



Corporation of the Town of Cobourg

Policy Title: Workplace Violence, Harassment and Discrimination

Division: General Administration
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Section Number: 2-20

Department: Human Resources
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Purpose

The Town of Cobourg is committed to building and preserving a safe, productive, and healthy working environment.

The Town will take all reasonable measures to ensure employees, (Volunteers, Public, Council, Committee Members, and Local Boards) are not subject to any form of violence, harassment or discrimination.

Acts of violence or harassment against or by any employee (Volunteers, Public, Council, Committee Members, and Local Boards) will not be condoned or tolerated by the Town.

Definitions

Complainant: Any person who has made a complaint about another individual who they believe committed an act of violence, harassment, or discrimination.

Domestic violence: A pattern of behavior used by one person to gain power and control over another with whom they have or have had an intimate relationship. It may include physical violence, sexual, emotional and psychological intimidation, verbal abuse, stalking, and use of electronic devices to harass and control. Anyone can be a victim of domestic violence. The abuser may be a current or former spouse or intimate partner, relative or friend.

Joint Health and Safety Committee: The committee's primary role is to identify workplace health and safety issues and bring them to the attention of the employer. Under the Occupational Health and Safety Act, at least one worker and one employer on a JHSC must be certified under the applicable legislation.

Respondent: A person whom another individual has accused of committing an act of violence, harassment, or discrimination.

Witness: A person who observes an act of violence, harassment or discrimination in the workplace.

Workplace harassment: 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 workplace sexual harassment.

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Workplace Sexual harassment: Engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identify, or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, or 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.

Ontario Human Rights Code: The *Code* prohibits actions that discriminate against people based on a protected ground.

Protected grounds are:

- Age
- Ancestry, colour, race
- Citizenship
- Ethnic origin
- Place of origin
- Creed
- Disability
- Family status
- Marital status (including single status)
- Gender identity, gender expression
- Receipt of public assistance (in housing only)
- Record of offences (in employment only)
- Sex (including pregnancy and breastfeeding)
- Sexual orientation.

Workplace Violence: 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; or 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.

Policy

The policy has been developed in consultation with the Joint Health and Safety Committee [JHSC]. It will be reviewed annually, or more frequently if necessary to ensure that it accurately represents the Town of Cobourg prevention program.

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The Town of Cobourg will provide all employees with appropriate training and information regarding the Town's violence, harassment and discrimination prevention policies and procedures. Employees are responsible for adhering to this policy and shall report every incident of violence, harassment or discrimination immediately to Human Resources, including any incidents that have been witnessed, experienced, or reported by an employee.

For the purposes of this policy, workplace violence, harassment or discrimination can occur:

- At the workplace;
- At employment-related social functions;
- In the course of work assignments outside the workplace;
- During work-related travel;
- Over the telephone, if the conversation is work-related;
- Elsewhere, if the person is there as a result of work-related responsibilities;
- Work-related relationship; or
- Over social media.

Reasonable day-to-day actions by a person of authority that help manage, guide, or direct workers or the workplace and appropriate employee performance reviews, counselling, or discipline **does not** constitute harassment.

Workplace Training

The key to prevention is education and therefore all employees of the Corporation of the Town of Cobourg will participate in Workplace Violence, Harassment, and Discrimination training. This training is a mandatory component of orientation for new employees, whether temporary or permanent, contract, volunteers or students and Members of Council.

The Town will provide workplace training on violence, harassment, and discrimination to all employees. This will be included as a mandatory component of orientation. In addition, training and/or information sessions will be provided when there are significant changes to risk encountered by employees, when significant changes to the policy and/or procedure occur, or when circumstances indicate additional training or information sessions are needed, such as when procedures are not being followed. Training will include but is not limited to:

- The Town of Cobourg policy and procedure; and
- Knowledge sharing and skill building through yearly training sessions.

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Violence Risk Assessment

The Town of Cobourg will conduct a risk assessment of the work environment to identify potential risk that could affect the Town and the health and safety of employees and will institute measures to eliminate or mitigate any identified risk to employee safety.

This assessment will be updated and reviewed annually and reviewed in full pursuant to the corporate policy review team review term of three (3) years by the by the risk management committee, Council and the Joint Health and Safety Committee [JHSC] to ensure that control measures continue to be in place and no new risks have been identified.

The following factors will be considered during the assessment:

- Past incidents of violence;
- Violence that is known to occur in similar workplaces;
- The circumstances in which work takes place, including the type of work and conditions of work;
- The interactions that occur in the course of performing work; and
- The physical location and layout of the workplace.

The risk assessment may include reviews of records, security reports, employee incident reports, staff perception surveys, health and safety inspection reports, first aid records, or other related records. Areas that will be considered and may contribute to risk of violence include but are not limited to contact with the public, exchange of money, receiving doors, and working alone or at night.

The Human Resources Department and the responsible department will provide the JHSC with a written copy of the assessment and advise of the results.

The Human Resources Department will disclose information to workers who are likely to encounter a known person with a history of violence in the performance of their job duties, or if there is a potential risk of workplace violence as a result of interactions with a person with a history of violence. However, the Human Resources Department will only disclose personal information that is deemed reasonably necessary to protect the worker from physical harm.

Workplace Violence amongst Employees

Workplace violence is the exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker. It also includes:

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- An attempt to exercise physical force against a worker in a workplace, that could cause physical injury to the worker; and a
- Statement or behavior that a worker could reasonably interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker.

The Town does not condone threatening or violent behavior amongst its employees. Employees who have witnessed or overheard threats of violence or violent behavior must report the incident to management immediately, management must in turn notify an employee that they have been threatened, if the employee has been otherwise unaware. Reported incidents of threats of violent or violent behavior will be addressed appropriately.

Workplace Violence from a Non-Employee

The Town recognizes that employees are at greatest risk of violence from the public and as such will post visible signage in public reception areas of all offices indicating that violence, bullying and harassment against Town employees is not tolerated. All employees will be informed of their right to temporarily refuse service to members of the public whose behavior, in the moment, is in contravention of the policy. If the employee feels safe to do so, they may tell the offender clearly that their behavior is in violation of the workplace policy and it must stop. If the offender is on the phone, the employee may politely decline to continue the conversation. If the offender is face-to-face with the employee, the employee may remove themselves from the area to one with more traffic and report the incident to a manager or director. An employee can request that manager/director deal with the offender. The offender may be asked to leave the premises, or service may be refused until the issue is resolved. If an employee feels that their personal safety is immediately threatened, they are instructed to call 911.

For the purposes of this policy, a non-employee shall be defined as any of the following: volunteers, outside contractors, vendors, clients and members of the general public.

Domestic Violence

The Town recognizes that domestic situations arise that can place the Town and safety of the staff involved or other employees in the workplace at risk. **Staff, and other personnel** are required to notify Management if they have concerns that a domestic concern may enter the workplace and affect their health and safety or the health and safety of others at work. Procedures will be put in place to safeguard those potentially affected. Other employees who become aware of a domestic concern are encouraged to let their Manager know.

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How to Report Workplace Harassment

The reporting, investigation and response process will vary according to the type of incident and the potential for harm. However, there are some common elements across all types of incidents. In the event of an incident of workplace violence, harassment/sexual harassment or discrimination, personal safety is the first priority. Employees are encouraged to take immediate steps to ensure their personal safety before reporting the incident to Management.

Employees can report incidents or complaints of workplace harassment verbally or in writing. When submitting a written complaint, use the Workplace Harassment Complaint form [*HR-410-Workplace Harassment Complaint Form*]. When reporting verbally, the reporting contact, along with the employee complaining of harassment, will fill out the complaint form.

Report a workplace harassment incident or complaint to a member of the management team. [Note: The person designated as the reporting contact should not be under the direct control of the alleged harasser.]

If the complaint is related to a member of the Human Resources Department, the report should be made to the Chief Administrative Officer.

If the complaint is related to the Chief Administrative Officer, the complaint should be made directly to the Mayor as the representative of Council.

Human Resources should be notified of the workplace harassment incident or complaint immediately so that they can ensure an investigation is conducted that is appropriate in the circumstances.

Human Resources may recommend that an external investigator investigate a complaint.

All incidents of complaints of workplace harassment shall be kept confidential except to the extent necessary to protect employees, to investigate the complaint or incident, to take corrective action or otherwise as required by law.

Obligation to Report

Whether or not an incident is formally reported, should Management have knowledge of alleged violence, harassment (sexual or otherwise) or discrimination in the workplace, they have an obligation to address the matter, which shall include bringing the matter to the attention of Human Resources or the Chief Administrative Officer.

An employee who believes they have been subject to harassment may also choose to attempt to resolve the issue with the harasser without filing a formal complaint. They can

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attempt to communicate with the harasser directly or through writing, detailing the unwelcome behavior and requesting it to stop. This section should not take any precedent over the filing of a written complaint, or prevent a formal complaint being lodged.

The Investigation Process

The investigation process will follow the corresponding procedure of the Workplace Violence, Harassment and Discrimination Policy.

Within ten (10) days of the investigation being completed, The Human Resources Department will provide the complainant and the respondent[s] a written summary of the findings of the investigation and any corrective action that has been or will be taken as a result of the investigation. This written notification will not include the investigation report unless required by law.

Corrective and/or Disciplinary Measures

Any corrective and/or disciplinary action will be determined by the Chief Administrative Officer in consultation with the Town's legal team and Human Resources. This will be proportional to the seriousness of the behavior or action involved in the incident.

For Human Resources employees, any corrective and/or disciplinary action will be determined by the Chief Administrative Officer, in consultation with legal advisors.

For the Chief Administrative Officer, any corrective and/or disciplinary action will be determined by the Council, in consultation with legal advisors.

If the Town determines that an employee has been involved in an incident of violence, harassment or discrimination towards another employee, immediate disciplinary action may be taken, up to and including immediate dismissal.

Managers, supervisors and workers are expected to adhere to this policy and will be held responsible by the employer for not following it. Workers are not to be penalized or disciplined for reporting an incident or for participating in an investigation involving workplace harassment.

Employee[s] affected by an incident or incidents of violence, harassment or discrimination in the workplace can receive support from:

- Their Union or Association
- Human Resources
- Their Manager/Director
- The Employee and Family Assistance Program

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Short term disability will be made available to staff impacted by an incident of violence, harassment or discrimination for treatment session(s) which are necessary if during regular work hours.

Confidentiality

Information about complaints and incidents shall be kept confidential to the extent possible. Information obtained about an incident or complaint of workplace harassment, including identifying information about any individuals involved, will not be disclosed unless disclosure is necessary to protect workers, to investigate the complaint or incident, to take corrective action or otherwise as required by law.

While the investigation is on-going, the worker who has allegedly experienced harassment, the alleged harasser[s] and any witness shall not discuss the incident or complaint or the investigation with each other or other workers or witnesses unless necessary to obtain advice about their rights. The investigator may discuss the investigation and disclose the incident or complaint-related information only as necessary to conduct the investigation.

All records of the investigation will be kept confidential.

Handling Complaints:

The employer must set out any interim measures that may be taken after the complaint is received and during the investigation.

The employer must also set out how they might deal with the complaint of harassment if harassment is found. This may include discipline up to and including termination.

Record Keeping:

The employer will keep records of the investigation including;

- a) a copy of the complaint or details about the incident;
- b) a record of the investigation including notes;
- c) a copy of the investigation report [if any];
- d) 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 employer; and
- e) a copy of any corrective action taken to address the complaint or incident of workplace harassment.

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All records of the investigation will be kept confidential. The investigation documents, including the report should not be disclosed unless necessary to investigate an incident or complaint of workplace harassment, take corrective action or other as required by law.

Records will be kept for a period of time as outlined in the Town's records retention policy.

In accordance with the *Occupational Health and Safety Act*, this policy will be posted in a conspicuous place in the workplace and reviewed annually.

Reprisals

Pursuant to Section 50 of the *OHS Act*, workers are protected from reprisals in response an employee as a worker has acted on any of their rights under the *OHS Act* to file a workplace violence, harassment or discrimination complaint.

This means, the Town is not allowed to:

- fire or threaten to fire employees;
- suspend or discipline employees, or threaten to do so;
- intimidate or coerce employees including, for example, bullying you or strongly encouraging employees not to report; and
- impose any penalty upon employees including, for example, transferring employees to another position, shift or work location, reducing or changing work hours or denying employees a raise or benefits that they are entitled to.

Restoring the Workplace During and After a Workplace Harassment Investigation

It is acknowledged that restoring the workplace is typically not a quick or easy fix. Management shall work towards and promote a healthy workplace so that everyone can be productive and fulfill expected operational requirements. Each situation must be evaluated individually as the approach will vary depending on the specific circumstances.

Scope

Three (3) categories:

This policy shall apply to

1. All employees and volunteers of the Town of Cobourg;
2. Members of Council, Committee Members and DBIA and Quasi-Judicial Committees.

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Administration

The Chief Administrative Officer shall implement and administer the terms of this policy and shall establish related operating procedures as required.

Cross Reference

- [Bill 168, Occupational Health and Safety Amendment Act \(Violence and Harassment in the Workplace\) 2009 - Legislative Assembly of Ontario \(ola.org\)](#)
- [Workplace Violence and Workplace Harassment | Ministry of Labour \(gov.on.ca\)](#)
- [Occupational Health and Safety Act, R.S.O. 1990, c. O.1 \(ontario.ca\)](#)
- [bill---text-41-1-en-b132ra.pdf \(ola.org\)](#)
- Employee Code of Conduct
- Staff Council Relations Policy
- Council and Committee Code of Conduct Policy
- Diversity, Inclusion and Equity Policy
- Right to refuse unsafe work Policy

Approval Signatures:

Passed on July 26, 2021, Resolution # -2021

Mayor

Municipal Clerk