

The Township of Pelee

Human Resources Policy

Subject: Workplace Harassment Prevention

Policy#: 2019-02-03

Date Approved: February 25, 2019 (revised September 26, 2023)

POLICY STATEMENT

The Corporation of the Township of Pelee (Township) condemns harassment, denigration, discriminatory actions, and the promotion of hatred. The Township will not tolerate, ignore, or condone discrimination or harassment and is committed to promoting respectful conduct, tolerance and diversity at all times. All employees are responsible for respecting the dignity and rights of their co-employees and the public they serve. Further, members of the public are expected to respect the dignity and rights of all Township employees engaged in providing public services.

Appropriate disciplinary, remedial, and/or legal action will be taken according to the situation.

PURPOSE

The policy and its supporting guidelines are intended to:

1. Maintain a work environment free from workplace harassment;
2. Provide a definition of workplace harassment and sexual harassment;
3. Identify the roles and responsibilities of management and staff to maintain a workplace free of harassment; and
4. Establish measures and procedures for employees and Members to report incidents of workplace harassment and for the Township to investigate and manage incidents or complaints in a manner that is appropriate to the circumstances.

APPLICATION

The *Workplace Harassment Prevention Policy* applies to all employees, contractors for the Township, seasonal employees, clients and customers of Township services,

Members of Council/boards/committees (Members), volunteers, any person engaged in business with the Township, and visitors to Township property.

The Township's *Workplace Violence Prevention Policy* should be consulted regarding actual, attempted or threatened acts of violence.

DEFINITIONS

Workplace means all Township facilities and work sites, including vehicles and any other land, premises, locations or things at, upon, in or near where the business of the Township is conducted. Included in this definition are Township-related activities, including sanctioned social functions, or business performed at any other location away from the Township, during or outside of normal working hours.

The *Occupational Health and Safety Act* defines workplace harassment as engaging in a course of vexatious comment or conduct against an employee in a workplace that is known or ought reasonably to be known to be unwelcome. This definition includes workplace sexual harassment.

This may include, but is not limited to:

- slurs or derogatory remarks;
- threats;
- inappropriate jokes, innuendos, name-calling, teasing;
- insulting gestures;
- practical jokes which result in embarrassment;
- displaying pin-ups, pornography, racist, homophobic or other offensive materials;
- use of electronic communications such as the internet and e-mail to harass;
- actions that invade privacy;
- spreading rumours that damage one's reputation;
- refusing to work with a particular Township employee;
- condescending or patronizing behaviour in delivering or requesting services;
- abuse of authority which undermines performance or threatens employment.

There is no legal obligation for an individual to tell a harasser to stop. The fact that a person does not explicitly object to harassing behaviour, or appears to be going along with it does not mean that the behaviour is not harassing or that it has been consented to.

Workplace harassment often involves a course or grouping of behaviours. However, a single serious incident of such behaviour that has a lasting harmful effect on an employee may also constitute workplace harassment.

This policy is not intended to interfere with constructive feedback regarding performance or operational directives provided to employees by the Clerk or department managers.

Examples of workplace harassment may include a pattern of:

- frequent angry shouting/yelling or blow-ups;
- regular use of profanity and abusive language;
- verbal or e-mail threats (not including threats to exercise physical force which are covered by the workplace violence policy), intimidation;
- intimidating behaviours e.g. slamming doors, throwing objects;
- targeting Individual(s) in humiliating practical jokes;
- excluding, shunning, impeding work performance;
- spreading gossip, rumours, negative blogging, cyberbullying;
- retaliation, bullying, sabotaging;
- unsubstantiated criticism, unreasonable demands;
- frequent insults and/or name calling;
- public humiliation;
- communication that is demeaning, insulting, humiliating, mocking;
- making vexatious or frivolous demands of Township employees;
- intent to harm; or,
- a single, serious incident that has a lasting, harmful impact.

Workplace harassment does not include:

- legitimate performance/probation management;
- appropriate exercise and delegation of managerial authority;
- operational directives;
- a disagreement or misunderstanding;
- reasonable and professional conflict between co-employees;
- work related change of location, co-employees, job assignment;
- appropriate discipline;
- less than optimal management;
- a single comment or action unless it is serious and has a lasting harmful effect;
- rudeness unless it is extreme and repetitive; or,
- conditions in the workplace that generate stress (technological change, impending layoff, a new boss, friction with other employees, workload, etc.).

Workplace sexual harassment means:

- (a) engaging in a course of vexatious comments or conduct against an employee 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
- (b) 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 employee and the person knows or ought reasonably to know that the solicitation or advance is unwelcome;

This may include, but is not limited to:

- a sexual advance or solicitation from anyone if the person knows or ought to know the advance is unwelcome - especially if the advance is from a person in a position to give or deny a benefit, to engage in a reprisal, or if a threat of reprisal is made if the advance is rejected;
- sexually suggestive or obscene remarks or gestures;
- leering (suggestive staring) at a person's body;
- unwelcome physical contact;
- having to work in a sexualized environment (bragging about sexual prowess, or discussions about sexual activities);
- circulation or posting of sexist jokes or cartoons, display of pin-up calendars or other objectifying images;
- negative stereotypical comments based on gender, sex or sexual orientation;
- gender related comments about an individual's physical characteristics or mannerisms and/or behaviours that reinforce traditional heterosexual gender norms; or,
- exercising power over another person, making them feel unwelcome or putting them 'in their place' - motivated by sexual interest

This policy is not intended to interfere with normal social interaction between employees.

RESPONSIBILITIES

Employees and Members are encouraged to report any incidents of workplace harassment to the Clerk and complete a Workplace Harassment Complaint Form. If the incident involves the Clerk the employee or Member shall report the incident to the Mayor or in his/her absence the Deputy Mayor.

Management will investigate and deal with all complaints or incidents of workplace harassment in a fair, respectful and timely manner. Information provided about an incident or about a complaint will not be disclosed except as necessary to protect employees and Members, to investigate the complaint or incident, to take corrective action or as otherwise required by law.

Managers, employees and Members are expected to adhere to this policy, and will be held responsible by the employer for not following it. Employees and Members are not to be penalized or disciplined for reporting an incident or for participating in an investigation involving workplace harassment.

If an employee or Member needs further assistance, he or she may contact the municipal health and safety representative, or Human Rights Legal Support Centre at 1-866-625-5179

REPRISAL

This policy prohibits reprisals against individuals, acting in good faith, who report incidents of workplace violence or act as witnesses. Management will take all reasonable and practical measures to prevent reprisals, threats of reprisal, or violence. Reprisal is defined as any act of retaliation, either direct or indirect.

REPORTING WORKPLACE HARASSMENT

1. How

An incident or a complaint of workplace harassment should be reported as soon as possible after experiencing or witnessing an incident. This allows the incident to be investigated in a timely manner. Employees can report incidents or complaints of workplace harassment verbally or in writing. When submitting a written complaint, please use the workplace harassment complaint form in Appendix 1. When reporting verbally, the reporting contact, along with the employee complaining of harassment, will fill out the complaint form.

The report of the incident should include the following information:

- i. Name(s) of the employee who has allegedly experienced workplace harassment and contact information;
- ii. Name of the alleged harasser(s), position and contact information (if known);
- iii. Names of the witness(es) (if any) or other person(s) with relevant information to provide about the incident (if any) and contact information (if known);
- iv. Details of what happened including date(s), frequency and location(s) of the alleged incident(s);
- v. Any supporting documents the employee who complains of harassment may have in his/her possession that is relevant to the complaint; and
- vi. List any documents a witness, another person or the alleged harasser may have in their possession that is relevant to the complaint.

2. Who

Report a workplace harassment incident or complaint to the Clerk. If the incident or complaint involves the Clerk report to the Mayor and in his/her absence the Deputy Mayor.

An investigation that is appropriate in the circumstances will be conducted. If the incident or complaint involves the Clerk, an external person qualified to conduct a

workplace harassment investigation who has knowledge of the relevant workplace harassment laws will be retained to conduct the investigation.

All incidents or complaints of workplace harassment shall be kept confidential except to the extent necessary to protect employees, to investigate the complaint or incident, to take corrective action or otherwise as required by law.

INVESTIGATION

1. Commitment to Investigate

The Township will ensure that an investigation appropriate in the circumstances is conducted when the Clerk becomes aware of an incident of workplace harassment or receives a complaint of workplace harassment.

2. Who Will Investigate

The Clerk will conduct the investigation into the incident or complaint of workplace harassment. If the allegations of workplace harassment involve the Clerk, the investigation will be conducted by the Mayor and in his/her absence the Deputy Mayor.

3. Timing of the Investigation

The investigation must be completed in a timely manner and generally within 90 days or less unless there are extenuating circumstances (i.e. illness, complex investigation) warranting a longer investigation.

4. Investigation Process

The investigator will, at minimum, ensure the following:

- i. The investigation is kept confidential and identifying 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;
- ii. Thoroughly interview the employee who allegedly experienced the workplace harassment and the alleged harasser(s), if the alleged harasser is an employee of the Township. If the alleged harasser is not an employee, the investigator should make reasonable efforts to interview the alleged harasser;
- iii. Provide the alleged harasser(s) the opportunity to respond to the specific allegations raised by the employee. In some circumstances, the employee who allegedly experienced the workplace harassment should be given a reasonable opportunity to reply;

- iv. Interview any relevant witnesses employed by the Township who may be identified by either the employee who allegedly experienced the workplace harassment, the alleged harasser(s) 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 Township if there are any identified;
- v. Collect and review any relevant documents;
- vi. Take appropriate notes and statements during interviews with the employee who allegedly experienced workplace harassment, the alleged harasser and any witnesses; and,
- vii. Prepare a written report summarizing the steps taken during the investigation, the complaint, and the allegations of the employee who allegedly experienced the workplace harassment, the response from the alleged harasser, the evidence of any witnesses, and the evidence gathered. The report must set out findings of fact and come to a conclusion about whether workplace harassment was found or not.

5. Results of the Investigation

Within 10 days of the investigation being completed, the employee who allegedly experienced the workplace harassment and the alleged harasser, if the he/she is an employee of the Township, will be informed in writing of the results of the investigation and any corrective action taken or that will be taken by the Township to address workplace harassment.

6. Confidentiality

Information about complaints and incidents shall be kept confidential to the extent possible. Information obtained about an incident or complaint of workplace harassment, including identifying information about any individuals involved, will not be disclosed unless disclosure is necessary to protect employees, to investigate the complaint or incident, to take corrective action or otherwise as required by law. While the investigation is on-going, the employee who has allegedly experienced harassment, the alleged harasser(s) and any witnesses should not to discuss the incident or complaint or the investigation with each other or other employees or witnesses unless necessary to obtain advice about their rights. The investigator may discuss the investigation and disclose the incident or complaint-related information only as necessary to conduct the investigation.

All records of the investigation will be kept confidential.

7. Interim Action

In certain circumstances, it may be necessary to take immediate measures. In such a case, interim measures shall be determined by the Clerk, or if the complaint is against the Clerk, the Mayor and in his/her absence the Deputy Mayor. Interim measures may include but are not limited to relocating the alleged harasser(s) or placing said party on a non-disciplinary suspension with pay (only applicable to salary employees), pending the resolution of the complaint or outcome of the investigation. For example, if the incident involves a member of the public, the Employee may be permitted to refuse to deal further with that individual provided that another Township Employee is available to address their concerns.

8. Corrective and/or Disciplinary Action

Where a finding of workplace violence has been made, the Clerk will determine the appropriate disciplinary action. If the Clerk is the aggressor, the determination of appropriate disciplinary action will be made by the Mayor and in his/her absence the Deputy Mayor.

Where it is determined that corrective action or disciplinary action is to be taken against an employee of the Township, such action may include, but is not limited to, the following:

- an apology
- education/training
- written warning
- suspension/leave without pay
- demotion
- transfer
- termination of employment

Where it is determined that corrective action is to be taken against Member(s) of Council, volunteers (including committee members), individuals contracted by the Township, clients or customers, the Township will take such corrective action as is reasonable in the circumstance and permitted by law to ensure that the workplace violence or domestic violence in the workplace stops. In the case of clients or customers, the Township will initially provide a written warning. However, the Township reserves the right to impose restrictions on their access to Township services, up to and including trespassing the individual from Township property, should any further incidents of harassment occur.

RECORD KEEPING

The Clerk will keep records of the investigation including:

- (a) a copy of the complaint or details about the incident;

- (b) a record of the investigation including notes;
- (c) a copy of the investigation report (if any);
- (d) a summary of the results of the investigation that was provided to the employee who allegedly experienced the workplace harassment and the alleged harasser, if an employee of the Township;

(e) a copy of any corrective action taken to address the complaint or incident of workplace harassment.

All records of the investigation will be kept confidential. The investigation documents, including this 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. Records will be kept for 5 years.

Appendix 1

Workplace Harassment Prevention Complaint Protocol-Workplace Harassment Complaint Form

Please note that signing a false affidavit may expose you to prosecution under Sections 131 and 132 or 134 of the Criminal Code, R, S, C, 1985, c. C 46, and also to civil liability for defamation.

Affidavit of _____
(full name)

I, _____ of the _____
(full name) (City, Township, etc.)

of (municipality of residence) _____ in the Province of
Ontario,

MAKE OATH AND SAY (OR AFFIRM):

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

(insert reasons e.g. I **work** for....I was on Township property when.....etc.)

2. I have reasonable and probable grounds to believe that,
_____ (specify name of alleged harasser), has
contravened the *Workplace Harassment Prevention Policy*. The particulars of
which are as follows:

(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 the materials as Exhibits A, B, etc. and attach them to this affidavit and mark each additional page as 2 of 2, 2 of 3, etc. at the top right corner.)

3. This affidavit is made for the purpose of requesting that this matter be acted upon in the manner outline in the *Workplace Harassment Prevention Policy*.

SWORN (or AFFIRMED) before me at
The Township of Pelee in the Province of Ontario

(Commissioner of Oath)

—
(Date)

(Complainant Signature)

(Date)