

KING TOWNSHIP ADMINISTRATIVE POLICY



HARASSMENT AND DISCRIMINATION FREE WORKPLACE

POLICY NO.:
ADM-POL-110

Human Resources Division

Issue Date: 2020-02-12

Reviewed Date: 2023-01-12

Authored By: Human Resources

Issue No.: 5

Approved By: Daniel Kostopoulos

Next Review: 2024-01-12

1 PURPOSE STATEMENT

- 1.1 The Township of King recognizes the right of all employees, agents and members of Council to work in an environment that is free from discrimination, harassment and bullying, and where the dignity and self-worth of all individuals is respected.
- 1.2 The Corporation has a "zero tolerance" policy and will take all reasonable precautions to protect employees from workplace harassment and discrimination from all sources. Workplace harassment, discrimination and bullying are considered to be serious forms of employee misconduct which may result in disciplinary action up to and including dismissal. The Corporation is committed to a harassment and discrimination free workplace strategy of prevention and elimination, including policy, training, education, and complaint-resolution processes.

2 POLICY OBJECTIVE

- 2.1 The *Ontario Human Rights Code* and the amendment to the *Occupational Health and Safety Act* define the legal framework for preventing and identifying discrimination and harassment in employment. Generally, discrimination and harassment involve behaviour that creates an unequal or offensive work environment for employees because of creed, ethnic origin and place of origin, race, colour, ancestry, citizenship, sex, sexual orientation, gender identity and expression. Discrimination and harassment deny employees the opportunity to be treated with dignity and respect, and the opportunity to have employment decisions made on valid considerations.
- 2.2 Maintaining a workplace that is free from harassment, discrimination and bullying is an important part of everyone's job. This Township policy emphasizes education, prevention, early intervention and various complaint resolution processes to quickly resolve issues in a way most conducive to restoring positive working relationships.

3 APPLICATION/SCOPE

- 3.1 This policy applies to all employees (full-time, part-time, contract, seasonal), elected officials, contractors and volunteers working for or on behalf of the Corporation of the Township of King.

4 DEFINITIONS

4.1 Abuse of Authority:

- 4.1.1 Exercising undue power or authority related to his/her position with the intentions of compromising someone's employment.

4.1.1.1 Managing through fear, command and control rather than

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collaboration.

4.1.1.2 Singling out an employee; selective denial of freedoms; selective access to resources or privileges; undercutting one's performance, skills or competencies.

4.2 **Bullying:**

4.2.1 Bullying is a form of harassment and involves acts that could physically or psychologically hurt or isolate a person in the workplace. It can involve negative physical contact, repeated incidents, or a pattern of behaviour intended to intimidate, offend, degrade or humiliate a particular person or group(s) of people which could be regarded as undermining the individual's right to dignity in the workplace. A single act of sufficient severity **may** constitute bullying.

4.3 **Collusion:**

4.3.1 Secret agreement or cooperation, especially for an illegal or deceitful purpose; acting in collusion with the opposing parties. Getting together to discuss an investigation to ensure a consistent recounting of events.

4.4 **Complaint:**

4.4.1 A verbal or written allegation of an incident of discrimination, harassment or bullying.

4.5 **Complainant:**

4.5.1 The complainant is the individual who lodges a complaint.

4.6 **Consent:**

4.6.1 The active, ongoing, explicit, informed and voluntary agreement to engage in physical contact or sexual activity. Consent cannot be given by someone who is incapacitated (such as by drugs or alcohol), unconscious, or otherwise unable to understand and voluntarily give consent.

4.6.2 A person who has been threatened or coerced (i.e. is not agreeing voluntarily) into engaging in the sexual activity is not consenting to it.

4.7 **Discrimination:**

4.7.1 Is any practice or behaviour, whether intentional or not, that results in the unfavourable or adverse treatment or preferential treatment of individuals or groups related to the prohibited grounds in the *Ontario Human Rights Code*.

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4.7.2 Discrimination may be the result of direct differential treatment, e.g. refusal to provide a service, exclusion from employment, refusal to work with someone, and/or failure to provide physical access. Discrimination can also be systemic, meaning that policies, practices and procedures have been created and implemented in ways which appear to some to be neutral but which disadvantage individuals or groups relative to one of the prohibited grounds of the *Ontario Human Rights Code*.

4.8 Harassment:

4.8.1 Harassment is a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome. It may be either intentionally or unintentionally directed at an individual or a group of individuals. It is harassment, even if unintentional, where it nevertheless detrimentally affects the work environment or leads to adverse job related consequences for the victim of the harassment.

Under the *Ontario Human Rights Code* every employee has a right to be free from harassment in the workplace on the following grounds:

- Age
- Ancestry
- Colour
- Race
- Citizenship
- Ethnic Origin
- Place of Origin
- Creed (Religion)
- Disability (physical, mental or learning)
- Family Status
- Marital Status (including Single Status)
- Gender Identity, Gender Expression
- Receipt of Public Assistance (in housing only)
- Record of Offenses (in employment only)
- Sex (including solicitation, pregnancy and breastfeeding)

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- Sexual Orientation

4.8.2 Usually, harassment is offensive behaviour that is repeated after an employee knows it is unwelcome. However, harassment may also occur from a serious, single remark or action and need not be directed at a particular individual. A poisoned work environment can result from degrading or humiliating comments, behaviours or displays of material not directed to a specific individual that create an uncomfortable atmosphere.

4.8.3 This policy also addresses harassment of an employee by a member of the public, as set out in *Occupational Health and Safety Act Amendment (Violence and Harassment in the Workplace), 2009*.

4.9 Mediation:

4.9.1 Mediation is a form of alternative conflict resolution assisting two (2) or more individuals in resolving their issues by reaching a mutual agreement.

4.10 Mediator:

4.10.1 The mediator is an individual who assists in conflict resolution, based on allegations brought forward, through a mediation resolution process. The mediator is an active participant in the discussion and attempts to work out a solution agreeable to all parties involved.

4.11 Reprisal:

4.11.1 The threat or action of retaliation for claiming or enforcing one's rights.

4.12 Respondent:

4.12.1 The respondent is the individual who is alleged to have been the source of the discrimination, harassment or bullying.

4.13 Workplace:

4.13.1 The workplace is not confined to the offices and buildings of the Corporation. "Workplace", as defined under the *Occupational Health and Safety Act*, is "any land, premise, location or thing at, upon, in or near which a worker works."

4.13.2 As applied to the Township, this would include:

4.13.2.1 Any location where the business of the Corporation is being carried out (e.g. Municipal Centre, works yard, parks yard, arenas, pool, community centres, libraries, etc.); and

4.13.2.2 Other locations and situations such as off-site business-

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related functions, social events related to work, in resident's homes or away from work but resulting from work.

4.13.3 Conduct, comments or behaviours which constitute harassment and/or bullying and/or discrimination and occur in locations covered by this definition are subject to investigation under this policy.

4.14 Workplace Sexual Harassment:

4.14.1 According to Bill 132, the *Sexual Violence and Harassment Action Plan Act (Supporting Survivors and Challenging Sexual Violence and Harassment)*, 2015 and the *Occupational Health and Safety Act*, sexual harassment refers to:

4.14.1.1 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

4.14.1.2 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.

4.15 Vexatious, or Made in Bad Faith Complaints:

4.15.1 Vexatious complaints are without sufficient grounds and serve only to cause annoyance, frustration, or worry towards another individual. Complaints which are found to be vexatious or made in bad faith will result in a penalty against the complainant. The severity of the penalty will be determined based on the severity of the complaint following an investigation.

5 POLICY PRINCIPLES

5.1 Freedom from discrimination, harassment and bullying in the workplace is a fundamental right of all employees.

5.2 The efficient handling of all complaints and other actions taken to resolve, prevent or address harassment are necessary to ensure that the rights of individuals are not prejudiced or jeopardized. A spirit of fairness to all parties involved is essential. All information, evidence and circumstances will be carefully considered when deciding upon a course of action.

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- 5.3 An employee who is the subject of a complaint of harassment, bullying or discrimination must be advised of the specific allegation(s) and given an opportunity to respond.
- 5.4 Retaliation in any form against a legitimate complainant involved in a discrimination or harassment investigation is prohibited.
- 5.5 This policy conforms to the *Ontario Human Rights Code* and the *Occupational Health and Safety Act*.
- 5.6 This policy and related program will be reviewed on an annual basis in conjunction with the Township's Joint Health and Safety Committee.

6 ANONYMOUS COMPLAINTS

- 6.1 Anonymous complaints do not carry an immediate right of investigation. Such complaints make it difficult for the Township to adequately investigate and take appropriate action. The Chief Administrative Officer has the discretion whether to act based on the information provided and extent to which a respondent would have an opportunity to reasonably respond to the allegation.
- 6.2 Any complaint made by a Township employee must be signed. If an employee has specific concerns about filing a complaint he/she is strongly encouraged to contact Human Resources.

7 TYPES OF HARASSMENT

- 7.1 Sexual Harassment:
 - 7.1.1 Sexual harassment refers to comments or actions based on sex or gender that are unwelcome or should be reasonably known to be unwelcome. It also includes negative or inappropriate conduct or comments that are not necessarily sexual in nature but which are directed at an individual based on his or her gender. Both men and women can be victims of sexual harassment, and harassment can come from someone of the same or opposite sex.
- 7.2 Some examples of Sexual Harassment include:
 - 7.2.1 Conduct, gestures, comments or contact of a sexual nature that might reasonably be expected to cause offence or humiliation;
 - 7.2.2 Threats, punishments or denial of a benefit for refusing a sexual advance;
 - 7.2.3 Displaying pornographic materials;
 - 7.2.4 Distributing sexually explicit e-mail messages or attachments such as

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pictures or video files;

7.2.5 Leering, suggestive staring or other gestures;

7.2.6 Physical contact of a sexual nature;

7.2.7 Sexual assault;

7.2.8 Unwelcome remarks or jokes about a person's body or dress; and

7.2.9 Unwelcome enquiries or comments about a person's personal relationships.

7.3 Personal Harassment:

7.3.1 Disrespectful behaviour, commonly known as "personal" harassment is not covered by human rights legislation. It involves unwelcome behaviour that demeans or embarrasses an employee, and can include verbal displays of beratement or belittlement which may demean or humiliate the other person. It also includes acts of unjustified coercion and intimidation. Even though this behaviour is not based on one of the prohibited grounds in the Code, for the purpose of this policy it is considered harassment.

7.4 Harassment Does Not Include:

7.4.1 Legitimate, reasonable management actions that are part of the normal work function;

7.4.2 Measures to correct performance deficiencies;

7.4.3 Stressful events associated with the performance of legitimate job duties;

7.4.4 Good natured jesting and bantering which is mutually acceptable;

7.4.5 Friendly or romantic behaviour which is welcome and mutual;

7.4.6 Implementation of dress codes;

7.4.7 Requesting medical documents in support of an absence from work;

7.4.8 Requesting a Vulnerable Sector Screening, Driver's Abstract, etc. in support of confirming eligibility to do or continue to do a job.

8 RELATED DOCUMENTATION

8.1 Harassment and Discrimination Free Workplace Program HR-PRO-100

8.2 Violence Free Workplace Program ADM-POL-111

8.3 Violence Free Workplace Program HR-PRO-106

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- 8.4 *Occupational Health and Safety Act*
- 8.5 *Sexual Violence and Harassment Action Plan Act (Supporting Survivors and Challenging Sexual Violence and Harassment), 2016*
- 8.6 *Ontario Human Rights Code*

9 APPROVAL AUTHORITY

Original Signed

Daniel Kostopoulos
Chief Administrative Officer

February 5, 2020

Date