

POLICY	
Policy Number: HS2020-031	Date Approved: March 2018
Department: Health and Safety	Date Reviewed: October 2020
Work Refusal	

1. Policy Statement

All employees have the right to refuse work they believe may harm them or harm another. There shall be no reprisal by the Town of Kirkland Lake (the Corporation) when an employee has acted in accordance with this policy and legislation.

2. Purpose

A formal work refusal process allows workplace parties the opportunity to constructively resolve workplace health and safety issues.

The following outlines circumstances when an employee may exercise their right to refuse work:

- When any machine, equipment or tool that the worker is using or is told to use is likely to endanger himself or herself or another;
- When the physical condition of the workplace or workstation is likely to endanger himself or herself;
- Workplace violence is likely to endanger himself or herself;
- When any machine, equipment or tool that the worker is using, or the physical condition of the workplace, contravenes the Act or regulations and is likely to endanger himself or herself or another.

There are circumstances that exempt an employee's right to refuse unsafe work. This includes:

- When the employee's refusal to work would directly endanger the life, health or safety of another person;
- When the hazards are inherent in the employee's work or are normal conditions of the employee's employment which includes:
 - A person employed in, or a member of, a police force to which the Police Services Act applies;

- A firefighter as defined in subsection 1(1) of the Fire Protection and Prevention Act;
- A person employed in the operation of:
 - A correctional institution or facility;
 - A place secure custody designated under section 24.1 of the *Young Offenders Act* (Canada);
 - A place of temporary detention under the *Youth Criminal Justice Act*;
 - A hospital, sanatorium, long-term care home, psychiatric institution, mental health center or rehabilitation facility;
 - An ambulance service or a first aid clinic or station;
 - A laboratory operated by the Crown or licensed under the Laboratory and Specimen Collection Center Licensing Act;
 - A laundry, food service, power plant or technical service of facility used in conjunction with an institution, facility or service.

3. **Scope**

This policy applies to all employees working for The Town of Kirkland Lake.

4. **Definitions**

Not Applicable

5. **Policy & Procedures**

Responsibilities

Employees shall

Immediately report work refusal to Department Head or Supervisor;

- Participate in the work refusal investigation as required;
- Comply with the decision of the Ministry of Labour (MOL).

Department Head/Supervisor shall

- Conduct work refusal investigations when an employee brings forward a refusal issue;

- Ensure the employee remains safe at all times during the investigation;
- Notify the Safety Committee;
- Notify and work in cooperation with the Ministry of Labour (MOL);
- Ensure all corrective actions are implemented and comply with MOL orders if required.

Safety Committee shall

- Participate in the Work Refusal Investigation;
- Notify and work in cooperation with the Ministry of Labour (MOL) if necessary.

Ministry of Labour Inspector shall

- Investigate and make a determination if the refusal of work, workplace and equipment is safe;
- Provide a written decision on the investigation to the workplace.

Procedure

Report of refusal to work

- Upon refusal, the employee shall report to his/her Department Head/Supervisor who shall immediately investigate the report with a Safety Committee employee representative, an employee representative or union representative.
- The Work Refusal investigation shall be recorded.
- The employee shall remain at a safe place near his/her workstation until the investigation is completed unless the Department Head/Supervisor assigns the employee to reasonable alternative work, or gives other directions to the employee;
- No employee shall be assigned to the work being refused and under investigation unless the employee has been advised of the other employee's refusal and reasons for their refusal in the presence of a Safety Committee, union or an employee representative;
- During a Work Refusal Investigation an employee(s) is to be considered at work and is to be paid by the Corporation for the time spent to perform the investigation and for an employee who may choose to perform the work that is being investigated.

Refusal of work following an investigation

Where following the investigation or any steps taken to deal with the circumstances that cause the employee to refuse work, the employee still believes that he/she has reasonable cause to refuse work; a further level of investigation is required. The CAO, Department Head/Supervisor, employee, or a person on behalf of the Corporation shall notify an MOL Inspector.

MOL Inspection

- The MOL Inspector is to investigate the situation with the original investigator or designate. This person shall be made available and is to attend the investigation without delay.
- Following the investigation, the MOL Inspector shall decide if the machine, device, tool, workplace or area is likely to endanger the employee or another person.
- The Inspector shall provide his/her decision in writing to the Corporation, employee and other people involved.
- If no corrective actions are ordered, the Department Head/Supervisor shall review the findings by the MOL with all employees affected and shall post the MOL report as required.
- If corrective actions are ordered by the MOL; the Department Head/Supervisor shall review the corrective action required with all employees affected and shall work with the Safety Committee to ensure compliance with the order in the time frame as deemed by the MOL inspector. A copy of the report shall be posted as required.
- Once the corrective actions have been completed and if agreed and signed off by the Safety Committee representative, the Notice of Compliance provided by the MOL shall be completed and sent to the MOL. This shall also be posted in the workplace. The Notice of Compliance and corrective action taken; shall be reviewed with all employees affected.

Bilateral work stoppage

- A certified member who has reason to believe that dangerous circumstances exist at the workplace may request that a supervisor investigate the matter, the supervisor shall promptly do so in the presence of the certified member.
- If the original certified member has reason to believe that dangerous circumstances continue after the initial Department Head/Supervisor's

investigation and remedial actions if any have been taken; the certified member may request that a second certified member representing the other workplace party investigate the matter.

- The second certified member shall promptly investigate the matter in the presence of the first certified member.
- If both certified members find that the dangerous circumstances exist, the certified member may direct the employer to stop the work or to stop the use of any part of a workplace or any equipment, machine, device, tool or article,
- If all attempts have failed to resolve the work stoppage; MOL Inspector shall be called to resolve the cause and he/she shall provide the certified members with a written decision.

In the event of a Work Refusal or Bilateral Work Stoppage, please refer to the Occupational Health and Safety Act.

Follow up

The Hazard Assessment will be reviewed and updated as needed following a Work Refusal Investigation to ensure the hazard that caused the investigation is captured on the Hazard Assessment Form.

6. Summary

Training

All Department Heads/Supervisor and Safety Committee Members shall receive training on how to handle and respond to work refusals. All employees shall be trained on the work refusal process during orientation and shall receive refresher training as required and instructed.

Evaluation

This policy shall be reviewed on an annual basis, or when utilized during a refusal to work.

Legislation/Standards/Regulations

Ontario Occupational Health and Safety Act, R.S.O. 1990, c. 0.1, s. 43(1) – (13) and s. 45