



Policy Name: Workplace Violence, Harassment and Discrimination Policy	Policy No: S101-16
Committee approval date:	May 6, 2019
Council approval date:	May 6, 2019
Revision date(s):	-
Department/Division:	Health and Safety

1. Purpose

The purpose of this policy is to encourage appropriate and respectful behaviour in the workplace and ensure that staff are aware of and understand that any act of discrimination, workplace violence, workplace harassment and workplace sexual harassment is considered a serious offence for which necessary action, up to and including immediate suspension and/or termination of employment, will be imposed. This policy also serves to advise staff of available recourse if they are subjected to, or become aware of, situations involving any of the aforementioned behaviour.

2. Policy Statement

The Town of Pelham is committed to fostering a workplace based upon mutual respect where all employees contribute toward and benefit from a work environment free from violence, harassment and bullying. This policy applies to all work-related functions and to all forms of communication including electronic communications.

In compliance with the Ontario *Human Rights Code* and the *Occupational Health and Safety Act*, the Town will make best efforts to ensure that no employee is subjected to discrimination, workplace violence, workplace harassment or workplace sexual harassment, whether it is from a supervisor, coworker, or non-employee such as a volunteer, trainee or visitor.

Town employees, including volunteers, will not engage in any



behaviour or conduct that is contrary to this policy. Staff will promptly report all incidents of behaviour or conduct that is contrary to or inconsistent with this policy to their supervisor, manager, director, and Human Resources.

3. Definitions

"Complainant" - the person who believes they have experienced Discrimination, Workplace Violence, Workplace Harassment, or Workplace Sexual Harassment.

"Discrimination" - any distinction, whether intentional or not, based on Prohibited Grounds under the Ontario *Human Rights Code* which has the effect of imposing burdens, obligations, or disadvantages on an individual that are not imposed on others, or which withholds or limits access to opportunities, benefits, and advantages available to others. The behaviour can be direct (i.e. denying jobs based on colour, race, sex, or disability) or systemic (i.e. utilizing job testing that is culturally biased, or height or weight restrictions for particular positions).

"Poisoned Work Environment" - a hostile, negative or intolerable work environment created by comments or actions in the workplace. Such comments and actions are also a form of harassment.

"Prohibited Grounds under the Ontario *Human Rights Code*" - refer to those personal attributes recognized as the most common targets of harassing and discriminatory actions. For offensive behaviour to be considered Discrimination the focus of the comment or conduct must be directed towards one or more of these aspects of a person's background:

Age	Ancestry
Citizenship	Colour
Creed or Religion	Disability



Ethnic or National Origin	Record of Offences (federal/provincial)
Marital/Family Status	Receipt of Public Assistance
Place of Origin	Race
Sex, Including Pregnancy and Gender Identity	Sexual Orientation

"Respondent" - the person alleged to have discriminated against, disrespected, harassed, sexually harassed, or acted violently towards the Complainant.

"Worker" - a person who performs work for or supplies services to the Town for monetary compensation.

"Workplace" - any land, premises, location or thing at, upon, in or near which a Worker works.

"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.

Examples of Workplace Harassment include, but are not limited to:

- Using profane or abusive language;
- Using language that is intended to demean or humiliate a person;
- Calling someone names that are degrading;
- Making insulting gestures or playing practical jokes that may cause a person to feel awkward or embarrassed;
- Circulating or posting pictures or other materials that may be perceived as offensive.

"Workplace Sexual Harassment"

- 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 comment or course of conduct is known or ought reasonably to be known to be unwelcome;

- Making sexual solicitation or advance where the person making it 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.

Examples of Workplace Sexual Harassment include but are not limited to:

- Unnecessary touching, including bumping or rubbing;
- Making unwelcome remarks, jokes, innuendos, propositions, or taunting about a person's body, appearance, sex or clothing;
- Leering or whistling;
- Displaying pornographic or sexually suggestive materials in the workplace;
- Playing practical jokes of a sexual nature that may cause a person to feel awkward or embarrassed;
- Outright demands for sexual favours.

"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;
- A statement or behaviour that it 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.

Examples of Workplace Violence include, but are not limited to:



- Shaking a fist at someone, finger pointing, destroying property, throwing objects;
- Leaving threatening notes or sending threatening emails;
- Stalking someone;
- Hitting, shoving, standing excessively close to someone in an aggressive manner, intimidating body language, pushing, kicking, or physically restraining someone.

Workplace Violence may come from many different sources including strangers or those with no ties to the Workplace, members of the public, other employees, or intimate relationships outside of work, such as partners, family, and friends. 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.

4. General Provisions

The Test for Harassment

It does not matter whether the Respondent intended to harass someone. The test for harassment is whether the individual in question knew or ought reasonably to know that the comments or conduct were unwelcome by the other person. For example, someone may make it clear through their conduct or body language that the behaviour is unwelcome, in which case the behaviour must immediately stop.

To be guilty of harassment, the Respondent does not necessarily have to have power or authority over the Complainant. Harassment can occur amongst colleagues, between supervisor and employee and between employee and supervisor. Respect in the workplace is everyone's responsibility. Any acts that demean, harm or exclude are counter to the Town's workplace culture and should be addressed promptly.

What Is Not Harassment?



The *Occupational Health and Safety Act* states that a reasonable action taken by an employer or supervisor relating to the management and direction of Workers in the Workplace is not Workplace Harassment. Therefore, Workplace Harassment must not be confused with legitimate, reasonable management actions that are part of the normal work functions, including but not limited to:

- Measures to correct performance deficiencies, such as placing someone on a performance improvement plan;
- Imposing discipline for workplace infractions;
- Requesting medical documents in support of an absence from work;
- Enforcement of workplace rules and policies.

Workplace Harassment also does not include normal workplace conflict that may occur between individuals or differences of opinion between coworkers, so long as that disagreement is communicated professionally and respectfully.

Complaint Procedure

Complainants who experience Discrimination, Workplace Harassment, Workplace Sexual Harassment, Workplace Violence, or any other bullying or disrespectful conduct are encouraged to make it known to the Respondent immediately that the behaviour is offensive. If addressing the issue with the Respondent(s) directly is not possible, or if after doing so the misconduct continues, the Complainant's supervisor, manager, director, and Human Resources should be notified immediately.

A unionized Worker may consider seeking the assistance of their union. Any unionized Worker who wishes to report a complaint of Discrimination, Workplace Harassment, Workplace Sexual Harassment, Workplace Violence or who has been accused of a possible violation of this policy is entitled to union representation throughout the process of addressing the matter.



The Town will address all complaints under this policy seriously and as promptly and discreetly as possible, with due regard for the substantive and procedural rights of all parties. Complaints may be dealt with in a number of ways including early dispute resolution, mediation, or a formal investigation.

If a Worker fears their safety is at risk because of Workplace Violence, there is a process to exercise the "Right to Refuse" unsafe work. Any Worker who wishes to exercise this right must immediately notify their supervisor, manager, director, or Human Resources of their concerns and complete the Work Refusal Form located on the common drive. This form is to be submitted to Human Resources.

All complaints submitted to the Town under this policy must be initiated within the applicable time frame prescribed by the Ontario *Human Rights Code*.

In addition to the internal procedures set out in this policy, Workers retain the right to file a complaint with the Human Rights Tribunal under the Ontario *Human Rights Code* or to the police under the *Criminal Code of Canada*, should they wish to do so.

Investigation

Where a complaint is submitted under this policy, the Town has sole discretion to determine if an internal or external investigator will be used to conduct a formal investigation. This determination will depend, in whole or in part, on the nature of the allegations and the parties involved.

All investigations, whether conducted by an internal or an external investigator, may include conducting interviews of relevant individuals, including but not limited to the Complainant and Respondent, to ascertain all relevant facts and circumstances, and reviewing any relevant documentation and/or records. The investigator may record the interviews electronically and/or in writing, may make detailed



notes of the investigation and may document the findings of the investigation in writing. The investigator will maintain all notes and records in a confidential file.

Once the investigation is complete the investigator will prepare a detailed written report of the investigation findings. This report will be provided to the Respondent's department head and/or the Chief Administrative Officer. If an external investigator is utilized, the report must also be provided to Human Resources, which will advise the Complainant and the Respondent of the results of the investigation.

If the investigator determines that a complaint under this policy is not supported or substantiated, no documentation of the complaint will be placed in or with the employment file of the Respondent.

The Town will make best efforts to ensure that the investigation is completed and its results communicated to the Complainant and the Respondent in a timely manner. However, the length of time required to complete an investigation and notify the parties of its outcome will vary depending upon the circumstances of the complaint.

Confidentiality

All persons involved in the complaint process including the Complainant, the Respondent, any supervisor, director, manager or Human Resources staff to whom the complaint has been reported, any individuals interviewed by the investigator and the investigator will at all times maintain confidentiality as practicable and appropriate in the circumstances of the case and except where disclosure of names is necessary for purposes of investigating the complaint or administering disciplinary measures in relation to the complaint.

No Retaliation or Reprisal

All persons involved in the complaint process will ensure that the Complainant and any witnesses are not penalized or subjected to prejudicial treatment as a result of making a complaint or providing



information during an investigation. Any form of retaliation or reprisal is considered a serious violation of this policy. In accordance with the Town's Whistleblower Policy S600-11, such actions will be subject to disciplinary action.

Disciplinary Measures

If it is determined that any Town employee has been involved in conduct toward another employee that amounts to Discrimination, Workplace Violence, Workplace Harassment or Workplace Sexual Harassment or that is otherwise bullying or disrespectful, the Town will take immediate disciplinary action. Such discipline may involve reprimands or suspensions and depending on the severity of the situation, may result in more serious actions up to and including termination of employment.

Notwithstanding the foregoing, it is important for all Town employees to realize that unfounded allegations of conduct that is prohibited by this policy cause both the Respondent and the Town of Pelham significant damage. If it is determined by the Town that a Complainant has knowingly made false or bad faith complaints, the Town will take immediate disciplinary action. As with any case of dishonesty, disciplinary action may include immediate termination of employment.

5. Annual Sign-Off

Chief Administrative Officer: _____

Dated: _____