001*, the *Municipal Conflict of Interest Act*, the *Municipal Freedom of Information and Protection of Privacy Act*, Procedural By-law No. 2007-29, Town Policies:

- POL.COR.07.01 Accountability & Transparency;
- POL.COR.07.02 Sales & Other Disposition of Land;
- POL.COR.07.03 Provision of Notice & Manner of Giving Notice;
- POL.COR.07.04 Delegation by Council of Powers & Duties;
- POL.COR.07.05 Purchase of Goods & Services;
- POL.COR.07.06 Hiring of Employees;
- Town of The Blue Mountains Strategic Plan.

Review Cycle

This policy will be reviewed in each term of Council by Council in conjunction with the Integrity Commissioner.



Complaint Protocol

Code of Conduct for Members of Council and Local Boards

PART A - INFORMAL COMPLAINT PROCEDURE

Individuals are encouraged to use the Informal Complaint Procedure first to address behaviour or activity of a Member of Council, Local Committee or a Local Board (a "Member") that they believe violates the Code of Conduct. With the consent of the complaining individual and the Member, the Integrity Commissioner may participate in this process. The parties are encouraged to take advantage of the Integrity Commissioner's potential role as a mediator/conciliator of issues relating to a complaint.

Any individual who identifies or witnesses conduct by a Member that appears to contravene the Code of Conduct may address the conduct in the following manner:

- a. advise the Member that the conduct appears to contravene the Code of Conduct;
- b. Ask the Member to acknowledge and agree to stop the conduct;
- c. document the incidents where the Member may have contravened the Code of Conduct including dates, times, locations, other persons present, and any other relevant information;
- d. tell a relevant third party about the concerns regarding the Member's actions;
- e. tell the Member which parts of the Code of Conduct may have been contravened;
- f. ask the Integrity Commissioner to help with an informal discussion of the complaint with the Member to resolve the issue;
- g. if applicable:
 - (i) confirm to the Member that his or her response is satisfactory, or
 - (ii) advise the Member that his or her response is unsatisfactory;
- h. consider the need to make a Formal Complaint Procedure as set out in Part B, or any other applicable legal process or complaint procedure.

The Informal Complaint Process is not a precondition to making a formal complaint as described in Part B.



PART B - FORMAL COMPLAINT PROCEDURE

Formal Complaints: Requests for Inquiry

1. Any individual request an inquiry by the Integrity Commissioner into whether a Member has contravened the Code of Conduct by filing a formal complaint as follows:
 - (a) all complaints shall be in writing on the prescribed form and shall be dated and signed by an identifiable individual;
 - (b) the complaint must set out reasonable and probable grounds for the allegation that the Member has contravened the Code of Conduct and must be accompanied by a description of the evidence and/or documents that support of the allegation;
2. Council or a Local Board may request an inquiry by the Integrity Commissioner about whether a Member of Council or the Local Board as the case may be has contravened the Code of Conduct.

Filing of Complaint and Classification by Integrity Commissioner

2. The complaint shall be filed with the Clerk who shall forward the matter to the Integrity Commissioner to determine if the matter is, on its face, a complaint with respect to non-compliance with the Code of Conduct and not covered by other legislation or other Council procedures, policies or rules as set out in Section 3.

Complaints Outside of the Integrity Commissioner Jurisdiction Under the Code of Conduct

3. If the complaint, including the supporting material, is not, on its face, a complaint with respect to non-compliance with the Code of Conduct or the complaint relates to matters addressed by other legislation or complaint procedure under another Town policy or rule, the Integrity Commissioner shall advise the complainant in writing to follow the alternative procedure. In particular, and in the following circumstances the Integrity Commissioner is to advise as follows:

Criminal Code

- (a) if the complaint alleges a criminal offence under the *Criminal Code*, the complainant shall be advised to take the complaint to the appropriate police service;



Municipal Conflict of Interest Act

- (b) Where an elector or person demonstrably acting in the public interest applies in writing to the Integrity Commissioner for an inquiry to be carried out concerning an alleged contravention of section 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act*, the Integrity Commissioner shall proceed in accordance with section 223.4.1 of the *Municipal Act*.

Municipal Freedom of Information and Protection of Privacy Act

- (c) if the complaint is more appropriately addressed under the *Municipal Freedom of Information and Protection of Privacy Act*, the complainant shall be advised that the matter must be referred to the Clerk to deal with under access to information and privacy policies;

Parallel Proceedings for the Same Complaint

- (d) if the complaint is in relation to a matter which is subject to an outstanding complaint under another process such as a court proceeding related to the *Municipal Conflict of Interest Act*, a Human Rights complaint or similar process, or civil proceedings, the Integrity Commissioner may, in his/her discretion and in accordance with legislation, suspend any investigation pending the result of the other process; and

Outside Jurisdiction: Referrals and Reasons

- (e) if the complaint is, for any other reason, not within the jurisdiction of the Integrity Commissioner the complainant shall be so advised and provided with any additional reasons and referrals as the Integrity Commissioner considers appropriate.

Periodic Reports to Council

- 4. The Integrity Commissioner shall report annually to Council on the activities of the office. In that report, the Integrity Commissioner shall report on all complaints received and their disposition, including complaints deemed not to be within the jurisdiction of the Integrity Commissioner.

Refusal to Conduct Investigation

- 5. Where the Integrity Commissioner concludes at the outset, or during an investigation that:
 - (a) a complaint is frivolous or vexatious,
 - (b) a complaint is not made in good faith, or
 - (c) there are no grounds or insufficient grounds for an investigation,



the Integrity Commissioner shall not be required to conduct an investigation and in the case of an ongoing investigation, shall terminate the investigation.

Opportunities for Resolution of Formal Complaints

6. Where the Integrity Commissioner believes that an opportunity to resolve the matter may be successfully pursued without a formal investigation, and both the complainant and the Member agree, an informal resolution of the complaint may be attempted with the assistance of the Integrity Commissioner.

Investigation

7. (1) The Integrity Commissioner will proceed as follows in conducting an inquiry pursuant to section 223.4 of the *Municipal Act*, and, where applicable, the *Public Inquiries Act, 2009*:
 - (a) provide the Member with an outline of the complaint with sufficient detail to allow the Member to understand the complaint against him or her;
 - (b) request that the Member provide a written response to the allegations to the Integrity Commissioner within ten (10) days;
 - (c) provide a copy of the Member's response to the complainant with a request that any written reply be provided within ten (10) days; and
 - (d) provide the Member with advance notice of the findings and any sanctions or remedial actions to be recommended to Council.
- (2) If necessary, after reviewing the submitted materials, the Integrity Commissioner may speak to any person, access and examine any other documents or electronic materials and may enter any municipal or Local Board work location relevant to the complaint for the purpose of investigation and potential resolution.
- (3) The Integrity Commissioner may make interim reports to Council or the Local Board where necessary and as required to address any instances of interference, obstruction, delay or retaliation encountered during the formal complaint investigation.
- (4) It is intended that all reports will be presented before Council within ninety (90) days of the filing date. Where due to relevant circumstances the report is not presented to Council within 90 days the Integrity Commissioner shall address the reasons for the delay within the report.
- (5) The Integrity Commissioner shall retain all records related to the complaint and investigation.

Reporting and Recommendations

9. (1) The Integrity Commissioner shall generally report to the complainant and the Member generally no later than ninety (90) days after the official receipt of the complaint. If the investigation



process takes more than ninety (90) days, the Integrity Commissioner shall advise the parties of the date, if possible, that the report will be available.

- (2) Where a Member has been found to have contravened the Code of Conduct, the Integrity Commissioner shall report to Council or the Local Board outlining the findings, the terms of any settlement and/or any recommended remedial action or sanction.
- (3) Where the Integrity Commissioner finds that there are no grounds or jurisdiction to investigate a complaint, except in exceptional circumstances, the Integrity Commissioner shall not report to Council the result except as part of an annual or periodic report.
- (4) The Integrity Commissioner may disclose such information as in the Commissioner's opinion is necessary in the opinion of the Commissioner in the written reasons given by the Commissioner in relation to an inquiry into whether a Member has contravened the Code of Conduct.
- (5) The Clerk shall provide a copy of the report to the complainant and the Member whose conduct has been investigated. The Member shall, subject to Subsection 9(5), have the right to address the report when it is considered by Council or the Local Board.
- (6) If the report of the Integrity Commissioner recommends or Council considers whether to suspend the remuneration paid to the Member, the Member may take part in the discussion of the matter, including making submissions to council or the local board, as the case may be, and may attempt to influence the voting on any question in respect of the matter, whether before, during or after the meeting, however the Member is not permitted to vote on any question in respect of the matter.

Findings

10. If the Integrity Commissioner determines that:
 - (a) there has been no contravention of the Code of Conduct, or
 - (b) a contravention occurred but:
 - (i) the Member took all reasonable measures to prevent it,
 - (ii) it was trivial,
 - (iii) it was committed through inadvertence, or
 - (iv) it resulted from an error of judgment made in good faith,

the Integrity Commissioner may so state in the report and may make appropriate recommendations pursuant to the *Municipal Act, 2001*.



Report to Council

11. Upon receipt of a report from the Integrity Commissioner, the Clerk shall place the report on the next regular agenda of Council or the Local Board for consideration by Council or the Local Board.

Duty of Council

13. Council or the Local Board shall consider the Integrity Commissioner's report at the meeting at which it is tabled.

Termination of Inquiry When Regular Election Begins

- 14.(1) If an inquiry has not been completed before nomination day for a regular election as set out in section 31 of the Municipal Elections Act, 1996, the Commissioner shall terminate the inquiry on that day.
- (2) If an inquiry is terminated under subsection (1), the Commissioner shall not commence another inquiry in respect of the matter unless, within six weeks after voting day in a regular election, as set out in section 5 of the Municipal Elections Act, 1996, the person or entity who made the request or the member or former member whose conduct is concerned makes a written request to the Commissioner that the inquiry be commenced.
- (3) The following rules apply during the period of time starting on nomination day for a regular election, as set out in section 31 of the Municipal Elections Act, 1996, and ending on voting day in a regular election, as set out in section 5 of that Act:
 1. There shall be no requests for an inquiry about whether a Member has contravened the Code of Conduct.
 2. The Commissioner shall not report to the municipality or local board about whether, in his or her opinion, a Member has contravened the Code of Conduct.
 3. The municipality or local board shall not consider whether to impose the penalties referred to in the Code of Conduct.

Public Disclosure

- 15.(1) The Integrity Commissioner and every person acting under his or her instructions shall preserve secrecy with respect to all matters that come to his or her knowledge in the course of his or her duties under this Part.
- (2) The Commissioner may disclose such information as in the Commissioner's opinion is necessary and provided for in section 223.5 of the *Municipal Act*
- (2) The Integrity Commissioner shall retain all records related to the complaint and investigation.



(3) At the time of the Integrity Commissioner's report to Council or the Local Board, the identity of the Member who is the subject of the complaint shall not be treated as confidential information.

(4) All reports from the Integrity Commissioner to Council or the Local Board will be made available to the public by the Clerk and on www.thebluemountains.ca.

Delegation

16. The Integrity Commissioner may delegate in writing to any person, other than a Member of Council or Local Board, any of the Integrity Commissioner's powers and duties.



Code of Conduct — Formal Complaint Form

COMPLAINT OF _____

I, _____ (full name), of the (City, Town etc.)
_____ (municipality of residence) in the Province of Ontario.

STATE:

1. I have personal knowledge of the facts as set out in this complaint, because

_____.

(insert reasons e.g. I work for... I attended a meeting at which...I am a member of.... etc.)

2. I have reasonable and probable grounds to believe that:

_____ (specify name of Member)

a member of the Council/Town Committee/ Local Board (circle applicable body) of the Town of Blue Mountains, has

contravened section(s) _____ (specify section(s)) of

the Code of Conduct of the Town of Blue Mountains.

3. The particulars of this complaint are:

(Set out the statements of fact in consecutively numbered paragraphs in the space below, with each paragraph being confined as far as possible to a particular statement of fact. If you require more space please attach to this form. If you wish to include exhibits to support this complaint, please refer to the exhibits as Exhibit A, B etc. and attach them to this complaint form.)



This complaint is made for the purpose of requesting that this matter be reviewed and/or investigated by the Town of Blue Mountains appointed Integrity Commissioner and for no other purpose.

DATED this _____ of _____, 2_____
(day) (month) (year)

Signature

Printed Name



Staff Report

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,

Jennifer Moreau
Manager Human Resources

For more information, please contact:
Jennifer Moreau
jmoreau@thebluemountains.ca
519-599-3131 extension 244

TOWN OF THE BLUE MOUNTAINS

POLICY & PROCEDURES

Subject Title: Workplace Violence and Harassment Program

Corporate Policy (Approved by Council)

X

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.

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:

- o "I don't want you to do that."
- o "Please stop doing or saying . . ."
- o "It makes me uncomfortable when you . . ."
- o "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:

- o discipline, such as a verbal warning, written warning or suspension without pay
- o termination with or without cause
- o referral for counselling (sensitivity training), anger management training, supervisory skills training or attendance at educational programs on workplace respect
- o a demotion or denial of a promotion
- o reassignment or transfer
- o financial penalties, such as the denial of a bonus or performance-related salary increase
- o 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:

- o interviewing the complainant and respondent to ascertain all of the facts and circumstances relevant to the complaint, including dates and locations
- o interviewing witnesses, if any
- o reviewing any related documentation
- o 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:

- o discipline, such as a verbal warning, written warning or suspension without pay
- o termination with or without cause
- o referral for counselling (sensitivity training), anger management training, supervisory skills training or attendance at educational programs on work place respect
- o a demotion or denial of a promotion
- o reassignment or transfer
- o financial penalties, such as the denial of a bonus or performance-related salary increase
- o 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: _____



Staff Report

Human Resources

Report To: Committee of The Whole

Meeting Date: January 9, 2016

Report Number: FAF.17.02

Subject: Workplace Harassment and Violence Program Public Comments

Prepared by: Jennifer Moreau, Manager of Human Resources

A. Recommendations

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

AND THAT Council provide staff direction to engage our Integrity Commissioner to provide recommended revisions to the Workplace Violence and Harassment Program.

B. Overview

This report provides Council with a summary of themes from Public Comment received and asks Council to consider as a next step having the policy reviewed by our Integrity Commissioner.

C. Background

On November 14, 2016 at a Committee of the Whole meeting Staff Report FAF.16.99 Town's Workplace Harassment and Violence Program 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 Program.

On November 28, 2016 at a Council meeting Councillour 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 Councillour Gamble and approved by Council.

D. Analysis

In response to the revision to the Program the Town received seventeen written letters, e-mail and PowerPoint presentations. The main areas of concern are broken down in the themes listed below. It should be noted that this list is intended to provide a summary only. The actual comments received are attached to this report.

1. The policy goes beyond what is mandated by the Province.
2. The policy targets the Public.
3. Council should be involved in all complaints.
4. All parties are not afforded the right for a public investigation.
5. The policy needs a well-defined protocol for complaints.
6. There is concern the policy might violate the *Charter of Rights and Freedoms*.
7. There is concern that the policy might negatively affect staff, Council and Public interactions.
8. There is uncertainty how members of the Public would address a complaint they may have regarding staff and council.
9. There was a request for a Public Meeting.
10. Need for independent review of the policy
11. Need for a mediation step in the process.

Based on the above themes and the additional information received from our Integrity Commissioner in Staff Report FAF.16.117 Integrity Commissioner Report on the Dismissal of a Complaint Alleging a Violation of the Code of Conduct for Members of Council it is recommended that staff provide the revised policy to our Integrity Commissioner to review the Program and provide recommendations for revision including the inclusion of a complaint protocol.

E. The Blue Mountains Strategic Plan

Goal #2: Engage Our Communities & Partners

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

F. Environmental Impacts

Not applicable.

G. Financial Impact

The cost of the review will be based on the Integrity Commissioner's hourly rate and the time it takes her to review the policy and provide feedback. Based on past work performed it is estimated that the review may cost \$4, 000.

H. In consultation with

Senior Management Team

I. Attached

1. Public Comments Received:
 - Alar Soever – 3 Items of correspondence
 - Alex Maxwell
 - Betty Muise
 - Brian Nelson
 - Erin McIvor
 - June Porter
 - Karen Ferri
 - Mike D'Abramo
 - Patrick Delaney
 - Paul Wilson – 2 items of correspondence
 - Roland Goselin
 - Ron Hartlen
 - Rosemary Goselin – 2 items of correspondence

Respectfully Submitted,

Jennifer Moreau
Manager Human Resources

For more information, please contact:

Name: Jennifer Moreau

jmoreau@thebluemountainins.ca

519-599-2-3131 extension 244

November 29, 2016

Dear Members of the Town of Blue Mountains Council,

At the Committee of the Whole meeting on November 14th you were presented with Staff Report Number: FAF.16.99, Subject: Town's Workplace Harassment and Violence Program, prepared by: Jennifer Moreau, Manager Human Resources was presented to the committee for review and approval.

Throughout the discussion Ms. Moreau repeatedly stated that the changes were mandated by the province. The Town also issued a media release inviting those with questions **to “review the Ministry of Ontario’s Guide below: <https://www.labour.gov.on.ca/english/hs/pubs/wpvh/>.”**

Subsequently the Mayor is quoted in the Thornbury Paper as saying: “the town wants to hear from residents about the proposed changes.”

“We encourage residents who have an interest in this issue to visit our website and review the [current staff report](#), by clicking on November 14th to view the list of staff reports presented at the last Committee of the Whole. Many other Towns have policies posted on their websites and residents may wish to review those posted by [Wawa](#), [Cobourg](#) or the [City of Guelph](#).”

It is indeed heartening to see this request for input.

I hope all who are interested in this issue, as well as all members of council, carefully review and compare these documents.

A review of these documents will highlight the fact that the program proposed by Ms. Moreau in Staff Report FAF.16.99 goes far beyond what is mandated by the province and is widely different than that implemented by the other municipalities.

Important differences are:

- None of the other municipalities specifically target “citizens”.
- None of the other municipalities have expanded the definition of harassment beyond what the provincial government has mandated in the manner the TBM staff report has done.
- Two of the three other municipalities have seen fit to leave investigation and sanctioning of elected officials to the Code of Conduct and the Municipal Act. In the TBM repealing HR.06.01 and HR.06.02 at the same time the new program is implemented, will effectively eliminate the role of the Integrity Commissioner and the Municipal Act in dealing with harassment complaints against elected officials.
- Under the proposed TBM Program an investigation against an elected official or citizen could be started without the involvement of Council.
- Citizens are not even afforded the right to have an external investigator. As currently worded it is not clear who does, including members of Council.

The greatest weakness in this document is the lack of clarity with regards to who is responsible, and how to deal with complaints when they fall under the jurisdiction of multiple pieces of legislation, that is complaints against elected officials which also fall under the Municipal Act.

Some municipalities, Guelph for example, have a well-defined complaint protocol which sets out how complaints are to be classified and refers to the authority of the Municipal Act when the complaint deals with an elected official.

A well defined complaint protocol would assist members of Council and the public in understanding how complaints will be investigated and when they will be the subject of public report.

Staff report FAF.16.99 also asks you to repeal HR.06.01 and HR0.06.02. No mention is made of the effect of this on the Code of Conduct for Members of Council.

Currently, the Code of Conduct for Members of Council at Paragraph 9 states:

9. Influence on Staff

Members shall comply with Town Policy HR.06.02, Respectful Workplace, and shall be respectful of the fact that staff work for the Town as a body corporate and are charged with making recommendations that reflect their professional expertise and corporate perspective. Members shall be further respectful of the fact that staff carry out directions of Council and administer the policies of the municipality, and are required to do so without any undue influence from any individual member or group of members of Council.

And at Paragraph 13 states:

13. Harassment

Members shall comply with Town Policy HR.06.01, Discrimination and Harassment-Free Workplace. Discrimination or harassment of another member, staff or any member of the public is misconduct. All persons shall be treated fairly in the workplace in an environment free of discrimination and of personal and sexual harassment. Harassment may be defined as any behaviour by any person that is directed at or is offensive to another person on the grounds of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, age, handicap, sexual orientation, marital status, or family status and any other grounds under the provisions of the Ontario Human Rights Code.

If you approve Staff Report FAF.16.99, and these two policies are repealed and no changes are made to the Code of Conduct you will effectively diminish the role of the Integrity Commissioner and turn over the investigation of harassment complaints against Councillors to the direction of staff.

While no one would argue with the right for all who work for the Town, or indeed all who live and work in our community, to be protected from harassment and violence, this is a dangerous, poorly drafted document, which leaves the process open to abuse. I strongly urge you as Council to reject this report and have it subjected to peer review by an independent third party.

Recommendations for Improvement

- 1) Bring the definition of harassment in line with that of other municipalities and the OHSA

- 2) Clarify that expressions of differences of opinion between individuals whether inside the workplace or in public do not constitute harassment.
- 3) Include a well-defined protocol for dealing with complaints
 - a. Complaints against people other than staff and council (ie. people who do not work for the Town), should be referred to a minimum of two Advisors, one of whom **must be** either the Mayor or Deputy Mayor
 - b. Complaints against members of Council, should always be referred to the Integrity Commissioner for investigation under the Municipal Act. If in the opinion of the Integrity Commissioner the remedies under the Municipal Act are not adequate to protect the worker as required by OHSA, the Integrity Commissioner can always recommend that an Independent Workplace Investigator recommend additional sanctions. The recommendation for sanctions should always be made by the Independent Workplace Investigator.
 - c. All workers and not just Supervisors should be afforded the protection of having an independent investigator.

As far as drafting goes I would point out:

- Under A: Recommendations: c) Respectful Workplace Policy should refer to HR.06.02 not HR.06.01.
- Throughout the document terms such as Worker and Supervisor, which are defined terms, are often not capitalized as they should be when they are used as defined terms.
- Also the definition of Worker seems to be misplaced and rather than being found with the other definitions is found on page 8.
- The definition of Supervisor needs to be clarified, or how this defined term is used needs to be changed as currently how this defined term is used is confusing.

Detailed Discussion of Specific Issues

Targeting of Citizens

The Merriam- Webster dictionary defines citizen as

1. *1* : an inhabitant of a city or town; *especially* : one entitled to the rights and privileges of a freeman
2. *2 a* : a member of a state *b* : a native or naturalized person who owes allegiance to a government and is entitled to protection from it
3. *3* : a civilian as distinguished from a specialized servant of the state

By this definition we the residents of the Town are singled out. As the reference is to citizens and not the public at large, it could even be argued that if you weren't a resident you would not be subject to this policy. The use of the very specific word "citizen" says a lot about what the people who drafted this policy think of the inhabitants of this town. No one can argue that our

staff deserve to be protected from harassment but it should be from all individuals not just us. Other municipalities have seen fit not to single out their citizens for special attention. .

Blue Mountains	Cobourg	Guelph	Wawa
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. 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.	This policy applies to all municipal representatives of the Town of Cobourg and municipal representatives who are being harassed, discriminated against and/or who are victims of violence by non Town employees, such as but not limited to, members of the public, contractors, consultants and delivery or service workers.	Not specified.	This policy applies to all employees, contractors and consultants. This policy also applies to situations in which an individual is harassed or subjected to violence in the workplace from individuals who are not employees of the Municipality, such as customers and suppliers, although the available remedies may be constrained by the situation.

Definition of Harassment

TheTBM staff report expands the definition of harassment as follows: **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.**

Under this definition anything could be harassment. The TBM definition of harassment is compared to the other municipalities’ definitions below.

Blue Mountains	Cobourg	Guelph	Wawa
----------------	---------	--------	------

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" shall mean: a) 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. May also include, but not be limited to, comments or conduct that is demeaning, intimidating or bullying. b) Workplace sexual harassment	Workplace Harassment and Bullying Workplace harassment is a health and safety issue that is covered under the Occupational Health and Safety Act. It defines workplace harassment as: <i>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> Workplace harassment may have some or all of the following components: It is generally an ongoing behaviour, although a single incident may constitute harassment, depending on the severity of the behaviour • It is hostile, abusive or inappropriate • It effects the person's dignity • It results in a poisoned work environment • It intimidates, isolates or discriminates against the recipient • Some examples of workplace harassment are: • Verbally abusive behaviour such as yelling, insults,	<i>"Workplace Harassment" and "Bullying" as defined by the Occupational Health and Safety Act means "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> Workplace harassment is a health and safety issue that is covered under the Ontario <i>Occupational Health and Safety Act</i>. 9.0.1 Workplace harassment includes, but is not limited to: a) 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 b) it is hostile, abusive or inappropriate c) it affects the person's dignity or psychological integrity d) it results in a poisoned work environment e) behaviour that intimidates, isolates or discriminates against the recipient f) verbally abusive behaviour, such as
--	---	--	---

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		ridicule and name calling, including remarks, jokes or innuendoes that demean, ridicule, intimidate or offend • Workplace pranks, bullying and hazing • Gossiping or spreading malicious rumours • Excluding or ignoring someone, including persistent exclusion of a particular person from workplace social gatherings • A leader 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 • A leader 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 • A leader blocking an individual's efforts	yelling, insults, ridicule and name calling, including remarks, jokes or innuendoes that demean, ridicule, intimidate or offend g) workplace pranks, vandalism, bullying and hazing h) gossiping or spreading malicious rumours i) excluding or ignoring someone, including persistent exclusion of a particular person from workplace-related social gatherings j) 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 k) providing only demeaning or trivial tasks in place of normal job duties l) humiliating someone m) sabotaging someone else's work n) displaying or circulating offensive pictures or materials o) offensive or intimidating phone calls or e-mails p) impeding an individual's efforts at promotions or transfers for reasons that are not legitimate q) making false
--	--	---	--

legitimate • making false allegations about someone in memos or other work-related documents <i>What isn't harassment?</i> 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. <i>The test of harassment</i> It does not matter whether a person intended to offend someone. The test of harassment is whether that person knew or <i>should have known</i> that the comments or conduct were unwelcome to the other person. For example,		at promotions or transfers for reasons that are not legitimate; and • Making false allegations about someone What Isn't Harassment Workplace harassment should not be confused with legitimate, reasonable management actions that are part of the normal work function, including: • Actions to correct performance deficiencies • Imposing discipline for workplace infractions • Requesting medical documents in support of an absence from work • Normal workplace conflict that may occur between individuals or differences of opinion between co-workers • Friendly teasing or bantering that is mutually acceptable and not offensive to others	allegations about someone in memos or other work-related documents 9.0.2 Workplace harassment should not be confused with legitimate, reasonable management actions that are part of the normal work function, including: a) measures to correct performance deficiencies, such as placing someone on a performance improvement plan b) imposing discipline for workplace infractions c) requesting medical documentation in support of an absence from work Workplace harassment also does not include normal workplace conflict that may occur between individuals or differences of opinion between co-workers. 9.0.3 It does not matter whether the individual intended to offend someone. Harassment occurs when an individual knew, or <i>should have known</i> that the comments or conduct were unwelcome to the other person. For example, someone may make it clear through his or her
--	--	--	--

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.			conduct or body language that the behaviour is unwelcome, in which case the individual must immediately stop that behaviour. 9.0.4 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.
---	--	--	--

The Investigation

Under the TBM Program, one or more Advisors can start an investigation. It is left to the Advisor whether the investigator is internal or external. The only people who are guaranteed an external investigator are Supervisors. Supervisors are defined as:

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.

As currently worded this would mean that external investigators are only required if the Complainant directly reports to the Respondent. As such, a Councilor could be denied an independent investigator as most workers do on directly report to them.

It states the Mayor and/or Deputy Mayor are only involved as Advisors “if deemed necessary”. It is not clear who makes this determination.

In contrast the Cobourg deals with complaints against elected officials under its Code of Conduct for Members of Council. Similarly Guelph has well defined detailed procedures for dealing with complaints against elected officials. Reference is made to the Municipal Act. The application of the Municipal Act in both cases this would result in a public report presented to an Open Session of Council, something the TBM program does not require. Citizens have the right to know what our elected officials are accused of and the results of the investigation.

Wawa deals with things internally, however the investigation is left to The Workplace Respect Committee which consists of one (1) member of Council, one (1) member of Management and the Health and Safety Coordinator. Again, the involvement of Council in the investigation is mandated. Staff cannot act alone, as is the case in the TBM program, at least until the imposing of sanctions.

Blue Mountains	Cobourg	Guelph	Wawa
<i>Investigation procedure</i> 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 Town’s Advisors are: • Chief Administrative Officer • Manager of Human Resources • Health and Safety Coordinator • Mayor and/or Deputy Mayor (if deemed	Consequences of Violation: a) Any act of violence, potential violence, including domestic violence, harassment and/or discrimination committed by or against any member of our workplace or member of the public, is unacceptable conduct that will not be tolerated, condoned or ignored. b) Violations of this policy and/or its procedures by a Council Member or a Board Member will be referred to the Deputy Mayor and be dealt with under the terms of the Code of Conduct for Members of Council Policy #1-1-13. c) Violations of this	Investigator The Investigator will conduct investigations where necessary and make a determination as to whether harassment is present or not. Additionally, the Investigator will be able to provide recommendation of supports such as coaching, training and monitoring. Allegations against members of the Executive Team, Council or Human Resources will be investigated by an external third party investigator. Complaints Against Executive Staff Or Elected Officials Complaints initiated against Senior Staff	6.0.0 Formal Procedure for Resolving and Investigating Harassment Complaints 6.0.1 If the complaint cannot be resolved informally or if it is too serious to handle on an informal basis, a formal complaint can be brought to the Workplace Respect Committee. The Workplace Respect Committee acts as the workplace coordinators with respect to harassment and violence in the workplace. 6.0.2 The Workplace Respect Committee shall consist of one (1) member of

necessary and/or if a complaint is made against the CAO)	policy and/or its procedures by a municipal employee, volunteer or student, shall be reviewed and investigated in an expeditious manner: i) By a Management Review Committee and where necessary the Violence, Harassment and Discrimination Investigation Committee. "Management Review Committee" shall mean a Committee consisting of the Chief Administrative Officer; the Division Director and the Department Manager of the victim or complainant; Division Director and Department Manager of the accused or respondent and the Human Resources Officer. Each member shall appoint a designate to represent him/her if unable to attend. In instances where the alleged harasser is the complainant's manager or supervisor the manager or supervisor shall not participate in the Management Review Committee. The Committee shall review complaints filed by municipal representatives	(CAO, Deputy CAO) or Elected Officials (Mayor, Councillors) should be directed to Talent and Organizational Development staff, who will support the Complainant in developing a detailed written complaint. Subsequent actions will be dependent on the Respondent identified in the complaint, as follows: In the case of the Mayor being the Respondent, Talent and Organizational Development staff shall notify the General Manager, Human Resources, who shall advise the CAO, the applicable DCAO(s) and the three longest serving members of Council authorized to act in place of the Mayor. An external Investigator will be selected and retained by Council to collect facts regarding the complaint and make recommendations. Findings of the investigation will be shared with the Council Members, CAO, and General Manager, Human Resources who will develop a recommended outcome and implementation. The recommendations will be reported to	Council, one (1) member of Management and the Health and Safety Coordinator all appointed by Resolution. 6.0.3 If a formal complaint is being submitted, the Committee will need as much written information as possible, including the name of the person the employee believes to be harassing them, the place, date and time of the incident(s), and the names of any possible witnesses. A copy of the Workplace Respect Complaint form (Form 5) is available from the Workplace Respect Committee. 6.0.4 It is important that the complaint be 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 it is necessary and appropriate to do so. 6.0.5 Discrimination and harassment are serious matters. Therefore, if an individual decides not to make a formal complaint, the
---	--	---	--

	excluding, Members of Council, committee members and board members.	Council, who will decide the actions toward the Mayor, in keeping with the provisions of the Municipal Act. The CAO will provide a summary report to the Complainant, outlining the actions taken in response to their claim. In the case of a Councillor being the Respondent, Talent and Organizational Development staff shall notify the General Manager, Human Resources who shall notify the applicable Deputy CAO(s) and provide a confidential report on the matter to the Mayor. An external Investigator will be selected and retained by Council to collect facts regarding the complaint and make recommendations. Findings of the investigation will be shared with the Mayor, CAO and General Manager, Human Resources who will develop a recommended outcome and implementation. The recommendations will be reported to Council, who will decide the actions toward the Respondent, in keeping with the provisions of the Municipal Act. The CAO will provide a summary report to the	matter may still need to be investigated and steps may need to be taken to prevent further harassment. For example an investigation may be necessary if the allegations are The Corporation! the Municipality! Wawa Policy Manual serious or if there have been previous complaints or incidents involving the respondent. 6.0.6 It is the policy of the Municipality no to investigate anonymous complaints unless there are extenuating circumstances. 7.0.0 Investigative Procedure 7.0.1 The Workplace Respect Committee will commence an investigation as quickly as possible. The Municipality may choose to use an internal or external investigator, depending on the nature of the complaint. 7.0.2 The investigation will include: a) interviewing the complainant and respondent to ascertain all of the facts and circumstances relevant to the complaint, including
--	--	---	--

		Complainant, outlining the actions taken in response to their claim. In the case of the Chief Administrative Officer being the Respondent, Talent and Organizational Development staff shall notify the General Manager, Human Resources, who will inform the applicable DCAO(s) and provide a confidential report on the matter to the Mayor. An external Investigator will be selected and retained by Council to collect facts regarding the complaint and make recommendations. Findings of the investigation will be reported to the Mayor and General Manager, Human Resources who will develop a recommended outcome and implementation. The recommendations will be reported to Council, who will decide the actions toward the CAO, up to and including termination of employment. The Mayor will provide a summary report to the Complainant, outlining the actions taken in response to their claim. In the case of a Deputy CAO being the Respondent, Talent and	dates and locations b) interviewing witnesses, if any c) reviewing any related documentation d) making detailed notes of the investigation and maintaining them in a confidential file 8.0.0 Corrective Action 8.0.1 The Workplace Respect Committee 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. The Corporation l?lthe Municipali~v l?l Wawa Policy Manual 8.0.2 If a finding of harassment is made, the Municipality of Wawa will take appropriate corrective measures, regardless of the respondent's seniority or position with the Municipality of Wawa. However, if there is not enough evidence to substantiate the complaint, corrective measures will not be taken. 8.0.3 Corrective measures may include one or more of the
--	--	--	---

		Organizational Development staff shall notify the General Manager, Human Resources, who will inform the Chief Administrative Officer. An external Investigator will be selected and retained by the CAO to collect facts regarding the complaint and make recommendations. Findings of the investigation will be reported to the CAO and (as applicable) General Manager, Human Resources who will determine a recommended outcome and implementation, up to and including termination of employment. The CAO will provide a summary report to the Complainant, outlining the actions taken in response to their claim.	following: a) discipline, such as a verbal warning, written warning or suspension without pay b) termination with or without cause c) referral for counselling (sensitivity training), anger management training, supervisory skills training or attendance at educational programs on workplace respect d) a demotion or denial of a promotion e) reassignment or transfer f) financial penalties, such as the denial of a bonus or performance related salary increase g) any other disciplinary action deemed appropriate under the circumstances
--	--	--	---

Respectfully submitted,

“Alar Soever”

Alar Soever
Concerned Long Time Resident

From: ALAR SOEVER [REDACTED]
Sent: November-13-16 9:41 PM
To: Corrina Giles <[REDACTED]>
Cc: Bob Gamble <[REDACTED]>; Gail Ardiel <[REDACTED]>; Joe Halos <[REDACTED]>; John McGee <[REDACTED]>; John McKean <[REDACTED]>; Michael Martin <[REDACTED]>; Michael Seguin <[REDACTED]>
Subject: Staff Report FAF.16.99

November 13, 2016

Dear Members of Council,

At Monday's Committee of the Whole you will be asked to consider Staff Report FAF.16.99 on the Town's Workplace Harassment and Violence Program prepared by Jennifer Moreau, Manager Human Resources.

This is a document which if approved as is would give the CAO and staff the power, if they choose to exercise it, to make secret allegations, and carry out secret investigations against citizens and then impose sanctions for the most trivial of reasons under the pretext of harassment.

This document is a powerful document which strikes at the very heart of our democracy, and has the potential to intimidate our elected officials and citizenry.

A careful reading of this document should make this clear to you.

Another question you may wish to consider is whether you really wish to support staff in what will be seen by many to be a declaration of war on the citizenry of this town.

In particular, within the document, I would note the following:

Under A: Recommendations: There is an error.

c) Respectful Workplace Policy should refer to HR.06.02. If these policies are repealed and replaced by this policy changes will also need to be made to Paragraphs 9 and 13 of the Town's Code of Conduct for Members of Council which refers to both HR.06.01 and HR.06.02.

Page 1: Singling out our citizens as a group is hardly a way to get community support.

Page 3: the definition of Complainant is restricted to Workers. With this wording only staff can make complaints while councillors and citizens are restricted to being respondents. If the objective is really to eliminate workplace harassment, why can't the definition of who is entitled to submit a complaint be expanded to anyone who is subject to or becomes aware of workplace harassment or violence as defined in this policy.

Page 5: poor drafting, the definition of “Worker” is missing, for some strange reason it is only later found on page 8. Throughout the document the word “worker” is used interchangeably with the defined term “Worker”. The entire document needs to be reviewed for consistently and appropriate use of this defined term.

Page 6, under the Heading “*What isn’t harassment?*” The Canadian Centre for Occupational Health and Safety includes in its definition of what bullying and harassment does not include:

- Expressing differences of opinion

In this document the only differences of opinion that are exempt are differences of opinion between co-workers. Therefore differences of opinion between staff and councillors and/or citizens may be considered harassment.

Page 7 under *The test of harassment* it states: **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.**

This broad definition goes far beyond what is in the OHSa definition on pages 5 and 6 of this policy. Using this broad definition even a single, subtle, unintended slight would be considered harassment as long as the complainant claims it had an impact on him or her. Why this very broad definition is included is extremely problematic and troubling.

Page 10: The Town’s Advisors are listed as:

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)**

It is not clear who makes the determination whether the involvement of the Mayor and Deputy Mayor is “**deemed necessary**”. I would suggest that when anyone outside of the staff is involved the Mayor and Deputy Mayor must be involved, and in the case of a complaint against an elected official, the Integrity Commissioner should be the Advisor under this policy as paragraphs 9 and 13 of the Town’s Code of Conduct for Members of Council give the Commissioner authority over the matters herein.

To give Staff authority over members of Council would undermine the **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. Clearly by proposing this policy in its current form the Staff are trying to expand their control over both council and the community at large.

Page 12: Under *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.**

This clause is extremely dangerous as it gives the power to any one of the above Advisors to unilaterally conduct an investigation of a councillor or citizen, yet conveniently guarantees supervisors (which would include the CAO and the Manager of Human Resources) the right to an external investigator. This would seem to be a double standard. (see also page 14).

Page 16: Under **Mayor/Designate** it states: **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.**

So if an Advisor, say for example the CAO, prepares a letter, this states the Mayor “**will**” sign it. It gives the Mayor no freedom for independent thought or action. It should be made clear that all actions taken under this policy against outside parties should be approved by and be under the control of council.

Page 17: ***Confidentiality of Complaints and Investigations*** There is not duty of absolute confidentiality under the Act as implied by this section. While there is a duty to protect the privacy of individuals, when the complaints involve a public official and/or there are public sanctions, as the City of Sarnia has recently shown there is no obligation of confidentiality about the nature of the complaint and the findings of an investigation.

Page 18: **References and Related Policies**: Reference should be made to the Code of Conduct for Members of Council as paragraphs 9 and 13 are affected by the repeal of HR.06.01 and HR.06.02

I trust you will find the above useful as you consider how you will represent us the citizens of this Town on this important issue.

Respectfully submitted,

“Alar Soever”

Alar Soever


DEPUTATION TO COMMITTEE OF THE WHOLE
RE: STAFF REPORT FAF 16.99
THE TOWN'S WORKPLACE HARASSMENT AND
VIOLENCE PROGRAM

December 5th, 2016

Alar Soever, 203 Sunset Blvd.

Background

- At the Committee of the Whole meeting on November 14th you were presented with Staff Report Number: FAF.16.99, Subject: Town's Workplace Harassment and Violence Program, prepared by: Jennifer Moreau, Manager Human Resources was presented to the committee for review and approval.
- Throughout the discussion Ms. Moreau repeatedly stated that the changes were mandated by the province. The Town also issued a media release inviting those with questions ***to “review the Ministry of Ontario’s Guide below: <https://www.labour.gov.on.ca/english/hs/pubs/wpvh/>.”***
- Subsequently the Mayor is quoted in the Thornbury Paper as saying: “the town wants to hear from residents about the proposed changes.”
- “We encourage residents who have an interest in this issue to visit our website and review the [current staff report](#), by clicking on November 14th to view the list of staff reports presented at the last Committee of the Whole. Many other Towns have policies posted on their websites and residents may wish to review those posted by [Wawa](#), [Cobourg](#) or the [City of Guelph](#).”
- It is indeed heartening to see this request for input.
- I hope all who are interested in this issue, as well as all members of council, have had a chance to carefully review and compare these documents.

Differences between what is mandated and what other municipalities are doing

- **A review of these documents will highlight the fact that the program proposed by Ms. Moreau in Staff Report FAF.16.99 goes far beyond what is mandated by the province and is widely different than that implemented by the other municipalities.**
- Important differences are:
 - None of the other municipalities specifically target “citizens”.
 - None of the other municipalities have expanded the definition of harassment beyond what the provincial government has mandated in the manner the TBM staff report has done.
 - Two of the three other municipalities have seen fit to leave investigation and sanctioning of elected officials to the Code of Conduct and the Municipal Act. In the TBM, repealing HR.06.01 and HR.06.02 at the same time the new program is implemented, will effectively eliminate the role of the Integrity Commissioner and the Municipal Act in dealing with harassment complaints against elected officials.
 - Under the proposed TBM Program an investigation against an elected official or citizen could be started without the involvement of Council.
 - Citizens are not even afforded the right to have an external investigator. As currently worded it is not clear who does, including members of Council.

Greatest Weakness

- The greatest weakness in this document is the lack of clarity with regards to who is responsible, and how to deal with complaints when they fall under the jurisdiction of multiple pieces of legislation: that is complaints against elected officials which also fall under the Municipal Act.
- Some municipalities, Guelph for example, have a well-defined complaint protocol which sets out how complaints are to be classified and refers to the authority of the Municipal Act when the complaint deals with an elected official.
- A well defined complaint protocol would assist members of Council and the public in understanding how complaints will be investigated and when they will be the subject of public report.

Effect of Repeal of HR.06.01 and HR.06.02

- Staff report FAF.16.99 also asks you to repeal HR.06.01 and HR0.06.02. No mention is made of the effect of this on the Code of Conduct for Members of Council.
- Currently the Code of Conduct refers to these policies, thus giving the Integrity Commissioner a role in their adjudication
- If you approve Staff Report FAF.16.99, and these two policies are repealed and no changes are made to the Code of Conduct you will effectively diminish the role of the Integrity Commissioner and turn over the investigation of harassment complaints against Councillors to the direction of staff.

Conclusions

- No one would argue with the right for all who work for the Town, or indeed all who live and work in our community, to be protected from harassment and violence
- This, however is a dangerous, poorly drafted document, which leaves the process open to abuse.
- I strongly urge you as Council to reject this report and have it subjected to peer review by an independent third party.

Recommendations

1. Bring the definition of harassment in line with that of other municipalities and the OHSA
2. Clarify that expressions of differences of opinion between individuals whether inside the workplace or in public do not constitute harassment.
3. Include a well-defined protocol for dealing with complaints
 - i. Complaints against people other than staff and council (ie. people who do not work for the Town), should be referred to a minimum of two Advisors, one of whom **must be** either the Mayor or Deputy Mayor
 - ii. Complaints against members of Council, should always be referred to the Integrity Commissioner for investigation under the Municipal Act. If in the opinion of the Integrity Commissioner the remedies under the Municipal Act are not adequate to protect the worker as required by OHSA, the Integrity Commissioner can always recommend that an Independent Workplace Investigator recommend additional sanctions. The recommendation for sanctions should always be made by the Independent Workplace Investigator.
 - iii. All workers and not just Supervisors should be afforded the protection of having an independent investigator.

Targeting of Citizens

- The Merriam- Webster dictionary defines citizen as
 - 1 : an inhabitant of a city or town; *especially* : one entitled to the rights and privileges of a freeman
 - 2 a : a member of a state b : a native or naturalized person who owes allegiance to a government and is entitled to protection from it
 - 3 : a civilian as distinguished from a specialized servant of the state
- By this definition we the residents of the Town are singled out. As the reference is to citizens and not the public at large, it could even be argued that if you weren't a resident you would not be subject to this policy. The use of the very specific word "citizen" says a lot about what the people who drafted this policy think of the inhabitants of this town. No one can argue that our staff deserve to be protected from harassment but it should be from all individuals not just us. Other municipalities have seen fit not to single out their citizens for special attention.

TBM Definition of Harassment

- The TBM staff report expands the definition of harassment as follows:

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.

- Under this definition anything could be harassment.
- None of the other comparator municipalities have chosen to expand the definition to this degree
- Most use the standard OHSA language

The Investigation

- Under the TBM Program, one or more Advisors can start an investigation. It is left to the Advisor whether the investigator is internal or external. The only people who are guaranteed an external investigator are Supervisors. Supervisors are defined as:
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.
- As currently worded this would mean that external investigators are only required if the Complainant directly reports to the Respondent. As such, a Councillor could be denied an independent investigator as most workers do not directly report to them.
- It states the Mayor and/or Deputy Mayor are only involved as Advisors “if deemed necessary”. It is not clear who makes this determination.
- In contrast the Cobourg deals with complaints against elected officials under its Code of Conduct for Members of Council. Similarly Guelph has well defined detailed procedures for dealing with complaints against elected officials. Reference is made to the Municipal Act. The application of the Municipal Act in both cases this would result in a public report presented to an Open Session of Council, something the TBM program does not require. Citizens have the right to know what our elected officials are accused of and the results of the investigation.
- Wawa deals with things internally, however the investigation is left to The Workplace Respect Committee which consists of one (1) member of Council, one (1) member of Management and the Health and Safety Coordinator. Again, the involvement of council in the investigation is mandated. Staff cannot act alone, as is the case in the TBM program.

From: [REDACTED]
Sent: November-13-16 7:29 PM
To: Corrina Giles <[REDACTED]>
Cc: John McKean <[REDACTED]>; Gail Ardiel <[REDACTED]>; John McGee <[REDACTED]>; Joe Halos <[REDACTED]>; Bob Gamble <[REDACTED]>; Michael Martin <[REDACTED]>; Michael Seguin <[REDACTED]>
Subject: Re: Re Report FAF 16.99

Staff Report FAF.16.99 being Presented to COW November 14, 2016

To Mayor and Council:

Firstly, I must respect the architect's of Staff Report FAF.16.99, Town's Workplace Harassment and Violence Program, this should at least make members of staff, council and the citizens of this community think hard about their rights and privileges. I'm asking my council as our leaders and elected representatives to think beyond this staff report as it attempts to deal with certain goals and objectives for the overall well being of the organization. If Staff Report FAF 16.99 is adopted in it's entirety we may experience the butterfly effect (chaos theory) as these goals and objectives cascade outward engaging the municipal act and potentially the charter of rights and freedoms.

Notes see Midland's social media policy may violate the charter of rights and freedoms

Notes See Ontario passes The protect public participation Act

Alex Maxwell a resident of the Town Of The Blue Mountains

December 5, 2016

To: Town of the Blue Mountains Council

Re: Draft Workplace Violence and Harassment Program

Thank you to members of council for allowing extra time to consider the full impact of the Draft Workplace Violence and Harassment Program (FAF 16.99) recently circulated. I also appreciated the opportunity to listen in on the December 4 presentation.

I appreciate that this Draft Program (FAF 16.99) is in response to Provincial legislation and that the Town is conscientiously following through on legal requirements. I realize that the legislation is intended to mitigate workplace harassment and violence, most likely to occur amongst employers and employees. However, since the public and citizens have been included in the current draft policy/program, I urge you to consider the implications and potential chilling effect this would have on public engagement and the ability of the public to interact with Town staff on challenging or contentious decisions/issues. Consider for a moment that the public may not have ANY or limited experience as an employer and find the presence of a detailed policy of this nature, completely overwhelming. I can imagine many citizens wondering: "Just how do I complain, challenge a decision, make an enquiry...(etc), and not run up against this policy." How does a member of the public complain? What if a member of the public doesn't receive a professional response or maybe even gets stone-walled? What if the complaint (or the staff response) necessitates some *persistence*.....Also, what if the *employee* conduct is of a harassing nature (for example, eye rolling or abrupt, incomplete answers, making the process/discussion more difficult) toward the public? Can a citizen claim harassment under this policy/program?

In summary, I hope you can see the challenge and chilling effect that this creates for citizens who might be seeking accountability on decisions and staff actions. It also embeds a double standard that employees are protected but not citizens. I urge you to consider how to address the laudable intent of this legislation, without compromising citizen engagement and creating a double standard.

Betty Muise
Resident
Town of the Blue Mountains

Betty Muise

Thornbury, Ontario
NOH 2P0

From: Brian Nelson [REDACTED]
Sent: November-14-16 11:38 AM
To: Michael Martin <[REDACTED]>; Michael Seguin
<[REDACTED]>; Joe Halos <[REDACTED]>; Gail Ardiel
<[REDACTED]>; John McGee <[REDACTED]>; Bob Gamble
<[REDACTED]>; John McKean <[REDACTED]>
Cc: Corrina Giles <[REDACTED]>
Subject: Report FAF.16.99

Dear Mayor and Members of Council

I am among those citizens who strongly urge you to defer any decisions on Staff Report FAF.16.99 on the Town's Workplace Harassment Program until further analysis and consideration of the implications of this document are completed.

There is potential here to take our community down a very destructive and unnecessary path. A primary concern with this document is that it provides potential avenues for entirely non-democratic processes to overtake and subvert the democratic processes that we all count on and assume will be protected. Simply put, it gives non-elected officials the power to take action against elected officials and citizens for reasons that are very broad and poorly defined. If Councillors and voters are afraid to raise questions about the policies, regulations and programs of our municipality – either because they are worried about legal action or because they do not understand the highly complex and convoluted rules – then we no longer have a functioning local democracy.

This is a decision that must be based on very clear thinking and a full understanding of all the principles involved, not just a reaction to any one particular event or issue.

Thank you
Brian Nelson

[REDACTED]

From: Erin McIvor-Dennis [REDACTED]

Sent: November-21-16 11:34 AM

To: John McKean [REDACTED] >

Cc: T.S. Gillick <[REDACTED]>; Corrina Giles <[REDACTED]>

Subject: For your consideration please.

Dear Mr. McKean,

The Thornbury Paper included in its article regarding proposed changes to the Workplace Harassment and Violence Policies, the following remarks, "We encourage residents who have an interest in this issue to visit our website and review the [current staff report](#), by clicking on November 14th to view the list of staff reports presented at the last Committee of the Whole. "

You go on to say that in considering this new policy, Council is " taking into consideration the documents and feedback we have received from the residents of the Town". While I am encouraged by this, I wonder what mechanism is in place for residents to comment and provide that feedback. Will a public meeting be scheduled to facilitate this on-going forum for communication?

The public has a strong vested interest in the administration and the decisions made with regard to our public library but there has been no similar offer to participate in this process. Indeed, with two Library Board seats opening up, it was encouraging to me as a resident to see the opportunity for more members of the community to serve on the Board. I hope that Council will fill those seats with the same expediency as was shown when you became Chair. I feel it is crucial for the Library Board to include these additional members in order to bring the number back up to 9, and give the community more of a voice. Would this not be a perfect way for the feedback that you are looking for to take place, at least in part? I hope that we will see some progress in the appointment of Board members at today's Library Board meeting.

Regards,
Erin McIvor

From: June Porter [REDACTED]

Sent: Thursday, December 01, 2016 10:18 AM

To: [mayor](#) [REDACTED]; [gardie](#) [REDACTED]; [bgamble](#) [REDACTED];
[jhalos](#) [REDACTED]; [mmartin](#) [REDACTED]; [jmcgee](#) [REDACTED];
[mseguin](#) [REDACTED]; [jim.wilson](#) [REDACTED]; [minister.mma](#) [REDACTED];
[bmauro.mpp.co](#) [REDACTED]; [kflynn.mpp.co@](#) [REDACTED]

Subject: Response to The Town of Blue Mountains's proposed revisions to their Workplace Harassment and Violence Program

Importance: High

For the attention of all: Mayor McKean, Deputy Mayor, Gail Ardie, The Town of Blue Mountain Councillors, Kevin Flynn, Minister of Labour, Bill Mauro, Minister of Municipal Affairs and Jim Wilson, MPP

My letter is attached and also included in the body of the email.

According to the Thornbury Paper (<http://www.thornburypaper.ca/new-changes-planned-to-municipal-workplace-harassment-policies/>) the elected officials of The Town of Blue Mountain want to hear from residents about the proposed changes.

"We encourage residents who have an interest in this issue to visit our website and review the [current staff report](#), by clicking on November 14th to view the list of staff reports presented at the last Committee of the Whole. Many other Towns have policies posted on their websites and residents may wish to review those posted by [Wawa](#), [Cobourg](#) or the [City of Guelph](#)."

You will note from the email that it is addressed 'to' Kevin Flynn, Minister of Labour, Bill Mauro, Minister of Municipal Affairs and Jim Wilson, MPP in order that they may also be aware of my concerns about the proposed Town's Workplace Harassment and Violence Program and any associated policies and protocols which may arise as a result of the program.

As referenced in the media the The Town of Blue Mountain (referenced as '**Town**') I have taken the opportunity to review the policies of Colbourg, Guelph and Wawa which were referenced in the and have found it a most interesting exercise.

Mutual Responsibility and Accountability

The proposed Town's Workplace Harassment and Violence Program is committed to providing and maintaining a work environment that is based on respect for the dignity and rights of everyone in the organization. There

There is no reference in Town's proposed policy to mutual responsibility and accountability which is inclusive of the residents of the municipality they are there to serve. Rather it appears to be looking to leverage government legislation as a self-serving vehicle to suppress known organized community groups of concerned residents regarding various matters. In the Town's Policy Statement below the commitment to a safe work environment is only extended to their employees, elected officials etc. There is no reference to how the public is protected from similar behaviour which may be intended or unintended by the Town's employees and or elected officials as the Town's Code of Conduct is limited regarding this.

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.

Reference to and Scope of Harassment:

The Town's proposed policy outlines Harassment as follows:

*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.*

Whereas cited examples: **Cobourg's, Guelph's, Wawa's** Workplace Violence, Harassment, Sexual Harassment & Discrimination Policy policies **DO NOT** state the following:

Overt
Unintended
Deliberately
Deliberately directed

Even the sample policy on the Ministry of Labour website <https://www.labour.gov.on.ca/english/hs/pubs/harassment/schedulec.php> utilizes the following definition:

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

Table 1: Comparison of the Reference to and Scope of Harassment:

Town of Blue Mountain (proposed)	Colbourg	Guelph	Wawa
<i>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</i> <i>another individual. In any case, the impact on that individual is what must be addressed.</i>	<i>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>	<i>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>	<i>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>

The obvious nonuse of the Occupational Health and Safety Act (OHSA definition of harassment is unjustified and again only serves to reinforce the Town is leveraging new government legislation for self-serving agendas.

There is also concern with the phrase:

In any case, the impact on that individual is what must be addressed.

Concern arises given the aforementioned increasingly vocal organized groups of residents who are also exercising social media as given the above statement any employee or elected official has given the Town's proposed policy the inherent ability to potentially manipulate any comment, tone, body language etc. out of context for a self-serving end, agenda or for secondary gain. What is clearly missing is any sense of objective context setting. An example could be non-compliance with government legislation when in which case a community resident escalates communication simply out of sheer frustration and an employee or elected official claims harassment.

Further to the impact of revisions of to the Town's Workplace Harassment and Violence Program it is noteworthy that Colbourg, Guelph nor Wawa do not directly reference citizen(s) whereas the Town of Blue Mountain does not only once but three (3) times.

While it is understood that recent amendments to Bill 168 require changes at the local lever, the extent which the Town of Blue Mountains has selectively chosen to interpret for application is beyond what was is believed to have been intended by the Ministry of Labour and the wider Queens Park Legislature.

The repealing of the above three (3) Town policies to become housed under one (1) umbrella corporate policy is not only being used to fulfill the amendments to Bill 168 required under clause 32.0.1 (1) (b). 2016, c. 2, Sched. 4, s. 2 (1).– but to curtail the following citizen fundamental freedom one is entitled to as outlined in the Constitutional Act, 1982 - Fundamental Freedoms. It is also at a time where the Town has recently undertaken medial training as it is coming under continued pressure to be open and transparent from two significant yet separate and distinct vocal community groups or highly organized concerned residents.

2. Everyone has the following fundamental freedoms:

- (a) freedom of conscience and religion;
- (b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication;
- (c) freedom of peaceful assembly; and
- (d) freedom of association.

In closing there is a need for the Town to comply with current legislation while maintaining the equally legislated rights of the local residents they serve.

I look forward to having the above both acknowledged and addressed by each elected official this has been addressed to for the purpose of having a Workplace Harassment and Violence Program which also protects the legislated rights of the the local residents they serve.

Regards,

June Porter, MScNursing, MBA

From: Karen Ferri [mailto: [REDACTED]]
Sent: November-30-16 8:27 AM
To: Corrina Giles <[REDACTED]>; John McKean [REDACTED] >
Subject: Prospective Bylaw

It is my understanding the Council is contemplating passing their own bylaw regarding harassment. Several points I'm not clear on: First, our Human Rights has establish procedures in place to prevent harassment. I'm unclear as to why TOBM feels it's necessary to spend their precious time to "reinvent the wheel" so to speak. Seems to me that this is a unwise, redundant and unproductive use of resources, both time and finances. Secondly, why does the TOBM feel this legislation is a necessity? Are they concerned about the publication of public opinion regarding elected officials? Are they concerned about the treatment of some employees of the TOBM?

TOBM is a growing and vibrant community. Should it not be the responsibility of the Council to support, ensure and encourage the economic viability of this amazing Municipality? As a contributing business within the community, I'm at a loss as to the logistics behind such a bylaw.

Karen Ferri

From: [REDACTED]
Sent: November-28-16 10:09 PM
To: Corrina Giles <[REDACTED]>
Cc: John McKean <[REDACTED]>
Subject: Town's Workplace Harassment and Violence Program

To the Town of the Blue Mountains (including elected officials)

There are major flaws in the policy as outlined.

1. An outside investigator is only brought in if one party is a superior to another. That means (potentially) a group of equals can choose to isolate a colleague. There should only be outside investigators.
2. "any worker who brings a deliberately false and malicious complaint." can be punished. I worry this approach can be abused if there is no public process. If the process isn't public, this can create a culture of threats and counter-threats or the bullying of one employee and no one would know about it because no one outside knows about it.
3. All reports go to the CAO or head of HR for discipline meaning that their judgement is now the governing opinion. Is there any evidence that their opinions / training / understanding is superior to others? Additionally, they make it clear this isn't the case if the CAO is involved but not if the HR lead is. That should be explicit in case the HR lead is challenged for their conduct.
4. There is no declaration or provision for transparency. While I seriously doubt this policy would be abused, it certainly could be and no one in the public would know without going to court.
5. Most offensively, there is an entire section (C) that outlines the process for dealing with complainants and respondents. But in section D regarding members of the public, there is no reporting or recourse outlined. The means the accuser is also the adjudicator. How does a member of the public defend themselves?

This policy is far too important. It needs to be fixed and (most importantly) no member of the public should be able to be censured by the town without any recourse.

It is difficult not to see this as another policy that is designed to prevent a meaningful public discourse.

Respectfully,

mike d'abramo :: [REDACTED]

Dear Mr. McKean,

The Thornbury Paper.ca posted an article this week regarding proposed changes to the Workplace Harassment and Violence Policies. In this article, you were quoted as saying "*we encourage residents who have an interest in this issue to visit our website and review the current staff report.*"

Later in the article you explain that while Council is reviewing this new policy, Council is also "*taking into consideration the documents and feedback we have received from the residents of the Town*".

I am greatly encouraged by your words as they are quoted, but I wonder what mechanisms are in place for residents to comment and provide that feedback? As of today, there has been no avenue of communication for citizens to express their concerns. Will a public meeting be scheduled to facilitate this on-going forum for communication? Council members rarely even reply to our emails, so how do we know that you are even listening?

The public has a strong vested interest in the administration of this town, especially when decisions are made concerning public input. Take this email for example . . . on one hand, this email could be interpreted as harassment because I am potentially bothering you with my questions. On the other hand, one could say that I am expressing my right to communicate with my elected officials. Am I harassing you? Am I not harassing you? Who will make this subjective decision? You? The day elected officials start suffocating the voice of the electorate is the very day that democracy dies.

In closing, when will the citizens of this town be allowed to provide feedback on this new workplace policy? And more important, how will the citizens be allowed to provide feedback on this policy?

The article in the Thornbury Paper.ca is very encouraging, but if you have no plan to follow through, then your words are merely broken promises.

Patrick Delaney
Thornbury, ON

***** NOTE: Please add this email as official correspondence to Town of Blue Mountains Council. *****

From: Paul Wilson [REDACTED]
Sent: November-17-16 12:59 PM
To: Gail Ardiel [REDACTED]; John McGee [REDACTED]; Joe Halos [REDACTED]; Bob Gamble [REDACTED]; Michael Martin [REDACTED]; Michael Seguin [REDACTED]; John McKean [REDACTED]; Corrina Giles [REDACTED]
Subject: Staff Report on Harassment

Dear Councilors,

Following last Monday's meeting—at which, as I understand it, your acceptance of Staff Report

FAF.16.99 on Workplace Harassment and Violence policies, has been deferred to December 5th, pending some clarifications—I would like to respectfully suggest a practical set of measures that you, the Council, might take in preparation for the next public session on the matter.

First, let me say that I appreciate that the work of Council encompasses far more than the approval of such bylaws, that you are all very busy, and dedicate a lot of your time and energy to making sure the town is run smoothly and fairly. This is what we elected you to do, and for this you deserve our gratitude.

Yet in such circumstances, you often don't have the time to consider in depth the meaning and the long-term consequences for the public of bylaws and policies that you pass. For that, you depend, quite properly, on the town staff (or their legal advisors) to inform you and make policy proposals, just as any government depends on its civil service to advise and execute policy that the government, acting on behalf of the electorate, wishes to see acted on.

But it's one thing to be asked to approve or reject an adjustment in zoning bylaws that might affect a handful of people in a neighbourhood, and something quite different, and far more serious, to approve or reject proposals from your staff that will have an impact not only on the public as a whole, but over time, on the atmosphere of life in the town, and on the quality of the relationships we citizens have with our municipal authorities, who are also, by the way, happen to be our friends and neighbours.

I believe, and I know I'm not alone, that Staff Report FAF.16.99 is just such a proposal, one that needs far more careful scrutiny than most, since it involves the potential rupture of some values that are basic to our democracy. And it was clear from the meeting on Monday that you share our concerns. So I see this deferral as an opportunity for you, the Council, to come up with a report of your own, one that examines FAF.16.99 not just in the light of existing provincial legislation on workplace health and safety, or of similar codes in other municipalities, but more broadly, in the light of existing human rights legislation, and legislation protecting the community's right to public participation.

You have already received letters from some citizens drawing your attention to possible problems in the report. I believe what you need now is expert, independent opinion on those contentions.

I understand that normally, you would instruct the staff to do that work, and that, normally, this would be fine. But a word of caution here: in at least two recent instances -- in the matter of the indemnification of town employees and volunteers, and in the matter of the sanctions imposed on Councilor Seguin's for his alleged infringement of the code on harassment—the staff has presented and the Council has approved reports that, to put it mildly, have not shown the Council in a good light. Those two instances have made many of us question who is in charge: our elected representatives, or the town staff? More fundamentally, we wonder whether our

votes, and the taxes we pay, count for anything at all in matters as basic as our freedom to participate in our own governance.

There is a simple solution. You can appoint a legal firm with no ties to the town, or to the town's paid legal advisors (in this case Bernardi LLP), and preferably a firm that deals in human rights issues, to vet Staff Report FAF.16.99 to determine whether the current wording of the report does or does not overstep the bounds of what is needed to make the town hall a safe working environment. The optics of having the same firm that helped draft the report vet it are terrible, and will persuade no one, and will therefore be a waste of money. I believe that not only will most people not object to the extra expense of a truly independent report, but will applaud your efforts to represent us properly.

In the hierarchy of democratic authority, your decisions, acting on our behalf, trump that of the staff, and I believe that you are entirely within your rights to order an independent second opinion. Once you have that opinion, you will be in a better position to make the important decisions that affect all of us in this community.

Respectfully submitted,

Paul Wilson
Acting Chair.
Voices of Community for Accountable Leadership

From: Paul Wilson [REDACTED]
Sent: November-14-16 12:59 AM
To: Gail Ardiel <[REDACTED]>; John McGee <[REDACTED]>; Joe Halos <[REDACTED]>; Bob Gamble <[REDACTED]>; Michael Martin <[REDACTED]>; Michael Seguin <[REDACTED]>; John McKean <[REDACTED]>; Corrina Giles <[REDACTED]>
Subject: Suggested reading

Dear Councilors,

As you deliberate today on whether to accept or reject Staff Report FAF.16.99 on Workplace Harassment and Violence policies, you may want to take a look at this investigation from Midland three years ago (<http://midlandcommunity.ca/wp-content/uploads/2013/12/Town-of-Midland-Bill-168-Decision-December-9-2013-2.pdf>). I'm sure you will find it amusing and enlightening, and one hopes that it may even give you pause as you consider the many absurd and embarrassing situations that might arise in our town should you approve the proposals contained in FAF.16.99.

Having read the Report, might I respectfully suggest that you vote to postpone its acceptance pending a second opinion from a qualified human rights lawyer. Since the proposed code will affect every citizen in the town, you should probably also hold a special public meeting to discuss its implications.

It surely hasn't escaped your notice that the report as it stands now, in and of itself, could be construed as a form of harassment. At the very least, it's an insult to our dignity and integrity as citizens, taxpayers, and voters, and it could well have a lasting and harmful effect on good community relations in our town.

With best wishes,

Paul Wilson

30 November 2016

To: Mayor and Councillors, The Town of the Blue Mountains
Re: Workplace Violence and Harassment Program

It is my understanding that public comment has been invited regarding proposed changes to POL. N.S. 10.12. Herein are a few comments and questions

1. I applaud the desire to protect those mentioned in the Policy Statement (p.1) from harassment and violence. However, the "Program Procedures" (p.8) does not emphasise the need for training to prevent harassment and violence.
2. Under "Complainant" (p.3) workers and volunteers are included but not members of the public although they are listed in the Policy Statement. Shouldn't there be consistency?
3. Cyberbullying (p.3) probably needs clarifying. Bullying implies an imbalance of power, so I'm not sure how this applies.
4. In reference to harassment (p.6): Does criticism that does not impugn an individual for any of the characteristics listed under Discrimination (p.3) constitute harassment?
5. How are complaints against the behaviour of Mayor, Councillors, and CAO to be pursued?

6. Under "Investigation procedure" (p.12), shouldn't "external investigator" be further defined?
7. If then the issue is workplace violence doesn't that immediately trigger police investigation, and thus render moot the "Procedure" section on pages 14 and 15?
8. Referring to page 15: As opposed to harassment, isn't discrimination a criminal offence? Pages 15 and 16 seem to treat them as equal under the law.
9. "Engaging in a course of vexatious comment" seems to return us to page 6 and my question under 4. above regarding criticism.
10. Appendix A seems to refer to the provision of a safe environment for all of the listed categories of individuals, but the last sentence of the first paragraph refers only to workers. I assume that what is desired is a safe environment for everyone and so it should state.

Respectfully,

Roland Bosselin

T. Hornbeery

RECEIVED

DEC - 1 2016

TOWN OF THE BLUE MOUNTAINS

PER: _____

Mayor McKean

Council

Subject: Some suggestions for Communicating with the Public regarding Harassment Policy

Clearly a significant segment of the TBM Public is greatly concerned about the possibility that said Policy might morph into a mechanism for inhibiting Public input in general. The specialists who created the document, and Council, may think the Public doesn't know and understand enough about such matters to justify being concerned. But does it matter whether those on the "inside" think the Public doesn't know enough? No it doesn't. We can think clearly enough. The concern is there, rooted largely in vague and subjective criteria and processes, secrecy and uncertainty. It must be dealt with.

No reasonable person should question the need for policy and procedures to protect staff from clear and blatant personal harassment by a member of the Public. I certainly wouldn't. But it is unsettling to know that a charge and investigation could also be triggered by a staffer who simply "felt harassed" by something that community norms would tolerate as not only innocuous, but actually in the Public interest. Yes, I know this is hypothetical; but it's "out there".

If I understand correctly, there will be some education / training for the Public in the near future. I would respectfully suggest that such education / training should include some concrete real-life examples to help the Public understand the intent and practical application. To help get to the point of it all, actual examples, with names deleted for this exercise, would be extremely useful. For example:

- 1) One case that is clearly not acceptable (the Public would no doubt readily agree)
- 2) One case that is clearly acceptable (the Public could take some comfort in that one)
- 3) One case that lies in a grey area, where there's a challenge to assess and decide if there's a violation. This would help the Public see where the boundary lies.

Now, regarding the document itself. It appeared at last Monday's meeting that the author of the document would be asked to review some aspects. That seems rather bizarre. Better to have any review done by a knowledgeable independent party. That raises another point. At last Monday's meeting, it was stated, several times, that, to paraphrase in layman's terms "this is mandated; it's the Law; we have to do it". Well, there remains a valid question as to delineating what we must do, and what we have chosen to do. So I would respectfully suggest the following:

- A) It would be very useful to have someone quickly create a bare-bones draft document that met the essential legal mandated requirement and nothing more
- B) TBM's current draft could then be compared alongside the bare-bones version to identify what has been added, and the reasons for and intent of the additions, particularly anything related to the Public. Council could review and assess this.

Finally, on the general matter of confidentiality. I would submit that if there is ever a case where a member of the Public is sanctioned, such as by being blocked out of the TBM e-mail system, then the name of the offender and the specifics of the offense should be disclosed to the Public. To keep it secret would only feed concerns that Public input is being suppressed; whereas disclosure would show the Public that the sanction was fully justified. There doesn't seem to be any significant downside to disclosure. So why dig a deeper hole of secrecy, mystery and uncertainty ?

I hope and trust you will see this communication as clearly intended to be helpful, and that at least one or two of you will have, and take, the time to read it.

Thanks

Ron Hartlen,

Clarksburg

> From: Rosemary Gosselin [mailto: [REDACTED]]
> Sent: November-11-16 9:01 AM
> To: Corrina Giles < [REDACTED] >
> Subject: Letter to C.O.W
>
> Good morning Corrina,
> Would you be so kind as to circulate this letter to the Committee of the Whole prior to the meeting this Monday?
> Warm regards,
> Rosemary
>
> Re: Town's Workplace Harassment and Violence Program
>
> Dear Mayor and Members of Council;
>
> As a psychotherapist and social worker, I am concerned that the revised policy fails to offer sufficient provision for prevention, and for resolving issues in-house.
>
> Might it be helpful, as a preventative, to hold sensitivity workshops for incoming Councils? This might help create a culture in Council of mutual regard and support.
>
> Are opportunities provided to forge bonds and fellow-feeling amongst staff members and councillors.
> Is there an open-door policy?
>
> Insults and slights are often so subjective. What rolls off one person's back is an arrow to the heart of another. The Globe and Mail reports the charges against Mayor Bradley includes failure to say "good morning" to a fellow official!
>
> If an issue arises, is a mediator available to hold sessions with the parties involved? A lawyer should be the very last resort.
>
> Those of us who are in long and happy marriages well-know how vital it is to live in forgiveness.
>
> You needn't agree with each other, but together you share an enormous responsibility. Communicating well amongst each other and with the public you serve is paramount.
>
> Respectfully submitted,
> Rosemary Gosselin
>

> From: Rosemary Gosselin [mailto: [REDACTED]]
> Sent: November-11-16 9:01 AM
> To: Corrina Giles < [REDACTED] >
> Subject: Letter to C.O.W
>
> Good morning Corrina,
> Would you be so kind as to circulate this letter to the Committee of the Whole prior to the meeting this Monday?
> Warm regards,
> Rosemary
>
> Re: Town's Workplace Harassment and Violence Program
>
> Dear Mayor and Members of Council;
>
> As a psychotherapist and social worker, I am concerned that the revised policy fails to offer sufficient provision for prevention, and for resolving issues in-house.
>
> Might it be helpful, as a preventative, to hold sensitivity workshops for incoming Councils? This might help create a culture in Council of mutual regard and support.
>
> Are opportunities provided to forge bonds and fellow-feeling amongst staff members and councillors.
> Is there an open-door policy?
>
> Insults and slights are often so subjective. What rolls off one person's back is an arrow to the heart of another. The Globe and Mail reports the charges against Mayor Bradley includes failure to say "good morning" to a fellow official!
>
> If an issue arises, is a mediator available to hold sessions with the parties involved? A lawyer should be the very last resort.
>
> Those of us who are in long and happy marriages well-know how vital it is to live in forgiveness.
>
> You needn't agree with each other, but together you share an enormous responsibility. Communicating well amongst each other and with the public you serve is paramount.
>
> Respectfully submitted,
> Rosemary Gosselin

RECEIVED VIA EMAIL – November 28, 2016
Re: TBM Workplace Violence and Harassment Program

Members of Committee of the Whole

Much care and effort has gone into constructing the document before us. It is no small task to dot all the "i"s and cross all the "t"s to guide us all in minding our Ps and Qs in our dealings with each other.

It matters how we treat each other, how we converse. My conversation with Ms Moreau, when we went over this document together, was meaningful. I felt kindly and openly received, my ideas warmly responded to, rather than being defensively fended off.

As Ms Moreau affirmed, the policy is mostly common sense.
But how can we legislate uncommon sensitivity? Or all those times when we mis-speak, or mis-hear? Or the differentials of power--real or perceived?

For example, if a woman my size is in a small room with a large man, and he raises his voice, could that warrant a complaint?

An appendix, clarifying such examples, would be useful. More focus on prevention and amelioration would help too. Mediation has been suggested by the public and Council. Perhaps lawyers need not be our first line of consultation.

But what if the dissent is not between individuals, but between groups? What if the public, rightly or wrongly, feels disrespected by officials?

Can we build into this document a process through which a town in crisis finds a way to communicate and begin a healing process?

Face-to-face is, in my book, more effective than FaceBook. In the November 7th workshop on communication, Karen Gordon underlined this: "Pick up the phone: talk with your constituents," she urged. "Be as transparent as possible." But instead we have been scolded like naughty children for "pestering the people in charge", to quote one council member.

Instead of transparency, after the trauma of Black Tuesday last March 8th--and it still feels like yesterday--the Blue Mountain Wall of Silence was erected. If the Depot was the Town's "white elephant", the Library is now "the elephant in the room". Everyone knows about it but no one wants to talk about it. Hundreds of letters and pleas from the public have received no response. Surely it is common courtesy to at least acknowledge receipt of a letter, never mind addressing its concerns. Rather, we are instructed to "get over it." And so it festers....

Silence breeds mistrust and suspicion. Trust me, trust is badly broken in this town. And attempts to silence dissenting voices infringe upon Human Rights.

So the document before us has been greeted by many members of the public with suspicion. A Red Flag document, we might say.

And yet the policy is primarily for the purpose of protecting staff in the workplace. And the townspeople care deeply about that. Our compassion for staff, ironically, is the basis of the crisis in which we're embroiled. Town staff is stressed too. Everyone is hurting.

Another issue is a lack of transparency and deals done behind closed doors with no public input. To his credit, Michael Benner includes Goal 2 of our Strategic Plan in all his Staff Reports: "Engage our community and partners." My bias, if you will, is that Council should be proactive in this. The politicians shouldn't wait for the people to come to them--they should go to the people.

Real democracy can be messy, passionate and difficult. Are we up for it? Can we mind our manners and engage in civil debate and discussion? Can the document before us provide an opening?

We need a forum for engagement and open discussion. Karen Gordon with her communication skills would be an excellent facilitator. Dare I suggest an organizing committee with representatives from all concerned parties?

And let us hold these gatherings in our democratic public space, the central living room of the town. We know the address by heart.

Respectfully submitted,
Rosemary Gosselin