

Section: <b>Administration</b>	Policy Number: <b>1.28</b>
Policy: <b>Workplace Violence and Harassment</b>	Effective Date: <b>10/06/2010</b>
Date Last Revised: <b>09/11/2012</b>	Current Revision Date: <b>09/11/2012</b>



## **Workplace Violence and Harassment Policy**

### **1 Purpose:**

1.01 The Town of Minto (“Town”) is committed to providing and maintaining a working environment that is based on respect for the dignity and rights of everyone within the organization. It is the Town’s goal to provide a healthy and safe work environment that is free of any form of harassment or violence.

### **2 Scope:**

2.01 This policy applies to all employees, contractors and consultants. It applies in any location in which you are engaged in work-related activities. This includes, but is not limited to:

- the workplace;
- during work-related travel;
- at restaurants, hotels or meeting facilities that are being used for business purposes;
- in company owned or leased facilities;
- during telephone, email or other communications; and,
- at any work-related social event, whether or not it is company sponsored.

This policy also applies to situations in which you are harassed or subjected to violence in the workplace from individuals who are not employees of the organization, such as clients, customers and suppliers, although the available remedies may be constrained by the situation.

### **2.02 Definitions:**

#### ***a) Discrimination***

Workplace discrimination includes any distinction, exclusion or preference based on the protected grounds in the *Ontario Human Rights Code*, which nullifies or impairs equality of opportunity in employment, or equality in the terms and conditions of employment.

The protected grounds of discrimination are:

- race, colour, ancestry, citizenship, ethnic origin or place of origin;
- creed, religion;
- age;
- sex (including pregnancy and gender identity);
- sexual orientation;
- family, marital (including same-sex partnership) status;
- disability or perceived disability; and,

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- a record of offences for which a pardon has been granted under the *Criminal Records Act* (Canada) and has not been revoked, or an offence in respect of any provincial enactment

**b) Sexual Harassment**

Sexual harassment includes conduct or comments of a sexual nature that the recipient does not welcome or that offend him or her. It also includes negative or inappropriate conduct or comments that are not necessarily sexual in nature, but which are directed at an individual because of his or her gender.

Both men and women can be victims of harassment, and someone of the same or opposite sex can harass someone else. Some examples of sexual harassment include, but are not limited to:

- 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 sexual staring);
- displaying sexually offensive material such as posters, pictures, calendars, cartoons, screen savers, pornographic or erotic web sites 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; and,
- sexual assault.

**c) Discriminatory Harassment**

Discriminatory harassment includes comments or conduct based on the protected grounds in the Ontario *Human Rights Code*, which the recipient does not welcome or that offends him or her. Some examples of discriminatory harassment include, but are not limited to:

- offensive comments, jokes or behaviour that disparage or ridicule a person's membership in one of the protected grounds, such as race, religion or sexual orientation;
- imitating a person's accent, speech or mannerisms;
- persistent or inappropriate questions about whether a person is pregnant, has children or plans to have children; and,
- inappropriate comments or jokes about an individual's age, sexual orientation, personal appearance or weight.

Harassing comments or conduct can poison someone's working environment, making it a hostile or uncomfortable place to work, even if the person is not being directly targeted. This is commonly referred to as a poisoned working environment and it is also a form of harassment.

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**d) Workplace Harassment and Bullying**

Workplace harassment is a health and safety issue that is covered under the *Occupational Health and Safety Act*.

The *Occupational Health and Safety Act* defines **workplace harassment** 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.

Workplace harassment may have some or all of the following components:

- it is generally repetitive, although a single serious incident may constitute workplace harassment if it undermines the recipient's psychological or physical integrity and has a lasting harmful effect;
- it is hostile, abusive or inappropriate;
- it affects the person's dignity or psychological integrity; and,
- it results in a poisoned work environment.

In addition, behaviour that intimidates isolates or discriminates against the recipient may also be included.

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**e) *What Isn't Harassment***

Workplace harassment should not be confused with legitimate, reasonable management actions that are part of the normal work function, including:

- measures to correct performance deficiencies, such as placing someone on a performance improvement plan;
- imposing discipline for workplace infractions; and,
- requesting medical documents in support of an absence from work.

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

**f) *The Test of Harassment***

It does not matter whether you intended to offend someone. The test of harassment is whether you knew or *should have known* that the comments or conduct were unwelcome to the other person. For example, someone may make it clear through their conduct or body language that the behaviour is unwelcome, in which case you must immediately stop that behaviour.

Although it is commonly the case, the harasser does not necessarily have to have power or authority over the victim. Harassment can occur from co-worker to co-worker, supervisor to employee and employee to supervisor.

**g) *Workplace and Domestic Violence***

Workplace and domestic violence that may occur in the workplace are health and safety issues, which are covered under the *Occupational Health and Safety Act*.

**h) *Workplace violence***

Workplace violence is defined under the *Occupational Health and Safety Act* as:

- the exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker;
- an attempt to exercise physical force against a worker, in a workplace, that could cause physical injury to the worker;
- a statement or behavior that is reasonable for a worker to interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker.

It is defined broadly enough to include acts that may be considered criminal.

Workplace violence includes, but is not limited to:

- physically threatening behaviour;
- 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.

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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.

### ***i) Domestic Violence***

If you are experiencing domestic violence that would likely expose you, or other workers, to physical injury that may occur in the workplace, we will take every precaution reasonable to protect you and your co-workers in the circumstances.

We appreciate sensitivity of these issues and will do our best to assist you as discreetly as possible.

## **2.02 Preventing Harassment and Violence**

It is our mutual responsibility to ensure that we create and maintain a harassment and violence-free workplace and address violence and/or the threat of violence from all possible sources. It is the responsibility of all employees to evaluate their places of work and identify items which would facilitate violence in the workplace (e.g. employee works late at night, and the parking lot is not sufficiently lit to adequately see if individuals are lurking around employee's vehicle). Once an item is identified, the employee is to complete the Workplace Violence/Harassment Identification Form, attached to this policy as Schedule 'A', and submit it to their Department Head for assessment and implementation, if deemed feasible.

## **2.03 Town's Commitment**

The Town of Minto will do its part by not tolerating or condoning discrimination, harassment or violence in the workplace. This includes making everyone in our organization aware of what behaviour is and is not appropriate, assessing the risk of workplace violence, investigating complaints and imposing suitable corrective measures.

## **2.04 Duties of Department Heads**

Department Heads are expected to assist in creating a harassment-free workplace and to immediately contact the Joint Health and Safety Committee if they receive a complaint of workplace harassment or violence or witness or are aware of harassing or violent behaviour. Supervisors must also take every reasonable precaution to protect employees from workplace violence, including evaluating a person's history of violent behavior to determine whether and to whom this employee poses a risk. In making this evaluation Department Heads should consider:

- whether the person's history of violence was associated with the workplace or work;
- whether the history of violence was directed at a particular employee or employees in general; and,
- how long ago the incidence of violence occurred.

In certain circumstances, Department Heads may have a duty to provide information about a risk of workplace violence from a person with a history of violent behaviour if an employee can be expected to encounter that person during the course of his or her work, and the risk of workplace violence is likely to expose the employee to

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physical injury. Department Heads will only release as much personal information about the person with a history of violent behaviour as is reasonably necessary to protect the employee from physical injury.

## 2.05 **Duties of All Employees**

You must do your part by ensuring that your behaviour does not violate this policy and by fostering a work environment that is based on respect and is free of harassment.

You are also required to report to your Department Head or the Joint Health and Safety Committee, the existence of any workplace violence or threat of workplace violence.

## 3 **Administration**

### 3.01 **Procedure for Resolving and Investigating Harassment Complaints**

#### **a) Informal Procedure**

If you believe that someone who is not a member of our organization has harassed or discriminated against you, please report the harassment to your Department Head. The Department Head will decide whether that individual's name and the details regarding the occurrence be added to the on-going "Watch List" file. This file is only accessible by staff and Council, and is not to be divulged or shared in any manner with members outside of the Town of Minto organization, except for those who are privileged to such information as part of an investigation. The Department Head will email the details regarding the occurrence to the CAO\Clerk who will determine whether an email to all staff and Council is warranted. Although the Town has limited control over third parties, we will do our best to address the issue and prevent further problems from arising.

If the harassment continues after you have confronted the individual, you may want to provide him or her with a written statement of the situation or speak directly with your Department Head. In the statement, include specific details of the behaviours you consider to be harassing, your request to the harasser to stop and your expectations that he or she will stop. Provide details of the next steps you plan to take if the harassment does not stop e.g., filing a formal complaint. Make sure you keep a copy of this statement for yourself.

It helps to keep a record of any incident(s) that you experience. This includes when the harassment started, what happened, whether there were any witnesses and what was your response.

If you believe that someone who is not a member of our organization has harassed or discriminated against you, please report the harassment to your Department Head or a member of the Joint Health and Safety Committee. Although the Town has limited control over third parties, we will do our best to address the issue and prevent further problems from arising.

#### **b) Formal Procedure**

##### ***Joint Health and Safety Committee***

If the complaint cannot be resolved informally or if it is too serious to handle on an informal basis, you may bring a formal complaint to the Joint Health and Safety

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Committee. The Joint Health and Safety Committee acts as our workplace coordinators with respect to harassment and violence in the workplace.

If you bring a formal complaint we will need as much written information as possible, including the name of the person you believe is harassing you, the place, date and time of the incident(s), and the names of any possible witnesses.

It is important that we receive your complaint as soon as possible so that the problem doesn't escalate or happen again.

Once we receive your complaint, we will initiate a formal investigation, if it is necessary and appropriate to do so.

Discrimination and harassment are serious matters. Therefore, if you decide not to make a formal complaint, we may still need to investigate the matter and take steps to prevent further harassment. For example, we may need to continue with an investigation if the allegations are serious or if there have been previous complaints or incidents involving the respondent.

Please note that it is our policy not to investigate anonymous complaints unless there are extenuating circumstances.

***Investigation Procedure***

The Joint Health and Safety Committee will commence an investigation as quickly as possible. We may choose to use either an internal or external investigator, depending on the nature of the complaint.

The investigation will include:

- interviewing the complainant and respondent to ascertain all of the facts and circumstances relevant to the complaint, including dates and locations;
- interviewing witnesses, if any;
- reviewing any related documentation; and,
- 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 to the appropriate Department Head and the Chief Administrative Officer/Clerk. A summary of the findings will also be provided to the complainant and respondent.

It is our goal to complete any investigation and communicate the results to the complainant and respondent within thirty days after we receive a complaint, where possible.

***Corrective Action***

The Chief Administrative Officer and/or Council will determine what action should be taken as a result of the investigation.

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The Joint Health and Safety Committee will inform the complainant and respondent of the results of the investigation and whether (but not necessarily what) corrective measures were taken, if any were necessary.

If a finding of harassment is made, the Town will take appropriate corrective measures, regardless of the respondent's seniority or position with the Town.

If there is not enough evidence to substantiate the complaint, corrective measures will not be taken.

If you make a complaint in good faith and without malice, regardless of the outcome of the investigation, you will not be subject to any form of discipline. The Town will, however, discipline anyone who brings a false and malicious complaint.

### 3.02 Procedure for Resolving and Investigating Workplace Violence

#### ***Workplace Violence Mitigation***

It is the responsibility for all employees to evaluate their work places for items that could facilitate workplace violence. Once an item is identified, the Workplace Violence/Harassment Identification Form (attached as Schedule 'A') is to be completed and submitted to the employee's Department Head. The Department Head is to review the form and use the Workplace Violence/Harassment Assessment Form (attached as Schedule 'B') to assess the risk with regards to: the level of risk, urgency of risk, the financial implications of implementation, and benefit of implementation. The Department Head is to implement the mitigation measure if deemed necessary and fiscally possible. If the mitigation measure is not implemented, the Department Head is to forward the Workplace Violence/Harassment Identification and Assessment Forms to the Joint Health and Safety Committee and the Chief Administrative Officer/Clerk, outlining the reasons for not implementing the mitigation measure. The Joint Health and Safety Committee and Chief Administrative Officer/Clerk are to review the mitigation measure and either cause the measure to be implemented or confirm the Department Head's assessment.

#### ***Workplace Violence***

You have the right to refuse work if workplace violence is likely to endanger you. In that instance, please immediately contact your Department Head at which point appropriate measures will be taken to protect you and investigate the situation. You will be moved to a safe place as near as reasonably possible to your normal work station and will need to be available for the purposes of investigating the incident. In some circumstances, you may be provided with reasonable alternative work during normal working hours.

In appropriate circumstances, we may contact the police or other emergency responders as appropriate, to assist, intervene or investigate workplace violence.

Provided the situation is dealt with quickly and the danger to workers is removed, the necessity of work refusal may be alleviated.

#### ***Investigation Procedure***

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You are required to report the existence of any workplace violence or threat of workplace violence to your Department Head and the Joint Health and Safety Committee. The Joint Health and Safety Committee will commence an investigation as quickly as possible. We may choose to use either an internal or external investigator, depending on the nature of the incident.

The investigation will include:

- conducting interviews of relevant individuals to ascertain all of the facts and circumstances relevant to the complaint, including dates and locations;
- reviewing any related documentation; and,
- 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. A copy of the findings will be provided to the Joint Health and Safety Committee, the appropriate Department Head and the Chief Administrative Officer/Clerk.

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### **Corrective Action**

The Chief Administrative Officer and/or Council will determine what action should be taken as a result of the investigation.

If a finding of workplace violence is made, the Town will take appropriate corrective measures, regardless of the respondent's seniority or position in the Town.

Corrective measures may include one or more of the following:

- discipline, such as a verbal warning, written warning or suspension without pay;
- termination with or without cause;
- referral for counseling (sensitivity training), anger management training, supervisory skills training or attendance at educational programs on workplace respect;
- a demotion or denial of a promotion;
- reassignment or transfer;
- financial penalties such as the denial of a bonus or performance related salary increase; and/or,
- any other disciplinary action deemed appropriate under the circumstances.

If you make a complaint in good faith and without malice, regardless of the outcome of the investigation, you will not be subject to any form of discipline. The Town will, however, discipline anyone who brings a false and malicious complaint.

#### **3.03 Procedures for Addressing Domestic Violence**

If you are experiencing domestic violence that would expose you to physical injury in the workplace or you are experiencing workplace violence or believe that workplace violence is likely to occur, you may seek immediate assistance by contacting any member of the Joint Health and Safety Committee. The Joint Health and Safety Committee will assist in preventing and mitigating to the situation.

#### **3.04 Confidentiality of Complaints and Investigations**

We recognize the sensitive nature of harassment and violence complaints and we will keep all complaints confidential to the extent that we are able to do so. We will only release as much information as is necessary to investigate and respond to the complaint or situation or if required to do so by law.

Out of respect for the relevant individuals, it is essential that the complainant, respondent, witnesses and anyone else involved in the formal investigation of a complaint maintain confidentiality throughout the investigation and afterwards.

#### **3.05 Protection from Retaliation**

The Town will not tolerate retaliations, taunts or threats against anyone who complains about harassment or takes part in an investigation. Any person who taunts, retaliates against or threatens anyone in relation to a harassment or violence complaint may be disciplined or terminated.



**Schedule 'B'**

**Workplace Violence/Harassment Assessment Form**

<b>COST-BENEFIT EVALUATION OF POTENTIAL EXPENDITURES TO MITIGATE THE RISK OF WORKPLACE VIOLENCE</b>			
Potential Risk Mitigation Measure			
Specific Risk that potential expenditure is intended to mitigate			
Evaluation of the specific risk		4	High Risk – has occurred or been threatened, with potentially severe consequences
		3	Significant Risk – known to have occurred elsewhere and consistent with local trends
		2	Medium Risk – could quite conceivably happen but not known in local area or municipal sector
		1	Low Risk – quite unlikely to occur
Evaluation of the Extent to which the potential expenditure would mitigate the risk		4	Very effective – would essentially eliminate the risk
		3	Significant impact – would largely eliminate or minimize the risk, or confine the risk to rare circumstances
		2	Somewhat effective – would play a part in reducing the risk, but not effective by itself, or would minimize the risk but only in rare circumstances
		1	Not very effective – would reduce the risk only slightly
Cost (could be one-time capital cost or ongoing operating cost)		4	Very High – would be a capital budget item in excess of \$100,000 or an annual operating cost item more than one person's salary

		3	Significant – would be a major capital cost item or a significant annual operating cost
		2	Medium – would have a capital or annual operating cost less than \$10,000
		1	Low – cost less than \$2000

Benefit/Cost ratio		>2	High Benefit in relation to Cost; Benefit in excess of twice the cost
		1.5-2	Significant Benefit in relation to cost; Benefit between 1.5 – 2 times cost
		1-1.5	Moderate Benefit; less than 1.5
		<1	Low benefit; ratio of 1 or lower

Upon the completion of the assessment, determination has been made that the mitigation method will / will not (circle one) be implemented. The approximate time that the implementation will be completed: \_\_\_\_\_

If refused, state reasons for refusing to implement mitigation method(s):

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Note: If the implementation of the mitigation method has been refused, the Workplace Violence/Harassment Identification and Assessment Forms are to be forwarded to the Chief

Administrative Officer and the Joint Health and Safety Committee for review and affirmation or implementation.

Department Head: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

For Use By The CAO/Clerk and OHSC Rep:

The Department Head's assessment is: Affirmed / Implementation Is Required

\_\_\_\_\_

CAO/Clerk

\_\_\_\_\_

OHSC Rep