

BY-LAW NO: 24-42

**Being a bylaw to adopt the Workplace Anti-Violence, Harassment and Sexual Harassment Policy for
The Corporation of the Township of The North Shore**

WHEREAS Section 5(1) of the Municipal Act S.O. 2001, c.25, as amended, grants that the powers of a municipality shall be exercised by its Council;

AND WHEREAS Section 5(3) of the Municipal Act 2001 S.O. 2001, c.25, as amended, provides that a municipal power, including a municipality's capacity, rights, powers and privileges under section 9, shall be exercised by by-law unless the municipality is specifically authorized to do otherwise;

AND WHEREAS Section 5(4) subsections (1) to (3) of the Municipal Act S.O. 2001, c.25, as amended, apply to all municipal powers, whether conferred by this Act or otherwise;

AND WHEREAS the Council of the Corporation of the Township of the North Shore deems it appropriate to adopt a Workplace Anti-Violence, Harassment and Sexual Harassment Policy;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF THE NORTH SHORE HEREBY ENACTS AS FOLLOWS:

1. That the Workplace Anti-Violence, Harassment and Sexual Harassment Policy and attached "Township of The North Shore Workplace Anti-Violence, Harassment and Sexual Harassment Policy Acknowledgement Form" hereto as Schedule "A" be adopted.
2. That Schedule "A" be declared to form part of this by-law.
3. This By-Law shall come into force and take effect on the date of passing thereof and its short title is "Workplace Anti-Violence, Harassment and Sexual Harassment Policy By-Law".

READ A FIRST, SECOND AND THIRD TIME, ENACTED AND FINALLY PASSED THIS 16th DAY OF AUGUST 2024.


Tony Moor, Mayor


Rachel Jean Schneider, Clerk/Deputy Treasurer

THE CORPORATION OF THE TOWNSHIP OF THE NORTH SHORE

POLICY MANUAL

POLICY TITLE:

SUBJECT:

Workplace Anti-Violence, Harassment,
and Sexual Harassment Policy

POLICY SECTION:

POLICY NO:

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EFFECTIVE DATE: August 14th, 2024,
August 16th, 2024

ENACTED BY: Resolution
By-Law 24-42

POLICY STATEMENT:

In compliance with the *Human Rights Code* (Ontario) and the *Occupational Health and Safety Act*, the Township of The North Shore (herein referred to as "the Township"), has an obligation and responsibility to provide a work environment that is free of discrimination, workplace harassment, workplace sexual harassment and workplace violence as defined under the Human Rights Code (also referred to as "the Code" in this document) and the *Occupational Health and Safety Act* (also referred to as "the OHSA" in this document).

Discrimination, harassment, sexual harassment, and workplace violence are considered to be unacceptable and a form of employment misconduct. The Township will make every reasonable effort to ensure that no one is subject to it. The Township takes very seriously its responsibility to foster and maintain a positive working environment with mutual respect for all and wishes to make it clear that it will neither tolerate nor condone behaviour that is likely to undermine the dignity or self-esteem of any individual or create an intimidating, hostile or offensive workplace. Therefore, individuals who violate this Policy are subject to disciplinary and/or corrective action up to and including termination of employment.

INTENT:

The intent of this policy is to ensure that the Township maintains its adherence to the spirit and provisions of the *Human Rights Code* and the *Occupational Health and Safety Act*, to encourage appropriate behaviour in the workplace and provide a mechanism for persons to bring forward concerns and issues related to harassment, sexual harassment, workplace violence and discrimination, should they arise in the workplace.

SCOPE OF THIS POLICY:

This policy applies to all employees of the Township, Volunteers, Committee members, members of Council and anyone involved with the business of the Township, to provide assurance that they can undertake their duties in the workplace, free from discrimination, workplace violence, harassment and sexual harassment, as defined under the *Human Rights Code* and the OHSA.

Where there is a violation of this policy by a member of the public, this policy is to be used in combination with the Township's Expected Conduct Policy.

THE WORKPLACE:

The workplace is not only confined to the staff office and various work locations of the Township. The workplace also includes Council Chambers, outside work sites, on-road vehicles and any other location where the business of the Township is being conducted.

Harassment and discrimination which occur outside the workplace (eg: office-related social functions, work-related luncheon meetings, conferences or training sessions, work-related travel, work-related off-site assignments, within communication including in person, in virtual meetings, telephone calls, and emails) but are an extension of work or duties performed and which can have repercussions in the work environment, are also covered by this policy.

RESPONSIBILITIES UNDER THIS POLICY:

The Township is responsible for:

- Ensuring that corporate policy, practices and conduct comply with the provisions of the Human Rights Code and the OHSA.
- Making sure that all those protected by the policy are fully aware of the policy, their rights and protections under this policy, the Code and the OHSA.
- Creating an environment that encourages prospective complainants to report all incidents of discrimination and harassment.
- Ensuring that all discrimination and harassment Complaints can be and are resolved quickly, fairly and in a sensitive manner.
- Conducting an investigation that is appropriate in the circumstances.

The Clerk and/or Mayor have the responsibility to:

- Protect all employees from discrimination and harassment and prohibit such activity from occurring in the workplace.
- Immediately initiate action upon receipt of, or even prior to, any actual Complaint, where discrimination or harassment is known to have taken place.
- Take corrective or disciplinary action where a violation of this policy has been found to have occurred.

Workers/Officials have the responsibility to:

All Township employees/workers and those persons involved with or undertaking Township business have the responsibility of maintaining and fostering a respectful, positive, and business-like workplace and ensuring that the work environment is free from discrimination and harassment. Every employee/worker and those involved with or undertaking Township business is discouraged from and directed to not engage in any activity that may be perceived as constituting discrimination or harassment.

DEFINITIONS:

- **Worker:** For the purpose of this policy, the term Worker includes full-time, part-time, temporary, probationary and casual employees, students, volunteers, job applicants, contractors and consultants working for the Township.

- **Official (Elected, Acclaimed or Appointed):** A person who holds a public office as the Mayor or member of Council, or membership on a Council Committee with the Township whether obtained by election, acclamation, or appointment.

- **Complainant:** The person alleging that discrimination or harassment occurred. There can be more than one complainant when submitting a Complaint.

- **Respondent:** The person who is alleged to be responsible for the discrimination or harassment. There can be more than one respondent in a Complaint.

- Retaliation: Any action taken against the Complainant who reported or witnessed an incident of workplace violence that is intended or perceived as a form of intimidation of the Complainant or an attempt to pressure the Complainant into withdrawing his or her complaint or statement about the incident. Retaliation includes making a false report of workplace violence against another employee or Official. Acts of retaliation will be treated as independent acts of workplace violence and will be dealt with under this policy.

- Mediation: A voluntary process where parties in dispute consent to meet with a trained mediator to determine whether the dispute can be resolved in a mutually satisfactory manner. Mediation discussions between parties are treated as private and confidential to the full extent permitted by law.

- Malicious Complaint: A complaint made under this policy, which were known to be unfounded at the time they were made. Making a vexatious or malicious complaint can result in discipline up to and including dismissal.

- Third Parties: For the purpose of this policy, the term Third Party includes: Customers, contractors or their workers, clients, any members of the public.

- Workplace Discrimination: It is the unequal treatment based on any prohibited grounds under the *Human Rights Code*. The prohibited grounds under the *Human Rights Code* are indicated as follows:

- race
- ancestry
- place of origin
- colour
- ethnic origin
- citizenship
- creed
- sex
- sexual orientation
- gender identity
- gender expression
- age
- record of offences
- marital status
- family status
- disability

Discrimination can be intolerant behaviours towards individuals or groups. The behaviour can be direct (e.g. denying jobs based on colour, race, sex or disability) or systemic (e.g. utilizing job testing that is culturally biased, height or weight restrictions for particular positions). Discrimination may come from an individual or through systems and attitudes held by an organization. Actions do not have to be intentionally committed to be considered discriminatory or a possible Code violation.

- Workplace Harassment:

- (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, or
- (b) workplace sexual harassment.

Some examples of workplace harassment are:

- verbally abusive behaviour such as yelling, insults, ridicule and name-calling, including remarks, jokes or innuendos that demean, ridicule, intimidate or offend
- workplace pranks, vandalism, bullying and hazing
- gossiping or spreading rumours, regardless of whether they are malicious

- excluding or ignoring someone, such as persistent exclusion of a particular person from workplace-related social gatherings
- workplace supervision done in a demeaning or abusive manner
- humiliating someone
- sabotaging someone else's work
- displaying or circulating offensive pictures or materials
- offensive or intimidating phone calls, emails, texts or social media communications
- a supervisor/manager 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
- menacing behaviours including staring, glaring, inappropriate gestures or unwelcome physical closeness
- taunting and intimidation

- Poisoned Work Environment: characterized by an activity or behaviour, not necessarily directed at anyone in particular, that creates a hostile or offensive workplace.

If no one is being directly targeted, harassing comments or conduct can poison the work environment, making it a hostile or uncomfortable place in which to work. This 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; or
- jokes or insults that are offensive, racist or discriminatory in nature.

- Workplace Sexual Harassment:

(i) 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

(ii) 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.

Both men and women can be victims of sexual or gender-based harassment, and someone of the same or opposite sex can harass someone else. Some examples of sexual or gender-based harassment are:

- 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 inappropriate staring)
- displaying sexually offensive material such as posters, pictures, calendars, cartoons, screen savers, pornographic or erotic websites 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
- gossip or rumours regarding a person's sexual activities or relationships, regardless of whether they are malicious; and
- sexual assault

Workplace Violence:

- (a) the exercise of physical force by a person against a Worker, that causes or could cause physical injury to the Worker, or
- (b) an attempt to exercise physical force against a Worker, that could cause physical injury to the Worker,
- (c) a statement or behavior that is reasonable for a Worker to interpret as a threat to exercise physical force against the worker, 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 emails
- wielding a weapon at work
- stalking someone; and
- 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.

All of the above activities are considered inappropriate. Therefore, a violation of this policy, the Code and the OHSA will not be condoned by the Township.

Further, it is also a violation of the Policy for anyone to knowingly make a false Complaint of harassment or violence, such as when a Complaint is found to be frivolous, vexatious or made in bad faith with fraudulent or malicious intent, or to provide false information about a Complaint.

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.

Workplace violence may come from many different sources:

- strangers or people with no ties to the workplace
- clients, customers or patients
- other employees
- intimate relationships outside of work (such as intimate partners, family, friends)

WHAT IS NOT HARASSMENT?

The Occupational Health and Safety Act states:

A reasonable action taken by an employer or supervisor relating to the management and direction of workers or the workplace is not workplace harassment.

Therefore, workplace harassment should not be confused with legitimate, reasonable management actions that are part of the normal work functions, including but not limited to:

- 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
- Organizational changes such as restructuring
- Enforcement of workplace rules and policies
- Changes to work schedules and/or work location

It also does not include normal workplace conflict that may occur between individuals or differences of opinion between co-workers.

MAKING A COMPLAINT OF DISCRIMINATION, WORKPLACE VIOLENCE, HARASSMENT OR SEXUAL HARASSMENT:

Workers or persons involved in Township business are encouraged to bring forward any incidents of discrimination, workplace violence, harassment or sexual harassment that they may encounter in the workplace and should do so in a timely fashion.

Complaints of discrimination, workplace violence, harassment or sexual harassment may be reported to any of the following people:

- Clerk
- Mayor

If the Clerk is the worker's direct supervisor or reporting contact and is the person engaging in the discrimination, workplace violence, harassment or sexual harassment, the complaint may be reported to the Mayor.

If the person engaging in the discrimination, workplace violence, harassment or sexual harassment is the Mayor, all complaints will be forwarded to the Township's Integrity Commissioner.

All Complaints will be dealt with in a most serious manner and as promptly and discreetly as possible, with due regard for the rights of all parties.

A person always retains the right to contact the Ontario Provincial Police and/or file a Complaint with the Ontario Human Rights Commission, should they choose to do so.

It is important to submit a Complaint as soon as possible so that the issue doesn't escalate or happen again.

When filing a complaint please include:

- The name of the Complainant and contact information
- The name of the alleged harasser(s)/Respondent(s), their position and contact information (if you have it)
- Names of any witnesses or anyone else who may have relevant information
- A description of the incident(s) including dates, frequency, and location
- Any supporting documents you may have, e.g., emails, text messages, screenshots, reports etc.
- A list of any other documents you believe are relevant, but that you don't currently have
- If you are not comfortable or able to put your complaint in writing, you may contact the Clerk or Mayor to provide your allegations.

Once a Complaint is received, it will be reviewed, and the named Respondent(s) will be notified of the submitted Complaint.

INVESTIGATION:

Discrimination and harassment are serious matters. Thus, there may be times when the Township is legally required or determines it necessary to conduct an investigation even if someone does not wish to file a formal Complaint. This may include where the allegations are serious, if others are also being affected or to prevent further discrimination or harassment. In that case, it will be considered an employer-initiated Complaint.

The Township has discretion to use an external investigator to conduct an investigation, depending on the nature of the incident. If the Complaint is against an Official, the Complaint will be forwarded to the Integrity Commissioner. If the Complaint is against a member of the staff, an external investigator may be contacted and hired by the Clerk, in accordance with the Legal Counsel Services Consultation and Expenditures Policy, or by the Clerk and/or Mayor with direction from Council to which Council will be made aware that a Complaint has been filed but confidentiality will be upheld.

It may be necessary to take interim measures to protect the safety and wellbeing of parties to a Complaint and the workplace itself. This may include separating individuals, changing work hours, individuals (who are able to) working from home, or placing a party (usually the Respondent) on an administrative leave with pay. Other measures may be required if the allegations are against a member of the public or an Official.

The investigation may include:

- Conducting interviews of relevant individuals to ascertain all of the facts and circumstances relevant to the incident or Complaint, including dates and locations
- Reviewing any related documentation
- Making detailed notes of the investigation and maintaining them in a confidential File

Once the investigation is complete, the investigator(s) will prepare a detailed report of the findings. The goal is to complete any investigation and communicate the results to the Complainant and Respondent within a reasonable time frame after becoming aware of an incident or a Complaint is received, where possible. The timeframe within which an investigation can be completed varies depending on the circumstances of each investigation.

Once the investigator's detailed report of the findings of the investigation is received, Council will hold a Closed session meeting, if applicable, to review the detailed report and give direction or make a decision on any recommendations from the investigating team and/or Legal Counsel and/or the Ontario Human Rights Commission.

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.

The person conducting the investigation whether internal or external to the workplace will, at minimum, complete the following:

- i. The investigator must ensure 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. The investigator must thoroughly interview the worker who allegedly experienced the workplace harassment and the alleged harasser(s), if the alleged harasser is a worker of the Township. If the alleged harasser is not a worker, the investigator should make reasonable efforts to interview the alleged harasser.
- iii. The alleged harasser(s) must be given the opportunity to respond to the specific allegations raised by the worker. In some circumstances, the worker who allegedly experienced the workplace harassment should be given a reasonable opportunity to reply.
- iv. The investigator must interview any relevant witnesses employed by the employer who may be identified by either the worker 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. The investigator must collect and review any relevant documents.
- vi. The investigator must take appropriate notes and statements during interviews with the worker who allegedly experienced workplace harassment, the alleged harasser and any witnesses.
- vii. The investigator must 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 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.

Upon completion of the investigation, the Complainant and Respondent will be informed in writing of the results of the investigation and any corrective action that has been or will be taken as a result of the findings of the investigation.

RECORD KEEPING

The Township will keep records of the investigation including:

- i. a copy of the complaint or details about the incident;
- ii. a record of the investigation including notes;
- iii. a copy of the investigation report (if any);
- iv. a summary of the results of the investigation that was provided to the worker who allegedly experienced the workplace harassment and the alleged harasser, if a worker of the Township;
- v. 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 per the Township's Record Retention By-Law.

COMPLAINT RESOLUTION:

Complaints may be dealt with in a number of ways (early dispute resolution, informal, mediation, formal investigation) and as expeditiously as possible. However, if evidence of discrimination, workplace violence, harassment or sexual harassment is found (considered a form of employee misconduct), corrective or disciplinary measures will be taken as appropriate.

Discipline could involve reprimands or suspensions and depending on the severity of the situation, may result in more serious actions being taken, including discharge or termination for cause. Steps will also be taken to prevent any further reoccurrence of the discrimination, workplace violence, harassment or sexual harassment and provide additional support or assistance to those affected.

If the Complaint is not supported or substantiated, no documentation of the Complaint will be placed with the file of the person alleged to have done the discriminating or harassing.

If the Complaint is found to be a Malicious Complaint or is submitted out of Retaliation, this can result in discipline up to and including dismissal.

CONFIDENTIALITY:

Information about incidents and complaints, including identifying information about any individual, will be kept confidential to the extent possible. The Township will only release as much information as is necessary to investigate and respond to the incident or Complaint, take corrective action, protect an individual or if required to do so by law.

To protect the integrity of the investigation, anyone who participates in an investigation or is aware of an investigation under this policy must maintain confidentiality during and after the investigation.

This includes:

- Complainants
- Respondents
- Witnesses
- The Clerk
- The Mayor
- The Investigator and Investigation Team

The confidentiality duty means not discussing the complaint or investigation with anyone other than as necessary to obtain advice from appropriate parties about applicable rights and responsibilities and to obtain psychological support. Failure to maintain confidentiality may result in disciplinary action up to and including dismissal.

This policy will be administered in accordance with the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA). All complaints received under these procedures will be considered confidential subject to the Township's obligation to safeguard employees, to conduct a thorough investigation, take appropriate corrective action, or to otherwise disclose information as required by law.

Confidentiality during the Complaint process will be maintained at all times as practicable and appropriate under the circumstances for each case and except where disclosure of names is necessary for purposes of investigating the Complaint or taking discipline in relation to the Complaint.

LIABILITY UNDER THE HUMAN RIGHTS CODE:

Whether committed by a co-worker, a supervisor, an Official, or a member of the public, acts of harassment, sexual harassment, workplace violence and discrimination are not only considered a form of employee misconduct, but are also illegal under the Code. Persons engaging in discriminatory actions or harassment of others may be personally liable under the Code. In addition, those in a position of authority who know about such behaviour or ought to know and by omission or failure to take appropriate action, tolerate it, are also guilty of misconduct and could be named and liable in a Complaint filed with the Ontario Human Rights Commission.

NO REPRISAL UNDER THE CODE AND THE OHSA:

Section 8 of the Human Rights Code states:

Every person has a right to claim and enforce his or her rights under this Act, to institute and participate in proceedings under this Act and to refuse to infringe the rights of another person under this Act, without reprisal or threat of reprisal for so doing.

Section 50 (1) of the OHSA states:

"No employer or person acting on behalf of an employer shall,

- (a) dismiss or threaten to dismiss a worker;
- (b) discipline or suspend or threaten to discipline or suspend a worker;
- (c) impose any penalty upon a worker; or
- (d) intimidate or coerce a worker, because the worker has acted in compliance with this Act or the regulations or an order made thereunder, has sought the enforcement of this Act or the regulations...."

Other forms of Reprisal include:

- intimidation or threats
- pressuring someone to withdraw their Complaint or provide false information
- issuing work-related sanctions (e.g., changing work hours, blocking a promotion or threatening to do so) that are not legitimate or for business-related purposes.

The Clerk and/or the Mayor will ensure that no reprisals or retaliation stem from the filing of Complaints with respect to the person making the Complaint, the accused or any witness. Any form of retaliation or reprisal is considered a serious violation of this policy. Such actions will be subject to disciplinary action.

Persons who make legitimate or "good faith" Complaints will not have their employment affected in any way as a result of their Complaint.

It is also recognized that false, fabricated or malicious accusations of harassment or discrimination can have serious effects on innocent people. Such accusations or false reporting will not be tolerated and will be regarded as a violation of this policy.

COMPLAINTS AGAINST THIRD PARTIES

The Township will take reasonable action to stop or reduce the risk to its workers. Where there is a violation of this policy by a member of the public, this policy is to be used in combination with the Township's Expected Conduct Policy.

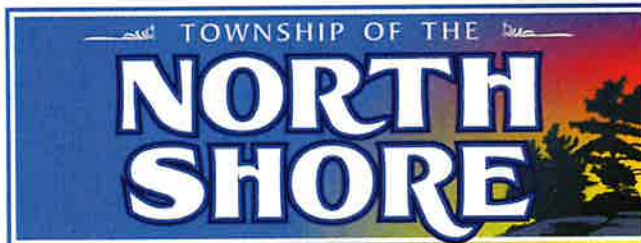
When a Third Party engages in discrimination, workplace violence, harassment, or sexual harassment, workers are expected to first ask the individual to stop. If the individual continues, workers are authorized to end telephone conversations, ask the Third Party to leave the workplace, politely decline service, seek the assistance of another worker, or inform the Ontario Provincial Police.

POLICY REVIEW AND TRAINING

The Township will review this policy when necessary. At a minimum, the policy will be reviewed annually and revised accordingly. The most up-to-date version of the Policy will be posted on the Township's website, in the lunchroom of the Municipal Office and in a location visible to Third Parties.

The Township will ensure that all existing and future workers and Officials will review, receive training of the Policy and sign the attached Acknowledgement Form (Appendix A) annually.

Appendix A



**Township of The North Shore Workplace Anti-Violence,
Harassment and Sexual Harassment Policy**

Acknowledgement Form

By Signing below, I hereby certify that:

- I acknowledge and agree that I have received and read a copy of the Township of The North Shore Workplace Anti-Violence, Harassment, and Sexual Harassment Policy
- I agree to abide by and comply with the terms of the Workplace Anti-Violence, Harassment, and Sexual Harassment Policy.
- I agree to ensure that all workers under my direction adhere to the Workplace Anti-Violence, Harassment, and Sexual Harassment Policy
- I acknowledge and understand that any violation of this policy may result in immediate disciplinary action, as described in the Workplace Anti-Violence, Harassment and Sexual Harassment Policy, including termination of employment.
- I acknowledge and understand that any action that may be subject to criminal prosecution will be referred to the Ontario Provincial Police.

Name of Worker/Official (Printed)

Signature of Worker/Official

Date

Witness Signature