


# POLICY

	Policy:	<b>WORKPLACE VIOLENCE, HARASSMENT &amp; DISCRIMINATION PREVENTION PROGRAM</b>		
	Department:	Office of the CAO		
	Division:	Human Resources	By-Law No.:	2016-62
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				11
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## INDEX

1. POLICY STATEMENT	PAGE 1
2. PURPOSE	PAGE 1
3. SCOPE	PAGE 2
4. DEFINITIONS	PAGE 2
5. INTERPRETATIONS	PAGE 6
6. GENERAL CONDITIONS	PAGE 6
7. RESPONSIBILITIES	PAGE 9
8. REFERENCES AND RELATED DOCUMENTS	PAGE 11

## 1. POLICY STATEMENT

- 1.1. The Town, as an employer, is committed to the creation of a workplace climate that reflects cooperation, understanding, and mutual respect.
- 1.2. The Town maintains a zero-tolerance approach to workplace violence, harassment and discrimination.
- 1.3. The Town is committed to preventing violence, harassment and discrimination in the workplace and in relation to all operations and activities.
- 1.4. All employees, elected/appointed officials, contractors, visitors, volunteers and customers are expected to display standards of behaviour that reflect mutual respect and consideration.
- 1.5. All reported incidents of workplace violence and incidents of workplace violence the Town becomes aware of shall be reviewed and appropriate action will be taken.
- 1.6. This policy shall be reviewed annually from the date it becomes effective, and/or sooner at the discretion of the CAO.

## 2. PURPOSE

- 2.1. The purpose of the policy, and all related measures and procedures, are to ensure that the Town has an organizational culture that is free from violence, harassment, and discrimination and to ensure that the Occupational Health and Safety Act and the Ontario Human Rights Code are supported and complied with.

## 3. SCOPE

- 3.1. This policy applies to all employees, elected/appointed officials, contractors, students, volunteers, and visitors.
- 3.2. This policy and related procedures CAO-HR-PRC04.1, CAO-HR-PRC04.2 apply to all worksites and work-related situations in the workplace or arising from the course of employment. It also applies at off-site business-related functions such as conferences, trade shows, social events related to work, and at residents' homes or places of business.
- 3.3. This policy also extends to any circumstance whereby any of these persons become aware of any situations of domestic violence that have the potential and/or probability of causing physical injury to workers at any location where this policy applies.

## 4. DEFINITIONS

- 4.1. **Chief Administrative Officer (CAO)** is the Chief Administrative Officer for the Corporation of the Town of Amherstburg, which includes the roles and responsibilities as laid out in Section 229 of the *Municipal Act, 2001*.
- 4.2. **Clerk** is the Municipal Clerk for the Corporation of the Town of Amherstburg, which includes the roles and responsibilities as laid out in Section 228 of the *Municipal Act, 2001*.
- 4.3. **Council** refers to the current elected Council for the Corporation of the Town of Amherstburg. This includes, in its entirety, the Mayor, Deputy Mayor and five (5) Councillors.
- 4.4. **Director** is the person responsible for direction and operational control of a division as defined on the Town's organizational structure.
- 4.5. **Disabilities** as defined by the Ontario Human Rights Code, disability means:
  - 4.5.1. a. any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness and, without limiting the generality of the foregoing, includes diabetes mellitus, epilepsy, a brain injury, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, or
  - 4.5.2. physical reliance on a guide dog or other animal or on a wheelchair or other remedial appliance or device;

- 4.5.3. a condition of mental impairment or a developmental disability;
  - 4.5.4. a learning disability or a dysfunction in one or more of the processes involved in understanding or using symbols or spoken language;
  - 4.5.5. a mental disorder; or;
  - 4.5.6. an injury or disability for which benefits were claimed or received under the insurance plan established under the Workplace Safety and Insurance Act, 1997. (“handicap”)
- 4.6. **Discrimination** according to the Human Rights Code, discrimination is making a distinction or choice that limits the access of individuals and/or groups to opportunities based on the prohibited grounds described in the Human Rights Code.
- 4.7. **Domestic Violence** is widely understood to be a pattern of behaviour used by one person to gain power and control over another person with whom he/she has or has had an intimate relationship. This pattern of behaviour may include physical violence, sexual, emotional, and psychological intimidation, verbal abuse, stalking, and using electronic devices to harass and control. Harassment and violence arising from personal relationships outside the workplace could potentially expose a worker (victim/worker and others in the workplace) to physical injury in the workplace.
- 4.8. **Employee(s) or Worker(s)** is any person (or group thereof) who supplies services to the Corporation for wages including any union or non-union, regular or temporary, full-time, part-time, seasonal or casual staff member, including but not limited to permanent staff, temporary staff, committee members, students, recreation staff, contract employees, paid work placements, and adult crossing guards.
- 4.9. **Harassment** as defined by the Human Rights Code, means comments or actions that are unwelcome to a person, or should be known to be unwelcome, based upon Prohibited Grounds. Harassment requires a “course of conduct,” which means that a pattern of behaviour or more than one incident is usually required. Harassment is a complex issue involving people, their perceptions and behaviour, and the social norms of society. It is not confined to any one level, class or profession. Harassment may be an expression of power or desire or both, whether it is from supervisors, co-workers, or the public.
- 4.10. **Investigator** refers to the person or persons responsible for carrying-out the inquiry or examination of any incidents or allegations related to complaints of violence, harassment or discrimination.
- 4.10.1. The department or area supervisor/ manager may be designated as the investigator for informal investigations;
  - 4.10.2. For formal investigations, the Investigator will be appointed by Human Resources and may include another member of management, an HR professional, an independent 3<sup>rd</sup> party, or other persons as deemed necessary by HR..
- 4.11. **JHSC** refers to the Town’s Joint Health and Safety Committee.

- 4.12. **Manager** reports directly to a Director (or the CAO in some instances) and who is responsible for a department within a division of the Corporation, as defined on the Town's organizational structure.
- 4.13. **OHSA** is the Ontario Health and Safety Act, as amended.
- 4.14. **Poisoned Environment** is a work environment spoiled by harassment or discrimination. It is not necessarily directed toward an individual, but creates an environment that is intimidating, hostile, humiliating or offensive and may interfere with work performance.
- 4.15. **Prohibited Grounds** as defined by the Human Rights Code, refers to race, national or ethnic origin, colour, religion, age, sex (including childbirth and pregnancy), sexual orientation, marital status, family status, mental or physical disability (including previous or present alcohol dependence), and pardoned conviction.
- 4.16. **Senior Management Team (SMT)** is comprised of the Chief Administrative Officer and the Directors. If a Director is unavailable, a delegate may be assigned.
- 4.17. **Sexual Harassment** as defined by the Human Rights Code, means sexual harassment including, but is not limited to, unwelcome sexual contact and remarks, leering, inappropriate staring, unwelcome demands for dates, requests for sexual favours and displays of sexually offensive pictures or graffiti. For example, repeated and vulgar sexual comments to a person in the workplace could constitute sexual harassment. Someone may tease or bother another employee because of gender-based ideas about how men or women "should" look, dress or behave. It can also occur when submission to such conduct is made either implicitly or explicitly as a condition of employment. Sexual harassment may occur when submission to, or rejection of, such conduct is used as a basis for employment matters such as: promotion, raise in salary, job security and benefits affecting the employee.
- 4.18. **Supervisor** is responsible for overseeing the regular daily functions of a group of employees or a work unit.
- 4.19. **Town** is the Corporation of the Town of Amherstburg.
- 4.20. **Workplace** as defined by OHSA, means any land, premises, location or thing at, on, in, or near where a worker works.
- 4.21. **Workplace Harassment** as defined by OHSA, means engaging in a course of vexatious comments or conduct against a worker in a workplace that is known or might reasonably be known to be unwelcome, or workplace sexual harassment; Workplace harassment may include:
- 4.21.1. Remarks, jokes, or innuendos that demean, intimidate, ridicule or offend.
  - 4.21.2. Displaying or posting offensive pictures or materials in print or electronic format, including social media postings, with any information obtained in the workplace (including names or events).
  - 4.21.3. Repeated offensive or intimidating phone calls or e-mails.

4.21.4. Workplace Harassment may also include:

4.21.4.1. Bullying: Acts or verbal comments that could “mentally” hurt or isolate a person in the workplace. It can involve negative physical contact, repeated incidents or a pattern of behaviour that is intended to intimidate, offend, degrade or humiliate a particular person or groups of people. The assertion of power through aggression.

4.21.4.2. Cyber-Bullying, Cyber-Harassment, Cyber-Stalking: Tormenting, threatening, intimidating, harassing, humiliating, actions against a person by an “anonymous” perpetrator, using an electronic medium such as the internet, a cell phone, interactive and/or digital technology.

4.21.4.3. Mobbing: Co-workers, subordinates, or superiors “ganging up “ to force someone out of the workplace through rumour, innuendo, intimidation, humiliation, discrediting, or isolation, co-workers conspiring together for the purpose of malicious, non-sexual, non-racial, general harassment.

4.21.4.4. Threatening Behaviour: Actions that intimidate or threaten another person (e.g. shaking fists, destroying property, or throwing objects.)

4.21.4.5. Verbal or Written Threats: Any expression of an intent to inflict harm, including:

- a. Direct threat: Clear and explicit communication which distinctly indicates that the potential offender intends to do harm.
- b. Conditional threats: Involve a condition to threaten if something is not done to please the perpetrator.
- c. Veiled threats: Usually involve body language or behaviours that leave little doubt in the mind of the victim that the perpetrator intends harm.

4.21.4.6. Verbal Abuse: Includes swearing, insults or condescending language.

4.21.4.7. .

4.22. **Workplace Sexual Harassment** as defined by OHSAA, means 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 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;

4.23. **Workplace Violence** as defined by OHSAA, means the exercise, or attempt to exercise physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker, a statement or behaviour that a worker could reasonably interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker. This definition is broad enough to include acts that

would constitute offences under the Criminal Code of Canada. Workplace violence may include:

- 4.23.1. Physical Attacks: Includes hitting, shoving, pushing or kicking the victim, or inciting a physical attack from another source

## **5. INTERPRETATIONS**

- 5.1. Any reference to this Policy to any statute or any section of a statute shall, unless expressly stated, be deemed to be reference to the statute as amended, restated or re-enacted from time to time. Any references to a By-law or Town policy shall be deemed to be a reference to the most recent passed policy or By-law and any replacements thereto.

## **6. GENERAL CONDITIONS**

### **6.1. Violence Risk Assessment and Reassessment**

- 6.1.1. A risk assessment for potential workplace violence will be reviewed annually at each worksite in consultation with the JHSC. Consideration shall be given to the following risk factors:
  - 6.1.1.1. Areas of premises that are accessible to the public, or not secured against unauthorized entry.
  - 6.1.1.2. Employees who work alone.
  - 6.1.1.3. Employees who travel and/or work off-site.
  - 6.1.1.4. Employees who handle cash or other valuables.
  - 6.1.1.5. Employees who engage in activities where clients, the public, or others may become angry or aggressive.
  - 6.1.1.6. Employees who work in remote locations.
  - 6.1.1.7. Employees who work after regular hours.
  - 6.1.1.8. Building and parking lot security, access, egress, visibility and lighting.
  - 6.1.1.9. Entrapment sites on premises.
  - 6.1.1.10. Communication systems.
- 6.1.2. The assessment shall be reviewed by the JHSC and recommendations forwarded to the appropriate member of SMT for response.
- 6.1.3. The risk of violence will be reassessed where any changes in the work, the environment, or if events arise or new information becomes available that may affect the accuracy of the assessment.

## 6.2. **Training**

6.2.1. All employees shall receive training on the workplace violence, harassment and discrimination prevention program and procedures, at the time of hire, and at least every two (2) years thereafter.

6.2.1.1. Additional training will be provided as needed, where conditions change that result in revisions to the violence, harassment and discrimination prevention policy, program and procedures.

6.2.1.2. Training will also be provided, where appropriate, for employees who change positions.

6.2.2. Training content shall include:

6.2.2.1. Reporting of incidents.

6.2.2.2. Investigation protocols for complaints, threats or incidents.

6.2.2.3. Measures and procedures.

6.2.2.4. Emergency response to incidents.

## 6.3. **Policy and Program Evaluation**

6.3.1. This policy and program will be reviewed annually to verify the validity of risk assessments and to assess the effectiveness of responses to reported incidents.

## 6.4. **Confidentiality**

6.4.1. The Town will take all reasonable measures to protect the privacy of individuals involved in workplace violence and/or harassment, and to ensure that complainants and respondents are treated fairly and respectfully.

6.4.2. The Town will ensure that identifying information about any individuals involved, will not be disclosed unless the disclosure is necessary for the purposes of investigating or taking corrective action with respect to the incident or complaint, or is otherwise required by law

6.4.3. Neither the name of the person reporting the facts nor the circumstances surrounding them will be disclosed unless such disclosure is necessary for the purposes of formal investigation or disciplinary action.

6.4.4. The results of an investigation conducted into incidents and complaints of workplace harassment, and any report created in the course of or for the purposes

of the investigation, are not a report respecting occupational health and safety for the purposes of subsection 25 (2).

- 6.4.5. The Town will provide appropriate assistance, if necessary, to any employee who is a victim of violence, harassment, or discrimination.

## 6.5. **Fraudulent or Malicious Complaints**

- 6.5.1. Fraudulent or malicious complaints relating to violence, harassment and discrimination against employees will not be tolerated.

- 6.5.1.1. Unfounded or frivolous allegations of personal harassment may cause significant damage to both the accused person and to the Town.

- 6.5.2. If it is determined by the Town that any employee has knowingly made false statements regarding an allegation of violence, harassment, or discrimination, immediate disciplinary action will be taken.

- 6.5.2.1. As with any case of dishonesty, disciplinary action may include immediate dismissal without further notice.

## 6.6. **Managing and/or Coaching**

- 6.6.1. Counselling, performance appraisal, work assignment, and the implementation of disciplinary action are not forms of harassment.

- 6.6.1.1. This policy does not restrict a Manager/Supervisor's responsibilities in these areas.

## 6.7. **Special Circumstances**

- 6.7.1. Should an employee have a legal court order (e.g. restraining order, or "no-contact" order) against another individual, the employee is encouraged to notify his or her Supervisor, and to supply a copy of that order to the Human Resources Department.

- 6.7.1.1. Such information shall be kept confidential.

- 6.7.1.2. This will likely be required in instances where the employee strongly feels that the aggressor may attempt to contact that employee at the Town in direct violation of the court order.

- 6.7.2. In cases where criminal proceedings are forthcoming, the Town will assist police agencies, lawyers, insurance companies, and courts to the fullest extent.

## 6.8. **Workplace Coordinator**



- 6.8.1. For the purpose of this policy, the Manager of Human Resources shall act as Workplace Coordinator with respect to workplace violence, harassment and discrimination issues.

## 7. RESPONSIBILITIES

- 7.1. In order to comply with duties identified in the OHSA, the following responsibilities are determined to apply specifically for the protection of Town of Amherstburg employees from potential exposure to workplace violence.

- 7.1.1. The **Town of Amherstburg (as an Employer)** has the responsibility to:

7.1.1.1. Take every precaution reasonable to ensure the health and safety of employees.

7.1.1.2. Report any circumstances which might affect the health and safety of employees.

7.1.1.3. Conform to prescribed requirements with regards to the employer's duty to protect the health and safety of workers in the workplace as outlined in Part III.0.1 "Violence and Harassment".

- 7.1.2. **Council** has the authority and responsibility to:

7.1.2.1. Ensure adequate human and financial resources are made available to Administration to meet the prescribed requirements of the OHSA and corresponding regulations.

- 7.1.3. **SMT** has the responsibility to:

7.1.3.1. Prepare and post the workplace violence, harassment and discrimination prevention policy.

7.1.3.2. Develop and implement a program to prevent workplace discrimination, harassment and violence.

7.1.3.3. Ensure that all jobs and tasks are assessed for potential and actual workplace violence and harassment situations.

7.1.3.4. Develop and implement measures and procedures to effectively control violence, harassment, or discrimination.

- a. These measures and procedures shall include reporting protocols, investigation of reports of violence, harassment and discrimination,

emergency notification and response procedures, and employee training.

- 7.1.3.5. Provide information to a worker, including personal information, related to a risk of workplace violence from a person with a history of violent behaviour if the worker can be expected to encounter that person in the course of work, and the risk of workplace violence is likely to expose the worker to physical injury.
- 7.1.3.6. Take every precaution reasonable in the circumstances for the protection of workers if the employer becomes aware, or ought reasonably to be aware, that domestic violence would likely expose a worker to physical injury that may occur in the workplace.
- 7.1.3.7. Consult with the JHSC in developing and implementing the program, measures and procedures.
- 7.1.3.8. Review this policy and program annually to determine if risk assessments are still valid and if the manner of dealing with any reported incidents (if any) has been effective in reducing or minimizing risks to workers.

7.1.4. **Supervisors** have the responsibility to:

- 7.1.4.1. Ensure that affected workers receive information and training relating to workplace violence, harassment and discrimination prevention measures and procedures every two (2) years.
- 7.1.4.2. Ensure appropriate procedures are effectively implemented to minimize the risks to workers.
- 7.1.4.3. Provide contractors, visitors, and volunteers with information relating to violence, harassment and discrimination prevention measures and procedures, where appropriate.
- 7.1.4.4. Ensure that contractors, visitors and volunteers under the control of the Supervisor adhere to violence, harassment and discrimination prevention measures and procedures
- 7.1.4.5. Ensure that all incidents of alleged or actual violence, harassment or discrimination are promptly reported, thoroughly investigated, and that necessary corrective actions are taken.
- 7.1.4.6. Fully document all incidents of violence, harassment or discrimination and ensure that incident reports are completed and forwarded to the Human Resources Manager.
- 7.1.4.7. Provide information to a worker, including personal information, related to a risk of workplace violence from a person with a history of violent behaviour if the worker can be expected to encounter that person in the

course of work, and the risk of workplace violence is likely to expose the worker to physical injury.

7.1.4.8. Take every precaution reasonable in the circumstances for the protection of workers if the Supervisor becomes aware, or ought reasonable to be aware, that domestic violence would likely expose a worker to physical injury may occur in the workplace.

7.1.5. **Workers** have the responsibility to:

7.1.5.1. Create and maintain a work environment that is free from violence, harassment or discrimination.

7.1.5.2. Be familiar with and follow the measures and procedures relating to violence, harassment and discrimination prevention.

7.1.5.3. Promptly report to their Supervisor or Manager any incidents of alleged or actual violence, harassment or discrimination (either involving oneself, or witnessing an incident involving others).

7.1.5.4. Participate in, and apply the principles, knowledge, and information received during training.

## **8. REFERENCES AND RELATED DOCUMENTS**

- 8.1. Occupational Health & Safety Act (as amended)
- 8.2. Workplace Violence and Harassment: Understanding the Law, Ontario Ministry of Labour, Health and Safety Guidelines
- 8.3. Ontario Human Rights Code
- 8.4. Criminal Code of Canada
- 8.5. Freedom of Information and Privacy Protection Act
- 8.6. Violence in the Workplace Prevention Guide, Canadian Centre for Occupational Health & Safety
- 8.7. Town of Amherstburg Procedure for Incidents of Violence
- 8.8. Town of Amherstburg Procedure for Incidents of Harassment
- 8.9. Workplace Violence, Harassment and Discrimination Incident Report Form
- 8.10. Accessibility for Ontarians with Disabilities Act, 2005