

Human Resources Policy	Policy # 6.7 – Workplace Violence, Harassment and Discrimination
Section: Workplace Behaviour	Effective:
Application: All Municipal Employees and members of Council	Approved:
Exclusion(s): N/A	By-law:
Supercedes: Policy 6.7 Workplace Violence, Harassment and Discrimination, Eff. Feb. 1, 2022	Resolution:

POLICY

The Municipality of Port Hope (“Municipality”) is committed to providing a respectful, healthy, safe and inclusive work environment for its workers and does not condone nor will it tolerate acts of discrimination, bullying, harassment, threats of violence or violence against our workers.

The Municipality will support this policy through the implementation of measures and procedures to assess and reduce the risk of violence in the workplace. The Municipality will protect workers from discrimination, harassment and violence in the workplace and will address incidents when they occur.

This policy addresses discrimination, workplace harassment and violence from all sources such as, members of the public, customers, workers, Employers and Council.

DEFINITIONS

Comment – Refers to a verbal or written statement or communication and may be communicated in person or by electronic means.

Complainant - A worker who alleged to have been the target of violence, harassment or discrimination and who brings a complaint forward under this policy.

Discrimination - Any action, behaviour or attitude, which negatively affects or could negatively affect the employment of a worker and is based on one of the prohibited grounds as defined under the Ontario Human Rights Code.

Examples of discrimination may include, but are not limited to:

- Refusal to work with, or different treatment of a person on the basis of the prohibited grounds.
- Decisions or actions related to recruitment, selection, promotion, pay increases or employment practices being made on the basis of a prohibited ground.

Domestic Violence – Is a pattern of coercive behaviour which can include physical, psychological, sexual, economic and emotional abuse perpetrated by one person against an intimate partner.

Investigator - A person designated by the Chief Administrative Officer, Human Resources or designate, to conduct the investigation of the reported incident.

Poisoned Work Environment – Is created when workplace harassment or discrimination creates a hostile, negative or intolerable workplace, as assessed by a reasonable, objective observer. Insulting or degrading comments or offensive actions aimed at a worker or others can make the work environment a hostile or uncomfortable place to work. A workplace becomes poisoned with repeated incidents of this type of behaviour, sufficient to create a hostile or intolerable work environment.

Respondent - A person alleged to have exhibited the harassing, discriminating or violent behaviour, as defined by this policy.

Supervisor - A worker to whom a worker directly reports, the Manager or Department Head in the worker's department or another department, the Chief Administrative Officer or designate.

Trivial, Frivolous or Malicious Complaints - Trivial or frivolous complaints are those with no merit, importance, significance or seriousness. Malicious complaints are those which are made in bad faith with the intent to harm the worker.

Worker - A term used in the Occupational Health and Safety Act ("Act"), which is the Regulation on which this policy is derived, and 'worker' is synonymous with the term 'employee'.

Workplace - As defined in the Act, workplace means any land, premises, location or thing at, upon, in or near which a worker works.

Workplace Bullying – Is a form of harassment. Acts or verbal comments that could 'psychologically' hurt or isolate a worker in the workplace. Bullying usually involves repeated incidents or behaviour that is intended to intimidate, offend, degrade or humiliate a person or group of people.

Workplace Harassment – Is 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 Sexual Harassment – Is engaging in a course of vexatious comment or conduct against a worker in a workplace, based on sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known that the solicitation or advance is unwelcome.

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 is also considered workplace sexual harassment.

Examples of workplace harassment and workplace sexual harassment include but are not limited to:

- Behaviour that is hostile in nature, creates a work environment that a reasonable person would consider intimidating, hostile or abusive (bullying), or intends to degrade an individual based on personal attributes, including age, race, nationality, disability, family status, religion, gender, sexual orientation, gender identity, gender expression or any other protected ground under human rights.

- Words or actions that disparage or cause humiliation, offense or embarrassment to another person.
- Unwelcome remarks, jokes, innuendos, propositions, or taunting including those related to the prohibited grounds noted above.
- Harassing actions against a worker while in the community, because of the employment position they hold in the Municipality.
- An implied or expressed threat of reprisal for refusal to comply with a sexually oriented request.
- A demand for sexual favours in return for (continued) employment or more favourable employment treatment.
- Displaying of pornographic, sexually oriented or sexist pictures or materials.
- Leering (suggestive persistent staring).
- Physical contact such as touching, patting, or pinching, with an underlying sexual connotation.
- Sexual comments, bragging about sexual prowess and sexual solicitation.

Workplace Violence – Is the exercise, or the attempt to exercise physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the employee.

- A statement or behaviour that is reasonable for a worker to interpret as a threat to exercise physical force against a worker, in a workplace, that causes or could cause physical injury to the worker.

Examples of workplace violence include but are not limited to:

- Physical acts such as hitting, shoving, pushing kicking and sexual assault.
- Any threat, behaviour or action which is interpreted to carry the potential to harm or endanger the safety of others.

1.0 PROGRAM

Guidelines

- 1.1 The Municipality will not tolerate, ignore, or condone workplace violence, harassment or discrimination and shall in a timely manner, take all reasonable and practical measures to prevent and protect the workers from such incidents.
- 1.2 The Municipality will ensure that all known complaints of workplace violence, threats of violence, harassment or discrimination are investigated to the extent appropriate based on the nature of each incident and the actual or potential threat it posed to the worker safety.
- 1.3 Incidents of bullying, harassment and violence in the workplace, demonstrated by persons who are not workers, are to be administered in accordance with this policy.
- 1.4 Where an investigation establishes that a worker of the Municipality was responsible for the incident of violence, threatening violence, harassment or discrimination, the worker shall be disciplined in a manner that is consistent with the Municipality's policy on discipline.

- 1.5 The Municipality will handle the complaint and investigation in a **confidential** manner. Personal Information will be shared with a worker about a person with ‘a history of violent behaviour’ where:
 - a) The worker could be expected to encounter that person in the course of their work; and
 - b) There is a risk of workplace violence likely to expose the worker to physical injury.
- 1.6 Where the Municipality becomes aware or ought reasonably to be aware that a worker is at risk for **domestic violence** that would likely expose the worker or their co-workers to physical injury in the workplace, the Municipality shall take every reasonable and practical precaution to protect the worker and their co-workers in the workplace and communicate this information as deemed appropriate to protect the worker and others.
- 1.7 As part of the requirements under the Act generally, and in situations of domestic violence, the Municipality shall conduct a risk assessment, using the **Workplace Risk Assessment - Workplace Violence** form, to identify potential risks for violence in the workplace and this assessment shall be updated as often as deemed necessary.
- 1.8 The results of the Risk Assessment shall be reported to the Joint Health and Safety Committee as prescribed in the Act.
- 1.9 The Municipality shall take all reasonable and practical measures and procedures to provide immediate assistance where violence occurs and minimize or control the risks of violence in the workplace. Furthermore, the Municipality shall ensure that incidents of violence or harassment are dealt with in a manner consistent with this policy.
- 1.10 The policy and associated procedures shall be posted in the workplace, reviewed annually and updated as deemed appropriate.
- 1.11 The Municipality shall educate workers on this policy and associated procedures.
- 1.12 The Municipality shall keep records of incidents of workplace violence or harassment, investigations and related work refusals.
- 1.13 The Municipality shall not penalize a worker for reporting an incident or participating in a workplace harassment or violence investigation.

2.0 RESPONSIBILITIES

Supervisor/Human Resources Responsibility

- 2.1 Supervisors and Human Resources are to understand, promote and uphold the principles of this policy and respond to a worker’s concerns related to workplace bullying, harassment, discrimination and violence.

- 2.2 Human Resources shall act as the workplace coordinator with respect to workplace violence and workplace harassment in accordance with the duties and functions outlined herein.
- 2.3 The Supervisor or Human Resources is responsible to be available to the worker to receive the complaint information and assist as required in gathering the information to document the incident on the **Incident Report – Workplace Violence, Harassment and Discrimination**.
- 2.4 The Supervisor shall in a timely manner forward the Incident Report to Human Resources or designate to initiate the review and assignment of an Investigator, where applicable.
- 2.5 Human Resources or designate shall ensure that the steps determined to investigate and/or address the complaint have been administered in a fair and timely manner and the Complainant advised of the outcome.

Employee Responsibility

- 2.6 Workers share the responsibility to ensure that their work environment is free from violence, threats of violence, intimidation, and other disruptive behaviour. As such, workers are expected to treat all other workers and members of the public with respect and dignity. Workers must not threaten violence or engage in any violent behaviour in the workplace.
- 2.7 Workers are to provide information on workplace violence by completing the **Employee Risk Assessment - Workplace Violence** form.
- 2.8 Workers are to call for immediate assistance when workplace violence occurs or is likely to occur, or when a threat of workplace violence is made.
- 2.9 Workers are responsible to report incidents of workplace violence, threats of violence, harassment or discrimination to a Supervisor or Human Resources, so long as the complaint is not received by the alleged harasser or by a person under the direct control of the alleged harasser. Workers may also choose to seek guidance from a Health and Safety Committee Representative, a co-worker, Union Representative (as applicable) or the Employee Assistance Program.
- 2.10 Workers are expected to co-operate fully in any investigation of an incident.
- 2.11 Workers are encouraged to advise their Supervisor or Human Resources if they have a legal court order (e.g. a restraining order, or 'no contact' order) against another individual, so that the Employer may take reasonable actions to protect the worker.
- 2.12 Workers are to immediately contact the Police and their Supervisor, if any individual is seen with a weapon (or is known to possess one while in the workplace)
- 2.13 A worker may **refuse to work** where they have reason to believe that they are in danger of being a victim of workplace violence. During the work refusal investigation, the worker must remain in a safe place and make themselves available for the investigation. The normal work refusal process would be triggered.

- 2.14 Workers who bring forward trivial, frivolous, unfounded, or malicious complaints and are found to knowingly have made statements in bad faith or which are false, will be dealt with through the Municipality's disciplinary policy.
- 2.15 Counselling, performance appraisal, work assignment and the implementation of disciplinary actions are not forms of harassment.

Joint Health and Safety Committee Responsibility

- 2.16 Review the workplace violence hazard assessment results and provide recommendations to management to reduce or eliminate the risk of violence.
- 2.17 Review all reports forwarded to the Joint Health and Safety Committee regarding workplace violence.
- 2.18 Participate in the investigation of critical injuries.
- 2.19 Recommend corrective measures for the improvement of the health and safety of workers.
- 2.20 Respond to worker concerns related to workplace violence and communicate these to management.
- 2.21 Participate in the review of the policy and guidelines for continuous improvement.

3.0 REPORTING PROCEDURE

Informal Procedure for Reporting Bullying, Discrimination or Harassment

- 3.1 Workers who believe they are victims of bullying, discrimination or harassment in their workplace may choose to address the situation informally and may:
 - a) Confront the harasser personally in a face-to-face conversation (in-person or via technology) or in writing, by stating their objection to the action taken and by requesting that the unwelcome behaviour stop immediately; or
 - b) Discuss the situation with the harasser's Supervisor, their own Supervisor, any other Supervisor or Human Resources, to determine the appropriate method to address the situation.
- 3.2 Should this approach not resolve the matter, the worker should then take action to proceed through the formal procedure of reporting the incident and documenting the complaint in writing.

Formal Procedure for Reporting Discrimination, Harassment or Violence

- 3.3 Where there is an **extremely urgent and/or life-threatening situation**, the most important concern is the immediate safety of the worker or other individuals. Depending on the situation this may require a **call to the Police, Fire or paramedics**, which shall be carried out immediately or as soon as reasonably possible. After addressing the immediate safety of the worker, the Employer shall follow up and conduct a workplace investigation
- 3.4 In situations other than those described in 3.1 and 3.3, workers who believe they have been personally harassed, been a victim of violence/threats of violence or have

witnessed harassment or violence in the workplace should report the incident to their Supervisor, any other Supervisor or Human Resources.

- 3.5 The Employer is to investigate an incident or complaint of workplace harassment or violence in a manner appropriate in the circumstances.

4.0 INVESTIGATION PROCEDURE

- 4.1 Following an incident or on receipt of a written complaint, Human Resources will assign an Investigator, trained in workplace investigations, appropriate to the circumstance, such as a Manager, Department Head, Human Resources, or an external Investigator. If the incident or complaint involves a member of Senior Leadership or Council, an external Investigator is to conduct the investigation.
- 4.2 Prior to the investigation taking place, an overview of the investigation process and the names of the Investigator and Note taker (as may be applicable) will be communicated to the Complainant to make them aware of the process and address any questions they may have regarding the investigation and participants in the process.
- 4.3 The Investigator, and a Note taker as may be applicable, shall meet with the Complainant to gather information on the incident. The complaint shall be documented in writing, using the **Incident Report - Workplace Violence, Harassment and Discrimination** or in a format acceptable to the Employer and should include:
- a) The Complainant name, date and time of the incident.
 - b) The name of person or persons involved in the incident.
 - c) The name of any person or persons who witnessed the incident.
 - d) A full description of what occurred in the incident and any background information which may have bearing on the incident.
- 4.4 The investigation should be conducted in a consistent and **confidential manner** and should include:
- a) An interview with the Complainant to gather information on the incident.
 - b) An interview with other person(s) involved in the incident and/or witness' to the incident to gather information on the incident.
 - c) An interview with any other person who may have knowledge of the incident or similar incidents.
 - d) An interview with the Respondent to gather information on the incident.
 - e) A written summary of the above information will be prepared by the Investigator for internal records and kept on file in Human Resources.
- 4.5 A Complainant or Respondent may request to have a support person attend the investigation meeting. The support person cannot be a witness to the incident, legal counsel, or a person not employed by the Municipality. Where the Respondent is not

employed by the Municipality, their support person cannot be a witness or legal counsel.

- 4.6 The investigation of the incident should take place in a timely manner (up to ninety (90) days) following notification from the Complainant that an incident has occurred.
- 4.7 Priority is given to determining whether immediate action needs to be taken to protect the safety of the Complainant prior to any investigation. Interim measures and corrective action(s), as deemed appropriate, will be taken while the complaint or incident is being investigated.
- 4.8 Whereas a result of workplace violence, medical attention has been sought and/or the worker is disabled and unable to perform their usual work, a Workplace Safety and Insurance Board claim is to be filed

Confidentiality

- 4.9 Information obtained about the incident or complaint, including identifying information about the individual involved, will be kept confidential to the extent necessary to protect workers, unless the disclosure is necessary for the purposes of investigating or taking corrective action with respect to the incident or complaint or is otherwise required by law.
- 4.10 The anonymity of the Complainant cannot be maintained during the investigation when information about the incident / complaint needs to be communicated to the Respondent and witness(es) for the purpose of gathering information in the investigation procedure.
- 4.11 While there is no guarantee of confidentiality, the complaint and investigation process will be conducted in a manner that maximizes the privacy of workers while still ensuring a complete investigation and procedural fairness to the participants.

Procedures following Investigation

- 4.12 Upon completion of the investigation, the Investigator will review the results of the investigation with the Human Resources Manager, Chief Administrative Officer or designate.
- 4.13 The Investigator or designate will meet individually with the Complainant and Respondent to share the results of the investigation and if they are a worker, they will be informed in writing, noting any remedial action that has been taken or that will be taken as a result of the investigation.
- 4.14 Appropriate remedial, disciplinary and/or legal action will be taken according to the circumstances. Where a worker is the Respondent, outcomes or resolutions of the investigation may include but are not limited to: education to an individual or group; review and modification of policies and procedures; discipline including but not limited to reprimand, suspension, demotion, transfer, or termination of employment.
- 4.15 Where the Respondent is not a worker, the outcome or resolution of the investigation may include verbal or written communication or other action as deemed appropriate by the Chief Administrative Officer or designate. Examples of possible outcomes

may include the Respondent's access to services or facilities being withdrawn for a defined term, or the involvement of Police Services and any associated action taken under their authority.

- 4.16 The Municipality shall consult with other parties as deemed appropriate e.g., Joint Health and Safety Committee, Employee Assistance Program, Human Rights office, Security, Police Services.
- 4.17 The Joint Health and Safety Committee shall be advised of any related items which may require their attention, where able to do so, while maintaining confidentiality.
- 4.18 The complaint/incident and all documents/information gathered in the investigation shall remain on record in the Human Resources department, along with a copy of the investigation summary and remedial action taken.