

Administration & Finance Division

To: Mayor & Council

From: Aaron Petrin, Human Resources Manager

Date: June 7, 2017

Subject: Annual review of Workplace Violence and Harassment Policy

Background

Under the *Occupational Health and Safety Act*, employers are required to prepare and review at least annually a written harassment and violence policy, and to maintain a program to implement that policy.

Since the requirements of Bill 168 became law, the Corporation's one-page policy statement outlining its program has been reviewed by Council on an annual basis. As required by the Act, management has been responsible for implementing and maintaining this program.

In 2016, Bill 132 became law, which required employers to expand their violence and harassment policies to include sexual harassment.

This year, the division undertook the task of combining this policy with the many procedures and appendices that it referred to, as each document was previously separate. The result was a significantly updated draft policy that now promotes the best practice of psychological health and safety, to reflect the importance of respect and civility in the workplace.

Recommendation

On June 5, 2017, the Administration & Finance Executive Committee approved the recommended changes to the attached workplace harassment and violence policy.

<p>Council approval of this report will agree to the recommendation to revise the Corporation's Workplace Harassment and Violence Policy as attached.</p>

THE TOWN OF FORT FRANCES

Section: Health and Safety

Policy: Workplace Harassment and Violence

Creation Date:	June 2011
Review Date:	2012, 2013, 2014, 2015, 2016, 2017
Resolution Number:	
Supersedes Resolution Number:	095
Policy Number:	5.34

1. Intent

At the Corporation of the Town of Fort Frances (“the Corporation”), the physical and mental health, safety, security, dignity, self-respect and well-being of all our workers are critical.

Employees and other external stakeholders have a right to enjoy the workplace without fear of harassment and violence, and including the fear of reprisal for voicing a legitimate concern about unacceptable workplace behaviours.

It is the responsibility of all managers and employees to foster a healthy workplace environment to peers and co-workers, where dignity and respect are the foundation of all communication and interactions. Simply put, we must treat each other in the way that we would want to be treated.

Violence, intimidation, harassment, and bullying are unacceptable in the workplace, and any such acts may result in disciplinary action, including termination of employment for just cause.

The Corporation has an obligation to support and assist individuals who are experiencing violence or harassment in the workplace. The Corporation will investigate complaints and take appropriate action if violence or harassment has occurred, and will not discriminate or retaliate against an employee because he or she voices concerns about workplace violence or harassment.

This policy is not intended to limit the reasonable exercise of management functions in the workplace, such as: providing direction, raising performance concerns, or personality differences. This policy is not in place to strictly regulate everyday social interactions in the workplace.

Harassment differs from normal, mutually acceptable interactions to the extent that it can be offensive, insulting, intimidating, hurtful and malicious. Everyone in the workplace must be

dedicated to preventing workplace harassment and violence, as it can create an uncomfortable work environment which will not be tolerated.

2. Scope

All employees have the right to be treated with dignity and respect. Protection from negative, aggressive, and inappropriate behaviours extends to management, colleagues, subordinates, clients, customers and other business contacts and expands beyond the place of work to off-site and work-related social events.

As such, this policy applies to all employees, management, elected officials, and members of boards and committees, referred to as “staff” and/or “employees”.

The workplace is not confined to the offices and buildings of the Corporation. It also includes washrooms, locker rooms, worksites, vehicles and equipment, and any other location where the business of the Corporation is conducted.

At law, bullying and/or harassment that occurs outside of the workplace but which relates to the workplace may be included in the scope of workplace harassment.

3. Definitions

The terms defined below are referred to in this policy as “unacceptable workplace behaviour”:

Workplace Harassment:

Workplace harassment is defined as 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 Violence:

Workplace violence is the exercising of (or the attempt to exercise) physical force by a person against a worker, in a workplace, that causes or could cause physical injury. It also includes a statement or behaviour that may reasonably be interpreted as a threat to exercise physical force that could cause injury. This includes, but is not limited to:

- Threats of physical violence
- Intimidation
- Attempted and/or actual acts of violence
- Assault
- Acts of physical aggression
- Deliberate destruction of damage to property
- Violent actions that intimidate one or more individuals

Sexual Harassment:

Any unsolicited, unwelcome, disrespectful, or offensive behaviour that has an underlying sexual connotation and can be typified as:

- Behaviour that is hostile in nature, or intends to degrade an individual based on personal attributes, including: gender, sexual orientation, gender identity, gender expression, or any other relevant protected ground under human rights legislation.
- Sexual solicitation or advance made by a person in a position to confer, grant, or deny a benefit or advancement to the person, where the person making the solicitation or advance knows or ought reasonably to know that it is unwelcome;
- Reprisal or a threat of reprisal for the rejection of a sexual solicitation or advance where the reprisal is made or threatened by a person in a position to confer, grant, or deny a benefit or advancement to the person.
- Unwelcome remarks, jokes, innuendos, propositions, or taunting about a person's body, attire, sex or sexual orientation, or religion;
- Suggestive or offensive remarks;
- Bragging about sexual prowess;
- Offensive jokes or comments of a sexual nature about an employee;
- Unwelcome language related to gender;
- Displaying of pornographic or sexist pictures or materials;
- Leering (suggestive persistent staring);
- Physical contact such as touching, patting, or pinching, with an underlying sexual connotation;
- Sexual assault;
- Any actions that create a hostile, intimidating, or offensive workplace, which may include physical, verbal, written, graphic, or electronic means;

Bullying:

Bullying includes unwelcome behaviours such as malicious actions and/or omissions toward one or more individuals, which a reasonable person would perceive as unwelcome. These can negatively impact our emotional wellbeing and may cause an individual to feel hurt, embarrassed, incompetent, disrespected, and/or devalued. This can lead to damaging consequences for the victim, the observers, our clients, and the organization.

Unwelcome behaviours may include subtle and/or overt acts of hostility or aggression, and may include instances of both omission and/or commission. This may include:

- Gossiping or spreading rumours
- Talking down to others
- Verbally berating others
- Using a harsh tone of voice
- Acting in a way that seems "out to get" others
- Blaming others for things out of their control
- Making or implying threats regarding one's job security
- Excessive shouting
- Repeated emotional outbursts
- Using overt or subtle intimidation tactics
- Using degrading remarks or tone of voice
- Criticizing or talking down to others in front of a group
- Using condescending and/or demeaning body language
- Social exclusion or ostracism
- Ignoring others or giving "silent treatment"

- Intentionally excluding others from conversations and/or work activities
- Differential treatment (treating some less favorably than others)
- Undermining another's work by assigning impossible deadlines or workloads
- Excessive monitoring of work or unnecessary micromanagement
- Withholding pertinent work-related information
- Undermining the work of a co-worker or subordinate in an undue manner
- Not providing sufficient information to discharge one's duties effectively

4. General Guidelines

The Corporation not tolerate harassment in the workplace, and will make ongoing efforts to identify such hazards and take appropriate action through policies and procedures.

Our goal is to foster a friendly, professional, and satisfying working environment for all employees, as per our legal obligations to prevent workplace harassment.

Properly discharged supervisory duties, including disciplinary action, are not harassment. Conduct by a supervisor which does not interfere with the respect for the dignity of employees is not considered harassment.

All employees are encouraged to contact their supervisor, division manager, or human resources with any concerns about workplace harassment or violence. Any concerns will be handled with strict confidentiality.

Employees are required to take the following steps when confronted with harassment in the workplace:

1. Asserting Yourself

Inform the harasser that his or her behaviour is unwelcome. An individual (although he or she should know better) may not realize that he or she is being offensive. A simple chat may resolve the problem. If the person refuses to co-operate, remind him or her that such behaviour is against Corporation policy.

2. Documenting the Facts

Document your observations, such as when the behaviours started; including dates, times, locations, witnesses, details of what happened, threats made (or implied), your response, and any reprisal.

3. Filing a Complaint

If the harassment continues, first report the issue to your supervisor. Where the respondent is your immediate supervisor, you may report the issue to their supervisor and/or Human Resources Manager. If a supervisor or other management employee is alleged to be harassing, no involved supervisor or management employee will participate in the investigation.

4. The Investigation

The supervisor of each department is responsible for ensuring a workplace free of bullying and harassment.

Upon becoming aware of such issues, the supervisor and/or division manager will investigate the matter with the support of Human Resources.

The investigation will include interviewing: the complainant, the respondent, and any other persons or witnesses who may have relevant information. Union members are entitled to have a union representative present for their interview. Information will be received in strict confidence and will be documented as part of the record.

5. Resolution of complaint

If there is evidence of bullying or harassment on a balance of probabilities, it will result in disciplinary action and steps will be taken to prevent any further issues in the workplace. In the interest of privacy, such action will not be communicated to the complainant.

If there is no evidence of bullying or harassment on a balance of probabilities, it will not result in disciplinary action.

When there is evidence of a false allegation being made against a respondent, disciplinary action may be taken against the complainant.

6. Policy Expectations

Management Responsibility:

Management and others in positions of authority are held to a higher standard in ensuring that healthy and appropriate behaviours are being modelled, and that concerns are addressed effectively and in a timely manner. In addition to the expectations of employees listed in this policy, management must:

- Treat everyone in the workplace with dignity and respect
- Maintain a workplace free from violence and harassment
- Be familiar with the requirements of this policy and relevant procedures
- Take complaints seriously and follow-up appropriately
- Maintain confidentiality to the greatest extent possible
- Be aware of the signs of workplace violence and bullying and/or harassment
- Intervene on behalf of others in the workplace
- Refer victims of violence or harassment to appropriate resources
- Comply and co-operate with the requirements of an investigation
- Provide good examples by treating all employees with courtesy and respect
- Promote awareness of the policy and complaint procedures
- Be aware and observant of the signs of unacceptable behaviours
- Act to resolve inappropriate behaviours before they escalate
- Deal sensitively with employees involved in a complaint
- Explain the procedures to be followed if a complaint of inappropriate behaviour is made
- Ensure that an employee making a complaint is not reprimanded for doing so

- Monitor and follow up the situation after a complaint is made to prevent recurrence

Employee Responsibility:

Employees are expected to participate in the achieving a work environment that is free of bullying, harassment, incivility, and hostility. Employees are often aware of issues that management may not be, and along with complying with our policy requirements, they must:

- Treat everyone in the workplace with dignity and respect
- Support and contribute to a workplace free of these unacceptable behaviours
- Report in a timely manner these unacceptable behaviours upon witnessing them
- Modify their own behaviour upon becoming aware that it may be unacceptable
- Comply with the requirements of the investigation of unacceptable behaviours
- Understand that unacceptable behaviours will be dealt with through appropriate disciplinary action

7. Prevention of Workplace Violence

The Corporation has taken specific measures to prevent workplace violence. This includes procedures to control the hazard of workplace violence, as identified by workplace violence risk assessments.

A. Workplace Violence Risk Assessment

The Corporation conducts workplace violence risk assessments to identify and assess the risk of workplace violence specific to each department. The results of these assessments are communicated to the employees in those departments and to their health and safety representatives (“HSR”), or joint health and safety committees (“JHSC”) in departments with a JHSC. When conducting these assessment, the Corporation considers the following factors:

- Circumstances specific to each workplace
- Circumstances specific to different roles within the organization
- Circumstances that would be common to similar workplaces

The Corporation will notify employees of the risk of violence specific to their work location, job or shift through their supervisors and general training programs. Employees are required to make their supervisors aware of risks that are not yet identified in our risk assessments.

B. Individuals with a History of Violence

By law, The Corporation is obligated to warn employees of the identities and personal details of an individual with histories of violent behaviour where there is a risk of workplace violence being perpetrated by that person. Such information will only be provided where the employees concerned would reasonably be expected to encounter that person while at work, and where the risk of violence is likely to expose those employees to hazards in the workplace.

Confidentiality will be maintained to the greatest extent possible. Information relating to potentially violent individuals will be shared with employees on a need to know basis.

Employees are required to maintain confidentiality when they become aware of this information.

C. Workplace Violence Awareness Training

The Corporation requires its employees to take workplace violence awareness training. When management becomes aware of risks specific to your position, work location, or shift; you will be provided with further guidance and instruction.

D. Domestic Violence

The Corporation strives to respect the privacy of our employees and their personal lives. Its management does not intend to intrude on this privacy, but upon becoming aware of the risk of domestic violence affecting the workplace, the Corporation has a legal obligation to intervene in the interests of its workers.

The Corporation will fully support and assist our employees at risk of domestic violence in the workplace. Our zero-tolerance policy for workplace violence includes the risk of violence from current or former spouses/partners. This includes, but is not limited to:

- Actual or threatened physical violence or harm
- Assault (including sexual)
- The risk of homicide
- Stalking
- Threats of harm or actual harm to others, including personal property

The Corporation is obligated to take every precaution necessary to protect the health and safety of a worker regarding domestic violence. This may require us to warn other employees of the identity and personal details of an individual with a history of domestic violence where there is a risk of violence in the workplace by any such individuals.

Information on potentially violent individuals may include the identities, personal histories, and descriptions of current or former partners of our employees. Confidentiality will be maintained to the greatest extent possible. Information that relates to actual or suspected domestic violence, or violent individuals, must only be divulged to others when required by law or policy.

8. Complaint & Investigative Procedures

The first step in establishing that an individual's behaviour in the workplace is unacceptable, is to advise them that their behaviour is unwelcome. This may be enough to resolve the issue, but in any case, documenting these interactions is critical; even if the problem appears to have been resolved.

Issues that remain unresolved after informing the individual that their behaviour is unwelcome must be reported to the employee's supervisor, division manager, or to Human Resources in a timely manner.

At law, there is no longer a need for an employee to complete and submit a written complaint form to trigger an employer's duty to enquire. Simply becoming aware of conduct that a reasonable person would perceive as unwelcome may trigger the duty to enquire or investigate.

The investigation process will include:

- A thorough investigation of allegations of unacceptable behaviours
- Documentation from all parties involved in the complaint
- Resolution in a timely manner

Resolution of a concern or complaint may include a variety of outcomes, depending upon the findings of an investigation of a complaint. These will include, but may not be limited to:

- Retraining
- Progressive discipline
- Transfer of employees
- Termination of employment

Any employee or manager seeking to file a complaint should take care to ensure the complaint is confined to and consists of precise details of each incident of such behaviours, including:

- Dates
- Times
- Locations
- Witnesses
- Frequency of occurrence

Within this procedure, the term "complainant" refers to the victim of the alleged unacceptable behaviour, who has raised their concerns with management. A complainant can also refer to another individual, such as a witness or a concerned colleague, who raises a concern on behalf of the victim. In this context, the "Respondent" refers to the person who has been alleged of committing and/or enabling unacceptable behaviours in the workplace.

Unacceptable workplace behaviour must be brought to the attention of management and will be documented accordingly. The respondent of such complaints will be notified in writing by the Corporation that an allegation has been made against them, and of the steps which will follow. Respondents are presumed to be innocent of allegations at this stage.

A. Obligations of Complainant

1. To clearly inform the respondent that their behaviour is unwelcome
2. Where appropriate, to inform their supervisor, division manager, or Human Resources of their concerns
3. To document dates, times and the names of any witnesses, as well as any attempt to resolve the situation

4. To preserve anything which could be used as evidence to substantiate a complaint or concern
5. To comply with the requirements of the investigation

B. Obligations of Respondent

1. To preserve anything which could be used as evidence to substantiate a complaint or concern
2. To comply with the requirements of the investigation
3. To not react with hostility or reprisal toward a complainant

C. Obligations of Human Resources

1. To educate employees and supervisors on unacceptable workplace behaviours
2. To assist, participate in, and lead investigations involving such allegations
3. To inform employees and managers of their legal rights and responsibilities, including the right to representation

D. Obligations of Investigator

1. To investigate a complaint of unacceptable workplace behaviour, which typically begins with the supervisor or the division manager, along with the assistance of Human Resources, and may be led by a third party, such as a lawyer
2. To carry out an impartial investigation, to gather evidence and draw conclusions
3. To provide the respondent a fair opportunity to provide a defense to the allegations
4. To conclude investigations in a timely manner

E. Obligations of HSR/JHSC

1. To respond to concerns related to unacceptable workplace behaviours
2. To review the results of workplace violence risk assessments and make recommendations to management
3. To make recommendations regarding policies and procedures to prevent unacceptable workplace behaviours
4. To participate in investigations of work refusal due to workplace violence