

KING TOWNSHIP PROCEDURE



HARASSMENT AND DISCRIMINATION FREE WORKPLACE PROGRAM

PROCEDURE NO.:
HR-PRO-100

Human Resources Division	Issue Date:	2/12/2018
Authored by: Human Resources	Issue No.:	3
Approved by: Susan Plamondon	Next Revision:	2/12/2019

1 PURPOSE

- 1.1 The Corporation of the Township of King is committed to maintaining a work environment free of discrimination, harassment and bullying in the firm belief that such a workplace supports productivity and guarantees the dignity of every employee. This program supports the Harassment and Discrimination Free Workplace Policy.
- 1.2 This set of procedures will outline how an employee can report an incident of workplace harassment and/or discrimination and how the Township will deal with the incident.
- 1.3 The successful resolution of concerns and complaints are often determined by the way in which they are handled. The Township's policies and procedures ensures that complaints are dealt with in a consistent and fair manner, while allowing some flexibility to accommodate different types of incidents, circumstances and needs.
- 1.4 This program includes measures and procedures:
 - For employees to report incidents or concerns of workplace discrimination, harassment and bullying.
 - To investigate and address incidents or concerns of workplace harassment and discrimination.
 - Of providing appropriate information and instruction to employees regarding workplace harassment and discrimination.

2 APPLICATION/SCOPE

- 2.1 The Township has an obligation to address incidents and complaints of discrimination, harassment and bullying in the workplace. This program 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.

3 DEFINITIONS

- 3.1 For the purpose of this program, the following definitions clarify the roles of employees with respect to raising a complaint or concern, filing an informal or formal complaint and the resolution process.
 - 3.1.1 **Complainant** – Refers to the individual that has raised a concern, complaint, or incident of discrimination, harassment or bullying in the workplace.
 - 3.1.2 **Respondent** – Refers to the individual who is alleged to have been the source of the discrimination, harassment or bullying.

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3.1.3 **Supervisor** – Refers to an employee who directly supervises the complainant or respondent.

3.2 In addition, consideration will be given to language outlined in the Collective Agreement.

4 RESPONSIBILITIES

4.1 Everyone is Responsible

- Everyone associated with the municipality has a responsibility to ensure our environment is free from harassment. This means not engaging in, allowing, condoning or ignoring behaviours contrary to this policy. Any who believe harassment is taking place is encouraged to notify his/her supervisor and/or Human Resources.

4.2 Directors/Managers/Supervisors:

- Ensure that workplace harassment and discrimination is not tolerated, ignored or condoned;
- Administer the provisions of this policy and ensure compliance, providing information on harassment and discrimination to all staff and providing education to advisors and investigators so that they will be qualified to handle all aspects of their jobs;
- Familiarize all employees with this policy and the procedures for the handling of complaints under the policy;
- Process complaints in a confidential, timely and efficient manner and provide information and reports as required;
- Take corrective action and/or disciplinary action as may be required;
- Ensure that there are no penalties or reprisals with respect to complaints brought in good faith.

4.3 Human Resources

- Develop and maintain Harassment and Discrimination Free Workplace policies and programs;
- Provide information and education;
- Provide support relating to the effective resolution of any complaints of harassment and discrimination;
- Provide confidential advisory services to staff.

4.4 Workplace Violence and Harassment Coordinator

- The Manager of Human Resources or designate to serve as the Workplace Violence and Harassment Coordinator. This person will have overall responsibility for the administration of this policy.

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4.5 Employees

- Abide by the policy, treating all people fairly and with dignity;
- Inform management and/or the Human Resources Department if you experience or witness discrimination, harassment and/or bullying.

5 PROCEDURE

5.1 Reporting an Incident:

The incident should be reported immediately, either verbally or in writing and within a reasonable time to either:

- Supervisor/Manager/Department Head;
- Workplace Violence and Harassment Coordinator, or designate; and/or
- Human Resources.

If you are a member of CUPE 905, your union representative can be an important resource.

There are three ways that an employee can report a complaint or concern internally under this program:

The complainant can:

- Option A: Deal directly with the respondent to resolve the issue on their own; or
- Option B: Request informal action and resolution; or
- Option C: File a formal complaint to seek resolution.

Reporting a complaint using any of these options does not preclude an employee from filing a complaint with the Ontario Human Rights Commission or pursuing any other available avenues.

5.2 Option A: Information Process Dealing Directly With the Respondent:

5.2.1 An employee who experiences harassment or discrimination should attempt to make it known to the employee(s) responsible that the behaviour is offensive and unwelcome, and contrary to the Township's policy and request that it stop. The respondent(s) may not realize that the behaviour is unwelcome and offensive. In many instances this will stop the offensive behaviour.

5.2.2 This can be done verbally or in writing. If done verbally, it is recommended that detailed notes of the discussion be kept by the employee. It is recommended that the employee advises his/her director, manager or supervisor that this occurred.

KING TOWNSHIP PROCEDURE



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5.2.3 The Township recognizes that in some incidents dealing with the respondent may be difficult or inappropriate, or the employee may have told the respondent to stop but the offensive behaviour continues. In this case, the employee is advised to take immediate action as outlined in Option B.

5.2.4 When a supervisor becomes aware of a concern, he/she must ensure that the concerns are addressed and resolved in a prompt and confidential manner.

5.3 Option B: Handling a Concern in an Informal Manner:

5.3.1 An employee who experiences harassment/discrimination and has unsuccessfully tried to deal directly with the respondent or who feels that a direct approach is inappropriate may choose to have the matter dealt with on an informal basis with the assistance of management, HR representative and/or union, where appropriate, prior to proceeding with a formal complaint.

5.3.2 The incident should be reported immediately (either verbally or in writing) and within a reasonable time.

5.3.3 Once a supervisor has been informed of a concern about an incident of workplace harassment or discrimination, and wishes to handle this matter informally, the supervisor must inform the Workplace Violence and Harassment Coordinator, or designate, and is obligated to treat the conversation or written complaint as serious and attempt to resolve the matter in a confidential manner. It is important to clarify the concern that is being raised and take notes to record the particular information pertinent to the concern.

5.3.4 The employee will be asked what remedies might address the incident and satisfy the potential complaint. Often, harassment is the result of ineffective and unsuccessful communication and proceeding informally may identify this problem and produce a quick and simple solution without having to engage in a full investigation.

5.3.5 Once the supervisor has the relevant information the supervisor may take the following action:

1. Undertake discussion with the relevant parties to facilitate mutually acceptable resolution;
2. Ensure that the situation has been documented;

KING TOWNSHIP PROCEDURE



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3. Re-enforce positive change in respondent's behaviour;
4. Ensure that the appropriate Dept. head and WPVHC, or designate are notified of the resolution and a copy is submitted to HR.

5.3.6 Where attempts to achieve a resolution at this stage are unsuccessful or unsuitable, a formal complaint may be filed, as outlined in Option C.

5.3.7 Employees are not required to engage in this step and may choose to file a formal complaint directly.

5.4 Option C: Initiating a Formal Written Complaint:

5.4.1 Filing the Complaint:

If either the incident warrants it or the employee requests it, all formal complaints will be investigated by the Workplace Violence and Harassment Coordinator, or designate, or a third party depending on the circumstances. A formal complaint must be in writing and include a description of the incident, witnesses, and steps, if any, already taken to resolve the matter. Where an employee is unable, or under the circumstances it is unreasonable to request a written complaint, assistance will be made available to ensure that the complaint is made on their behalf.

Where the complaint is initially received by a supervisor or other person, it is his/her responsibility to ensure that the Workplace Violence and Harassment Coordinator, or designate is notified about the complaint within two (2) working days when possible from when he/she first received it. Upon receipt of a complaint the investigative process is initiated.

A meeting will be scheduled with the employee to discuss and clarify the incident and identify steps they have taken so far to resolve the matter. The employee may be represented/assisted by a person of his/her choice.

The Workplace Violence and Harassment Coordinator, or designate, will acknowledge receipt of a complaint within five (5) working days when possible. The respondent has the right to be notified of the complaint and the nature of the complaint within five (5) working days when possible following the acknowledgment to the complainant.

5.4.2 Third Party and Anonymous Complaints:

Investigations can be undertaken where the complaint is received from an employee who is directly and personally affected by the incident(s) being

KING TOWNSHIP PROCEDURE



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reported; or, complaints may be investigated from an employee who is not being harassed directly but where there is a direct and personal impact as a result of harassment involving others.

Third parties such as lawyers who are acting on behalf of the employee can file a complaint.

Investigations cannot be undertaken on the basis of a complaint written and/or received anonymously. However, supervisors should not ignore these incidents and should report them to the Department Head and/or the Workplace Violence and Harassment Coordinator, or designate, for resolution with a copy to Human Resources.

6 INVESTIGATION OF COMPLAINT

6.1 File Opening:

6.1.1 Where a formal complaint is received it shall be documented and a file will be opened by the Workplace Violence and Harassment Coordinator, or designate, or designate.

6.1.2 Where it is determined that reasonable cause exists, the Workplace Violence and Harassment Coordinator, or designate will investigate complaints or will arrange to have the investigation carried out by a neutral third party. The investigative process involves three primary steps. The Coordinator, or designate, may request additional resources to assist with the investigation.

6.2 Step 1 – Fact Finding:

6.2.1 The Workplace Violence and Harassment Coordinator, or designate, will conduct confidential interviews with relevant parties to obtain information and clarify the details of the reported incident. The complainant and the respondent will have an opportunity to identify witnesses or others to be interviewed. All interviews will be conducted in a confidential manner that respects the nature of the work environment.

6.3 Step 2 – Preliminary Findings:

6.3.1 Where the information revealed early in the investigation suggests a reasonable possibility of resolution, the Workplace Violence and Harassment Coordinator, or designate, may make resolution recommendations prior to conducting the entire investigation. In these instances, the Workplace Violence and Harassment Coordinator, or designate, will meet with the complainant and the respondent involved,

KING TOWNSHIP PROCEDURE



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Human Resources Division	Issue Date:	2/12/2018
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discussing preliminary findings of the investigation and informing participants of the possibility and nature of an early resolution.

6.3.2 Where mutual agreement is reached to the satisfaction of all parties and the matter deemed resolved, the Workplace Violence and Harassment Coordinator, or designate, will prepare a summary report for the appropriate Department Head and CAO.

6.4 Step 3 – Further Investigations:

6.4.1 Where, as a result of preliminary findings, a resolution cannot be reasonably proposed or achieved, or where a more intensive review is warranted further investigations will be conducted.

6.4.2 Upon completion of the further investigations the findings will be presented to the appropriate Department Head and CAO to discuss the appropriate action to be taken.

7 RESULTS OF INVESTIGATIONS/MEDIATIONS

7.1 Complaint Supported:

7.1.1 Where the results of the investigation support a specific complaint of harassment or discrimination, or where the results suggest the existence of systemic problem(s) in the work environment which caused or contributed to the incident, the following, without limitation, may be the recommended forms of remedial action:

- Education and training.
- Review and modification of policies, procedures and practices.
- Disciplinary action up to and including dismissal.
- Continuous monitoring.
- Documentation on employee's personnel file.

7.1.2 Where deemed reasonable and appropriate, the Workplace Violence and Harassment Coordinator, or designate, in consultation with the parties involved, may propose and develop a more comprehensive strategy for the elimination and/or prevention of harassment to improve the overall workplace.

7.1.3 The investigation file will remain open for a reasonable period of time to allow for the monitoring of actions to be taken and subsequent reports/updates to be placed on the file as appropriate.

7.1.4 Both the Complainant and the Respondent will be made aware of the

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results of the investigation and any corrective action taken via independent meetings with the Workplace Violence and Harassment Coordinator, or designate.

7.2 Complaint Unsupported:

7.2.1 Where the results of the investigation do not support the allegations of harassment or discrimination made by the complainant, the complaint shall not proceed and no notations will be made on the employee file.

7.3 Complaint Unsupported: Recommend Systemic Investigation:

7.3.1 Where the results of the investigation do not support the specific complaint, but where the investigation suggests the existence of systemic problems in the work environment which may cause, contribute to or encourage harassment, including poor management practices which are directly related to the harassment, the Workplace Violence and Harassment Coordinator, or designate, may make recommendations for change or further investigation of a systemic nature.

7.4 Malicious Complaints:

7.4.1 Where as a result of an investigation, it is determined/concluded that the complaint was made maliciously -- with a specific and directed intent to harm -- or made in bad faith with reasonable knowledge of and intent to harm, formal disciplinary actions may be taken against the complainant. Documentation regarding this disciplinary action will be placed in the employee's personnel file.

7.4.2 The complainant (now respondent to allegation of malicious complaint) has the right to be notified in writing of this decision/conclusion including the reasons and grounds, to prepare and submit a response and to be represented at all proceedings.

7.5 File Retention and Disposal:

7.5.1 Upon determination and notification of a support or non-support decision, the file will be closed and retained in Human Resources for a period not less than five (5) years from the date of closing. Closed investigative files will be disposed of in an appropriate manner in conjunction with our Records Management Policy.

7.6 Reopening of Files:

7.6.1 A request for reopening of a closed file may be made upon written request to the Workplace Violence and Harassment Coordinator, or designate, under the following circumstances:

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- new and relevant information regarding a closed case
- a new incident of harassment post-closure by the same respondent
- a reprisal is alleged to have occurred

7.7 Pursuing Other Remedies Post-investigation:

7.7.1 Employees have the right to pursue other remedies provided in law following, or any time during, the investigation. Where an alternate means is chosen during the course of an internal investigation, the internal investigation may be postponed or terminated and the file closed upon agreement of the parties involved.

7.8 Monitoring:

7.8.1 Unless the complainant has been dismissed, once a resolution of the complaint has occurred, the appropriate supervisor will monitor the incident. Follow-up is a critical component of effective complaint resolution. In most cases, follow-up should occur periodically over a minimum six month period from the date of resolution. All follow-up interviews which are not conducted by the Workplace Violence and Harassment Coordinator, or designate, must be documented, and the documentation forwarded to the Manager of Human Resources. To ensure that monitoring is effective, it is advisable for the supervisor to develop, in consultation with the Workplace Violence and Harassment Coordinator, or designate, a monitoring plan which sets out the steps or activities to be taken to ensure the implementation has been successful, how it will be done, progress measures, as well as when and who is responsible for the actual monitoring.

7.9 Implementation and Execution of Resolutions:

7.9.1 Where, as a result of the monitoring process, or through other means, it is determined that there are difficulties in implementing or executing the solutions recommended from the investigation, or where actions have been taken but are deemed ineffective, inappropriate or untimely: the Workplace Violence and Harassment Coordinator, or designate, in consultation with the Department Head and/or CAO, shall determine what further actions and/or support can be provided to ensure that the policy objectives and terms of resolution can be met more effectively and efficiently.

7.10 Confidentiality:

7.10.1 The Workplace Violence and Harassment Coordinator, or designate, and the Human Resources Department will ensure that complaints are investigated and handled in a manner so that the identities of the persons involved are kept confidential, unless required by law.

KING TOWNSHIP PROCEDURE



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7.10.2 All information relating to a complaint will be kept strictly confidential (unless absolutely necessary for investigating, taking corrective action, or by law) and is subject to the provisions of the *Municipal Freedom of Information and Protection of Personal Privacy Act*. During an investigation, all parties involved are required to maintain confidentiality, except where disclosure is necessary for purposes of the investigation or where disclosure is required by law.

7.10.3 The parties, who are the subject of the complaint or incident, and any witnesses, are expected to maintain confidentiality. Breaches of this expectation may result in corrective and/or discipline up to and including dismissal.

7.10.4 This section does not preclude the complainant and/or witnesses from consenting to the release of their identify.

7.10.5 Any potential breaches of confidentiality should be immediately reported to the Workplace Violence and Harassment Coordinator, or designate.

8 INFORMATION AND INSTRUCTION

8.1 Information and instruction on Harassment and Discrimination Free Workplace Policy and Programs regarding workplace harassment and discrimination will be communicated to all employees.

8.2 Department Heads, Managers and Supervisors will receive training in the following:

- Intent and content of the Violence and Harassment Free Workplace Policy and Programs.
- Investigation procedures related to harassment and discrimination incidents and/or complaints.

8.3 Employees will receive training in the following:

- Intent and content of the Harassment and Discrimination Free Workplace Policy and Programs.
- How to report incidence of workplace harassment and discrimination to the employer or supervisor.
- How the employer will investigate and deal with incidents and/or complaints.
- How to carry out any other procedures referenced in this program.
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9 COMPLAINTS INVOLVING ELECTED OFFICIALS AND MEMBERS OF BOARDS AND COMMITTEES

9.1 Complaints Involving Elected Officials and Members of Boards and Committees:

Where the complaint involves an elected official or members of boards and committees, the complaint will be referred by the Workplace Violence and Harassment Coordinator, or designate, or designate in consultation with the CAO, to an outside third party to investigate the matter. The results of the investigation and recommendations of the investigator will be submitted to Council for their consideration and further action and to the CAO for information. A copy of the report will be maintained in the file opened for that purpose.

In order to satisfy the Township's obligations under the *Ontario Human Rights Code*, if the complaint is not satisfactorily resolved by Council, the matter may be referred to the Ontario Human Rights Commission.

10 COMPLAINTS REPORTED TO SUPERVISOR, EXCEPT WHERE THE SUPERVISOR IS THE SUBJECT OF THE COMPLAINT

10.1 Complaints should be reported initially to an employee's supervisor, except where the supervisor is the respondent. The supervisor must then report the matter to their respective Director and the Human Resources.

10.2 Complaints involving the supervisor as respondent shall be reported to the respondent's supervisor. Where the respondent's supervisor is also a respondent or otherwise involved in the complaint, the complainant may escalate the report upward to the Director, Human Resources or Chief Administrative Officer.

11 CO-OPERATION EXPECTED

11.1 Everyone has an obligation to ensure the workplace is free from discrimination, harassment and bullying. The municipality expects that everyone contacted in the course of mediation or an investigation will participate fully and with good intent. The confidentiality of everyone participating in the investigation will be protected to the degree possible and subject to any disclosure requirements at law and the principles of procedural fairness.

12 RECORDS RETENTION

12.1 Refer to section 7.5 of this Procedure.

KING TOWNSHIP PROCEDURE



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13 RELATED DOCUMENTATION & REFERENCES

- 13.1 Harassment and Discrimination Free Workplace Policy – ADM-POL-110
- 13.2 *Ontario Human Rights Code*
- 13.3 *Occupational Health and Safety Act*
- 13.4 *Municipal Freedom of Information and Protection of Privacy Act*
- 13.5 Records and Information Management Policy COR-POL-119

14 APPROVAL AUTHORITY

Original Signed

Susan Plamondon
CAO

February 12, 2018

Date