


POLICY

	Policy:	WORKPLACE VIOLENCE, HARASSMENT AND DISCRIMINATION PREVENTION		
	Department:	Corporate Services	By-Law No.:	N/A
	Division:	Human Resources	Approval Date:	November 25, 2019
	Administered By:	Manager of Human Resources		
	Replaces:	Workplace Violence, Harassment & Discrimination Prevention Program - June 13, 2016		
	Attachment(s):			

1. POLICY STATEMENT

- 1.1. The Corporation of the Town of Amherstburg is committed to providing a workplace climate that reflects cooperation, understanding, respect and dignity for all. This is achieved by promoting a Workplace Violence, Harassment and Discrimination Prevention Program.
- 1.2. The Town is committed to preventing violence, harassment and discrimination in the workplace and in relation to all operations and activities.
- 1.3. The Town will promote a respectful workplace environment and take steps necessary to protect its workers and ensure their well-being.

2. PURPOSE

- 2.1. The policy describes the Town's compliance with Bill 168, *Occupational Health and Safety Amendment Act* (Violence and Harassment in the Workplace) 2009. This policy ensures compliance with the requirements of the *Ontario Human Rights Code*.
- 2.2. This policy ensures that all reported incidents of workplace violence, harassment and discrimination are dealt with in a timely and equitable manner and any incidents of which the Town becomes aware shall be reviewed and appropriate action taken.
- 2.3. This policy describes a zero-tolerance approach to workplace violence, harassment and discrimination.

3. SCOPE

- 3.1. This policy applies to all employees, elected/appointed officials, contractors, visitors, volunteers and customers.
- 3.2. This policy and related procedures apply to all worksites, and work-related situations in the workplace or arising from the course of employment. It includes off site business related functions such as conferences, trade shows, or other similar functions. It applies to social events related to work where the gathering is at a residence, place of business or some other location where employees are gathering for the purpose social interaction. It also applies to cyber locations such as social media applications.
- 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.
- 3.4. In accordance with the OHSA, this policy shall be reviewed at least once per year from the date it becomes effective, and/or sooner at the discretion of the Chief Administrative Officer.

4. DEFINITIONS

- 4.1. **Cyber Bullying, Cyber Harassment, Cyber Stalking:** refers to tormenting, threatening, intimidating, harassing, humiliating, actions against a person using an electronic medium such as the internet, a cell phone, interactive and/or digital technology.
- 4.2. **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. Grounds for discrimination include: race, national or ethnic origin, colour, religion, age, sex, sexual orientation, gender identity or expression, marital status, family status, disability, genetic characteristics or a conviction for which a pardon has been granted or a record suspended.
- 4.3. **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/or 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.
- 4.4. **EAP** refers to the Employee Assistance Program offered by the Town of Amherstburg for counselling and support services.
- 4.5. **Employee** for the purpose of this policy refers to any person (or group thereof) who supplies services to the Town for wages or in an unpaid capacity including any union or non-union, regular or temporary, full-time, part-time, seasonal or casual, co-op or intern, volunteer or committee member.
- 4.6. **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.
 - 4.6.1. The department, division or area Supervisor/ Manager may be designated as the Investigator for informal investigations;
 - 4.6.2. For formal investigations, the Investigator will be appointed by Human Resources and may include another member of management, a Human Resources representative, an independent 3rd party, or other persons as deemed necessary by Human Resources.
- 4.7. **JHSC** refers to the Town's Joint Health and Safety Committee.
- 4.8. **OHSA** is the Occupational Health and Safety Act.
- 4.9. **Ontario Human Rights Code** is a provincial anti-discrimination law that applies to workplaces, housing, services, facilities, and to contracts or agreements. People have the right to equal treatment and opportunities, without discrimination or harassment, in the areas covered by the Code.
- 4.10. **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.
- 4.11. **Prohibited Grounds** as defined by the Ontario Human Rights Code, refers to race, national or ethnic origin, colour, ancestry, religion, age, sex (including childbirth and pregnancy), gender identity, gender expression, sexual orientation, marital status, family status, mental or physical disability (including previous or present alcohol dependence), and pardoned conviction.
- 4.12. **Workplace** as defined by OHSA, means any land, premises, location or thing, at, on, in or near where a worker works. It includes all areas referenced in the **Scope** section of the Policy.

- 4.13. **Workplace Harassment** according to the OHSA is defined 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”. Where harassment is based on one of the protected grounds, it is also covered by the Ontario Human Rights Code. Workplace Harassment does not include performance management, but may include:
- 4.13.1. Behaviour that intimidates, isolates or even discriminates against the targeted individual(s);
 - 4.13.2. Unwelcome words that are known or should be known to be offensive, embarrassing, humiliating or demeaning to a worker or group of workers in a workplace;
 - 4.13.3. Making remarks, jokes or innuendos that demean, ridicule, intimidate, or offend;
 - 4.13.4. Displaying, posting or circulating offensive pictures or materials in print or electronic format including social media postings, with any information obtained in the workplace (including names or events);
 - 4.13.5. Bullying, acts 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;
 - 4.13.6. Repeated offensive or intimidating phone calls or e-mails; or
 - 4.13.7. Workplace sexual harassment.
- 4.14. **Workplace Sexual Harassment** means:
- 4.14.1. 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
 - 4.14.2. 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;
 - 4.14.3. Workplace sexual harassment may include:
 - 4.14.3.1. Asking questions, talking, or writing about sexual activities;
 - 4.14.3.2. Rough or vulgar humour or language related to sexuality, sexual orientation or gender;
 - 4.14.3.3. Displaying or circulating pornography, sexual images, or offensive sexual jokes in print or electronic form;
 - 4.14.3.4. Leering or inappropriate staring;
 - 4.14.3.5. Invading personal space;
 - 4.14.3.6. Unnecessary physical contact, including inappropriate touching;
 - 4.14.3.7. Demanding hugs, dates, or sexual favours;
 - 4.14.3.8. Making gender-related comments about someone’s physical characteristics, mannerisms, or conformity to sex-role stereotypes; or,
 - 4.14.3.9. 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.
- 4.15. **Workplace Violence** as defined by OHSA, 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:

- 4.15.1. **Physical Attacks:** Includes hitting, shoving, pushing or kicking the victim, or inciting a physical attack from another source.
- 4.15.2. **Threatening Behaviour:** Actions that intimidate or threaten another person (e.g. shaking fists, destroying property, or throwing objects.)
- 4.15.3. **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.
- 4.16. **Zero Tolerance** for the purpose of this policy means a very strict, uncompromising enforcement of rules.

Other common definitions, acronyms, and terms are available in the Glossary located on the Town's Policies webpage.

5. **INTERPRETATIONS**

Any reference in 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. **Promoting a Respectful Workplace Culture**

- 6.1.1. The Town will define and communicate expectations by reviewing and discussing relevant policies and procedures on an annual basis.
- 6.1.2. Employees of the Town will demonstrate respectful behaviour, personal integrity and professionalism by practicing fairness and understanding, demonstrating respect for individual rights and differences and encouraging accountability for one's actions.
- 6.1.3. A respectful workplace:
 - a. Is inclusive
 - b. Values diversity
 - c. Clearly communicates expectations around behaviour
 - d. Promotes employee health and safety
 - e. Provides resources and training to resolve disputes
 - f. Strives for improvement
 - g. Has open channels of communication
 - h. Has a welcoming environment
 - i. Offers opportunities for employee engagement

6.2. Violence Risk Assessment and Reassessment

- 6.2.1. A risk assessment for potential workplace violence will be conducted annually at each worksite in consultation with the JHSC. Consideration shall be given to the following risk factors:
 - 6.2.1.1. Areas of premises that are accessible to the public, or not secured against unauthorized entry.
 - 6.2.1.2. Employees who:
 - a. Work alone;
 - b. Travel and/or work off-site;
 - c. Handle cash or other valuables.
 - d. Engage in activities where clients, the public, or others may become angry or aggressive.
 - e. Work in remote locations.
 - f. Work outside of regular hours.
 - 6.2.1.3. Building and parking lot security, access, egress, visibility and lighting.
 - 6.2.1.4. Entrapment sites on premises.
 - 6.2.1.5. Communication systems.
- 6.2.2. The risk of violence will be reassessed where any changes in the work or the environment arise, or if events occur, such as an incident of workplace violence, or new information becomes available that may affect the accuracy of the assessment.

6.3. Training

- 6.3.1. 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.
 - 6.3.1.1. 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.
 - 6.3.1.2. Training will also be provided, where appropriate, to employees who change positions.

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. Information will be shared on a need to know basis only and all individuals involved in the investigative process will be expected to maintain the confidentiality of any and all information received.
- 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 the services of EAP as 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 violence, harassment or discrimination 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 notice.

6.6. **Managing and/or Coaching**

- 6.6.1. Counselling, performance appraisals, work assignments, and the implementation of disciplinary actions are not forms of harassment.
 - 6.6.1.1. This policy does not restrict management'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 and the employee feels the aggressor is unlikely to attempt to contact the employee at the Town, the employee may, at his/her discretion, notify his or her Supervisor and supply a copy of the order to the Human Resources division. Should the employee strongly feel that the aggressor may attempt to contact the employee at the Town in direct violation of the court order, the employee must notify his or her Supervisor and provide a copy of the order to the Human Resources division.
 - 6.7.1.1. Such information shall be kept confidential except in cases where the information needs to be shared with the supervisor, or other appropriate employees to ensure the safety of the affected employee and other employees of the Town.
- 6.7.2. In cases where criminal proceedings are forthcoming, the Town will assist police agencies, lawyers, insurance companies, and courts to the extent possible and allowed under current law.

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. **Council** has the authority and responsibility to:
 - 7.1.1.1. Ensure adequate human and financial resources are made available to Administration to meet the prescribed requirements of the OHSA and corresponding regulations.

- 7.1.2. **SMT, Managers, and Supervisors** have the authority and responsibility to:
- 7.1.2.1. Ensure the workplace violence, harassment and discrimination prevention policy is prepared, posted, reviewed annually, and training is provided to all employees on the policy and procedures.
 - 7.1.2.2. Assess the risks of workplace violence that may arise from the nature of the workplace, the type of work, or the conditions of work.
 - 7.1.2.3. 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.
 - 7.1.2.4. Take every precaution reasonable in the circumstances, which shall include taking all steps and corrective actions necessary 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.
 - 7.1.2.5. For contractors, visitors, and volunteers interacting with Town staff or within Town owned facilities, information on the Violence, Harassment and Discrimination Prevention policy and procedures shall be posted in a visible location in all public facilities of the Town and, where appropriate, otherwise provided.
 - 7.1.2.6. Ensure that all incidents of alleged or actual violence, harassment or discrimination are promptly reported, documented, investigated, and that necessary corrective actions are taken.
- 7.1.3. **Human Resources** has the authority and responsibility to:
- 7.1.3.1. Ensure that workers receive information and training on the workplace violence, harassment and discrimination prevention policy and procedures.
 - 7.1.3.2. Ensure that incidents of workplace violence, harassment and discrimination are investigated in accordance with this policy and procedures.
 - 7.1.3.3. Document and retain records of all incidents in accordance with the Town's records retention policy.
- 7.1.4. **Employees** have the responsibility to:
- 7.1.4.1. Create and maintain a work environment that is free from violence, harassment or discrimination.
 - 7.1.4.2. Follow the policy and procedures regarding violence, harassment and discrimination prevention.
 - 7.1.4.3. Promptly report to their Supervisor, Manager, or Human Resources any incidents of alleged or actual violence, harassment or discrimination

8. REFERENCES AND RELATED DOCUMENTS

- 8.1. Occupational Health & Safety Act, R.S.O. 1990, c.O.1 (as amended)
- 8.2. Bill 168, Occupational Health and Safety Amendment Act (Violence and Harassment in the Workplace (2009)
- 8.3. Ontario Ministry of Labour - Workplace Violence and Workplace Harassment

- 8.4. Ontario Ministry of Labour - Understanding the Law on Workplace Violence and Harassment,
- 8.5. Ontario Human Rights Code, R.S.A. 1990, c. H. 19
- 8.6. Criminal Code Government of Canada
- 8.7. Freedom of Information and Privacy Protection Act
- 8.8. Violence in the Workplace Prevention Guide, Canadian Centre for Occupational Health & Safety
- 8.9. Accessibility for Ontarians with Disabilities Act, 2005, S.O. 2005, c. 11 (as amended)
- 8.10. Town of Amherstburg Procedure for Incidents of Violence CAO-HR-PRC04.1
- 8.11. Town of Amherstburg Procedure for Incidents of Harassment CAO-HR-PRC04.2
- 8.12. Employee Code of Conduct Policy