

Policy No.: HR.05

Section: Your Government and People

Policy Title: Harassment Prevention in the Workplace Policy

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By-law No.: Resolution # 08/08/22 – 01; **Confirmatory By-Law#:** 2022 - 145

1. Purpose

The Municipality of Kincardine (“Municipality”) is committed to building and preserving a safe, productive, and healthy working environment for its employees, free from workplace harassment and discrimination. It is required by law to protect against all forms of harassment and the Municipality will strive to create a workplace where workers are respected and feel safe to contribute.

Acts of harassment or discrimination against or by any employee will not be tolerated by the Municipality. The Municipality is committed to addressing all reports or complaints of harassment and discrimination in a fair and timely manner in accordance with the outlined procedure. The Municipality is committed to preventing and resolving workplace harassment and discrimination situations to the best of our ability.

2. Scope

Workplace harassment or discrimination will not be tolerated from any person in the workplace including workers, supervisors, Council members, clients, contractors, or residents.

Harassment prevention in the workplace is the responsibility of all individuals. The Municipality and the employees have a duty to ensure that we create and sustain a workplace free from harassment and discrimination.

3. Definitions

“Workplace Harassment” shall mean engaging in a course of vexatious comment or conduct against a worker in the workplace, including virtually through the use of information and communications technology, that is known or ought reasonably to be known to be unwelcome OR workplace sexual harassment

“Workplace Sexual Harassment” shall mean engaging in a course of vexatious comment or conduct against a worker in a workplace, including virtually through the use of information and communications technology, 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 as unwelcome OR making a

sexual solicitation or advance where the person making the solicitation or advance 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 that the solicitation or advance is unwelcome

“Abuse of Authority” shall mean occurs when a person uses authority unreasonably to interfere with a worker or the worker’s job. This could include humiliation, intimidation, threats, or coercion

“Bullying” shall mean any repeated behaviour, direct or indirect, whether verbal, physical or otherwise in the workplace which could reasonably be regarded as undermining an individual’s right to dignity at work

“Complainant” shall mean the person who reports or complains about discrimination, harassment, or retaliation

“Designated Investigator” shall mean a third party selected by the Human Resources Department, CAO or Mayor to conduct the investigation

“Discrimination” shall mean any practice or behaviour, direct or indirect, that differentiates adversely in relation to an individual on the basis of the prohibited grounds as defined in the Canadian Human Rights Act

“Mobbing” shall mean an emotional assault targeted at an individual where a number of individuals willingly or unwillingly participate in malicious actions to force a person out of the workplace

“Prohibited Grounds:” shall mean criteria defined within the Canadian Human Rights Act to protect employees and those receiving goods or services from harassment related to: race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability and conviction for which a pardon has been granted

“Poisoned Work Environment” shall mean created when a workplace is hostile or unwelcoming because of insulting or degrading comments or offensive actions aimed at a worker or others

“Respondent” shall mean the person whose conduct or actions are the subject of a discrimination, harassment or retaliation report or complaint

“Retaliation” shall mean taking or threatening to take adverse action against someone because of a reported complaint about discrimination, harassment, or retaliation or due to participation in an investigation of an alleged violation

“Witness” shall mean a person who may have information relevant to the report or complaint and may volunteer or be requested to provide that information

4. Responsibility

The Chief Administrative Officer is responsible for the overall application of the Policy. When, in the judgement of the Chief Administrative Officer, a situation is apparent that should be communicated to Council, it will be done so through normal reporting procedures.

It is the responsibility of every Director, Manager, and Supervisor to be familiar with the Policy and understand when reported incidents need to be escalated.

Employees are responsible to adhere to the Policy and understand how to report a complaint. The Human Resources department will ensure that when the situation arises that meets the criteria defined in the Policy, the appropriate procedures will be followed.

5. Procedure/ Policy

5.1. General Parameters

For the purposes of this policy and procedure, workplace harassment and discrimination can occur:

- a) At the workplace
- b) Virtually using information and communications technology
- c) At employment-related social functions
- d) In the course of work assignments outside the workplace
- e) During work-related travel
- f) Over the telephone, if the conversation is work-related
- g) Elsewhere, if the person is there as a result of work-related responsibilities or a work-related relationship

For the purposes of this policy and procedure, the following are examples of workplace harassment which may be a single incident or continue over time:

- a) Offensive, embarrassing, humiliating, or intimidating comments or jokes
- b) Bullying or aggressive behaviour
- c) Displaying or circulating offensive pictures or materials
- d) Repeated offensive or intimidating phone calls or emails
- e) Workplace sexual harassment

For the purposes of this policy and procedure, the following are examples of sexual harassment which may be a single incident or continue over time:

- a) Rough or vulgar humour or language related to sexuality, sexual orientation, or gender

- b) Displaying or circulating sexual images or offensive sexual jokes
- c) Inappropriate staring or leering
- d) Unnecessary physical contact or inappropriate touching
- e) Invading personal space
- f) Isolating or making fun of a worker because of gender identity
- g) Making gender-related comments about someone's physical characteristics, mannerisms or conformity to sex-role stereotypes
- h) Threatening to penalize or otherwise punish a worker if they refuse a sexual advance

Reasonable action taken by the employer or supervisor relating to the management and direction of workers or the workplace is not considered workplace harassment. This will include but not limited to: changes in work assignments, performance reviews, work scheduling, workplace inspections, implementation of health and safety measures or disciplinary action.

5.2. Reporting Harassment or Discrimination

Employees are strongly encouraged to report any incidents of workplace harassment or discrimination to the appropriate person as soon as possible. Any individual who believes that they have been subject to or a witness to harassment, discrimination or retaliation in the workplace will:

- a) Where possible, make a reasonable attempt to resolve the behaviour informally by confronting the alleged offender that the behaviour is unacceptable and unwelcome and clearly state verbally or in writing that this behaviour must stop without filing a formal complaint.
- b) If the matter cannot be resolved informally between the individuals, the Complainant should immediately inform (in writing) one of the following: their immediate supervisor, Manager or Director and the Human Resources department.
- c) If the alleged offender is the employee's manager, or in a position of power, the complainant is welcome to file a complaint with the Director or the Human Resources department.
- d) In the case of inappropriate or harassing behavior involving a member of Council, the Mayor is required to respond proactively and oversee the process in consultation with the Integrity Commissioner.
- e) If the complaint is related to sexual harassment or discrimination or harassment based on the prohibited grounds or acts of retaliations, it must be referred to the Human Resources department.
- f) The *Workplace Harassment & Violence Reporting Form* will be used to report any alleged incident.

It is important that reports or complaints be made as soon as possible after the alleged incident has occurred so that the issue may be addressed as swiftly as

possible. Management will investigate and deal with all complaints or incidents of workplace harassment in a fair, respectful, and timely manner.

The *Incident Decision & Escalation Path* will be used as a guide through the process.

5.3. Investigation Process

The Municipality will ensure that an investigation appropriate in the circumstances is conducted when the Human Resources department or Management becomes aware of an incident or receives a complaint of workplace harassment.

Once a complaint has been reported to the Human Resources department, the Human Resources Manager will determine who will conduct the investigation into the incident or complaint of workplace harassment or discrimination. If the allegations of workplace harassment or discrimination involve the Chief Administrative Officer or a Director, the investigation will be referred to a designated third-party investigator to conduct an impartial investigation. Upon the commencement of a formal investigation, the Chief Administrative Officer and the Mayor will be informed.

Once a complaint has been received, the Municipality will complete a thorough investigation and take appropriate workplace action, as necessary, to protect the complainant during the course of the investigation. The Municipality will ensure that, where practicable, the investigation is completed within 60 days or less of the complaint being filed unless there are extenuating circumstances warranting a longer investigation. The Joint Health & Safety Committee will not be involved in investigations and will not be provided with any identifying information of the parties involved.

The investigator, whether internal or external, will at minimum complete the following:

- a) Ensure the investigation is kept confidential and information is not disclosed unless necessary to conduct the investigation. The investigator should remind the parties of this confidentiality obligation at the beginning of the investigation.
- b) Interview the complainant who allegedly experienced the workplace harassment or discrimination and interview the respondent to allow for a response to the specific allegations.
- c) Interview any relevant witnesses employed by the employer who may be identified by either the complainant or respondent or as necessary to conduct a thorough investigation. The investigator must make reasonable efforts to interview any relevant witnesses who are not employed by the employer if there are any identified.
- d) Collect and review any relevant documents.

- e) Take appropriate notes and statements during interviews with the complainant, respondent, or any witnesses.
- f) Prepare a written report summarizing the steps taken during the investigation, the complaint, the allegations of the worker who allegedly experienced the workplace harassment, the response from the alleged respondent, the evidence of any witnesses, and the evidence gathered. The report must set out findings of fact and provide one of the following determinations:
 - i. The allegations appear to be unsubstantiated and therefore no action will be taken
 - ii. The allegations appear to be substantiated, and an action plan is required to resolve the matter

All employees will have a right to representation (i.e. JHSC member, union steward, supervisor, or human resources) throughout the investigation process.

5.4. Investigation Results

Upon completion of an investigation, Municipality will provide both the complainant and respondent with a written summary of the findings of the investigation and any corrective action that has been or will be taken as a result of the investigation. This written notification will be provided within 10 days of the investigation being completed and will not include the investigation report unless required by law.

Where the Municipality determines that harassment has occurred, control measures will be implemented to eliminate or control the risk of harassment or retaliation to a worker as a result of the investigation. These control measures will be determined on a case-by-case basis, depending on the situation investigated. Any control measure enacted will be communicated to the complainant and respondent, as well as any other employees the measure affects.

5.5. Disciplinary Measures

Any disciplinary action will be determined by the CAO and Director in consultation with the Human Resources Manager and will be proportional to the seriousness of the behaviour or action involved in the incident.

If the organization determines that an employee has been involved in an incident of harassment towards another employee, immediate disciplinary action will be taken, up to and including immediate dismissal.

5.6. Confidentiality

Confidentiality is required to properly investigate a workplace incident and to offer proper support to those adversely affected. Information provided about an incident or about a complaint will not be disclosed except as necessary to protect workers,

to investigate the complaint or incident, to take corrective action or as otherwise required by law.

Everyone involved with the investigation must ensure that all information is treated with strict confidence. Information will only be released to those who need to know for purposes related to the resolution of the complaint. The Municipality will do everything reasonably possible to protect the privacy of any individuals involved and to ensure that complainants and respondents are treated fairly and respectfully.

5.7. Fraudulent or Malicious Complaints

It is a violation of this policy for anyone to knowingly make a false complaint, or to provide false information about a complaint. Unfounded or frivolous allegations may cause both the respondent and the company significant damage. Any employee who knowingly makes a false allegation related to harassment or discrimination will be subject to immediate disciplinary action, up to and including termination of employment.

5.8. No Retaliation

Employees will not be penalized or disciplined for reporting an incident or for participating in an investigation involving workplace harassment or discrimination. Any retaliation or threat of retaliation will be addressed through the disciplinary process and will be subject to disciplinary actions appropriate to the severity of the incident, up to and including termination.

5.9. Instruction & Training

The Municipality will provide all employees with appropriate training and information regarding this policy and procedure. This will raise awareness and will help employees understand the factors that contribute to workplace harassment and how to prevent it. Employees are responsible for adhering to this policy and should report every incident of harassment immediately to management. This includes any incidents that have been witnessed, experienced by, or reported to an employee.

5.10. Record Keeping

All records of the investigation will be kept confidential and maintained in the Human Resources department. The investigation documents, including the report should not be disclosed unless necessary to investigate an incident or complaint of workplace harassment, take corrective action or otherwise as

required by law. The records will be retained according to retention standards set out by the Municipality.

5.11. Program Review

This policy and procedure have been developed in consultation with the Joint Health & Safety Committee. It will be reviewed annually, or more frequently if necessary to ensure that it accurately represents the Municipality’s workplace harassment prevention program. In accordance with the Occupational Health and Safety Act, this policy will be posted in a conspicuous place in the workplace and signed by the Chief Administrative Officer.

6. Related Policies

- a) HR.05 Appendix A - Incident Decision & Escalation Path
- b) Workplace Harassment & Violence Reporting Form

7. Related Documents/Legislation

- a) Occupational Health & Safety Act, 1990

8. Additional Information/Subjects can be added as needed.

N/A

ACKNOWLEDGEMENT & AGREEMENT:

I, _____, acknowledge that I have read, understand, and will adhere to the Harassment Prevention in the Workplace Policy of the Municipality of Kincardine.

NAME:	
SIGNATURE:	
DATE:	

APPENDIX A - Incident Decision & Escalation Path

