



POLICY	
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Department: Corporate	Date Reviewed: May 2022
Violence and Harassment in the Workplace	

1. Policy Statement

The Corporation is committed to treating all employees with respect and fairness. To that end, all workers are required to create a work environment free from all types of violence, harassment and discrimination.

We must always treat each other with the utmost respect. All workers must comply with the standards of behaviour established by this policy. The Corporation shall consider all acts of workplace violence and workplace harassment to be unacceptable.

The Corporation is committed to taking all precautions reasonable in the circumstances to ensure a workplace that is free from workplace harassment and workplace violence. The Corporation will conduct an investigation reasonable in the circumstances into all incidents and complaints of workplace harassment and workplace violence, and will respond to the results of an investigation with appropriate corrective action. The Corporation will take all reasonable actions to stop inappropriate behaviour and protect employees.

2. Purpose

All workers have the right to equal treatment without discrimination of any kind, as well as the right to be free from all workplace harassment, including workplace sexual harassment, and workplace violence.

3. Scope

This policy applies to all workers of The Town of Kirkland Lake (the Corporation), which includes employees, whether full-time, part-time or casual, contractors, volunteers and student employees.

4. Definitions

“Alleged aggrieved person” means a worker who has allegedly been the subject of a violation of this policy.

“Complainant” means a person who has made a report about another worker whom they believe has violated this policy. The complainant and the alleged aggrieved person may be the same individual.

“Respondent” means the person who is alleged to have violated this policy.

“Worker” means any of the following, but does not include an inmate of a correctional institution or like institution or facility who participates inside the institution or facility in a work project or rehabilitation program:

- i. a person who performs work or supplies services for monetary compensation for the Corporation.
- ii. a secondary school student who performs work or supplies services to the Corporation for no monetary compensation under a work experience program authorized by the school board that operates the school in which the student is enrolled.
- iii. a person who performs work or supplies services to the Corporation for no monetary compensation under a program approved by a college of applied arts and technology, university or other post-secondary institution.
- iv. such other persons as may be prescribed under the *Occupational Health and Safety Act* who perform work or supply services to the Corporation for no monetary compensation.

“Workplace” means any land, premises, location or thing at, upon, in or near which a worker works including:

- a) the site where the individuals are customarily employed; and
- b) all other places which
 - i. result from employment responsibilities or employment relationships, locations at work-related social functions, off-site work assignments, work-related conferences or training sessions, and work-related travel; or
 - ii. affect relationships in the workplace such as the Internet, including, but not limited to, chat rooms/bash boards, social networking sites, blogs/vlogs, and gaming sites.

“Workplace harassment” means

- a) engaging in a course of vexatious comment or conduct against worker in a workplace that is known or ought reasonably to be known to be unwelcome, including workplace harassment that is based on one or more of the prohibited grounds listed in the *Ontario Human Rights Code*; or

b) workplace sexual harassment.

Workplace harassment may include:

- i. making remarks, jokes or innuendo that demean, ridicule, intimidate or offend;
- ii. displaying or circulating, offensive pictures or materials in print or electronic form;
- iii. bullying;
- iv. repeated offensive or intimidating phone calls or emails; or
- v. any inappropriate conduct comment, display, action or gesture that:
 - (a) is made on the basis of race, creed, religion, colour, sex, sexual orientation, marital status, family status, disability, physical size or weight, age, nationality, ancestry or place of origin; or
 - (b) constitutes a threat to the health or safety of the worker.

“Workplace sexual harassment” means

- a) 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 course of comment or conduct is known or ought reasonably to be known to be unwelcome or;
- b) 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.

Workplace sexual harassment may include:

- i. a direct or implied threat of reprisal for refusing to comply with a sexually-oriented request;
- ii. unwelcome remarks, jokes, innuendos, propositions or taunting about a person’s body, attire, sex or sexual orientation;
- iii. displaying pornographic or sexually explicit pictures or materials;
- iv. unwelcome physical contact;
- v. unwelcome invitations or requests, direct or indirect, to engage in behavior of a sexual nature; or
- vi. refusing to work with or have contact with workers because of their sex, gender or sexual orientation

“Workplace violence” means

- a) the exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker;
- b) an attempt to exercise physical force against a worker, in a workplace, that could cause physical injury to the worker; or
- c) 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.

Workplace violence may include:

- i. verbally threatening to attack a worker;
- ii. leaving threatening notes at or sending threatening emails to a workplace;
- iii. shaking a fist in a worker’s face;
- iv. wielding a weapon at work;
- v. hitting or trying to hit a worker;
- vi. throwing an object at a worker;
- vii. sexual violence against a worker;
- viii. kicking an object the worker is standing on such as a ladder;
- ix. trying to run down a worker with a vehicle or equipment.

5. What is Not Covered by this Policy

This policy does not extend or apply to:

- a) Reasonable action or conduct by the Corporation, a manager, or supervisor that is part of the normal work function. Examples include changes in work assignments, scheduling, job assessment, and evaluation/performance management, implementation of any dress code and disciplinary action.
- b) Harassment that arises out of circumstances unrelated to the worker’s employment.
- c) Physical contact necessary for the performance of the work using accepted industry standards.
- d) Conduct which all parties agree is inoffensive or welcome.
- e) Accidental situations – such as a worker tripping over an object and pushing a co-worker as a result.

6. Domestic Violence

A person who has a personal relationship with a worker may physically harm or threaten to physically harm that worker in the workplace. In these situations, domestic violence is considered workplace violence.

If the Corporation becomes aware, or ought reasonably to be aware, that domestic violence would likely expose a worker to physical harm that may occur in the workplace, the Corporation will take every precaution reasonable in the circumstances for the protection of the affected worker.

7. Responsibilities

The Corporation

- a) Develop a policy and procedure to address workplace harassment and workplace violence;
- b) Ensure a hazard assessment to determine the potential for violence in this workplace;
- c) Take all reasonable steps to protect the health and safety of all workers, including control measures and procedures based on hazard assessments;
- d) Provide information and instruction to all workers on the contents of this policy, including on preventing and addressing workplace harassment and workplace violence;
- e) Ensure investigations reasonable in the circumstances into alleged workplace harassment and workplace violence are completed in a timely manner;
- f) Ensure workers exercising their rights under this policy are free from reprisal;
- g) Review this policy at least annually, or more often as needed.

Department Head/Supervisor

- a) Set a good example;
- b) Take reasonable steps to protect the health and safety of all workers;
- c) Notify Senior Management or the Human Resources department of any alleged incidents or complaints of workplace harassment or workplace violence;
- d) Participate in the reporting and investigation process;
- e) Contribute to the hazard assessment for workplace violence;

- f) Support and assist any workers exercising their rights under this policy;
- g) Take corrective action against those found to have perpetrated workplace harassment or workplace violence in accordance with the Corporation's Discipline policy.

Workers

- a) Treat individuals with respect and dignity and do not engage in workplace harassment or workplace violence;
- b) Report any incidents or complaints of workplace harassment or workplace violence in accordance with this policy;
- c) Participate in the investigation process where required;
- d) Complete training and education on this policy.

Safety Committee/Safety Representative

- a) Participate in the annual review of this policy.
- b) Conduct workplace inspections that include recognizing signs of violence in the workplace and any physical condition issues of the buildings and ensuring that controls are in place and working.

8. Hazard Assessment

The Corporation will conduct a hazard assessment of the workplace to identify any issues related to potential workplace violence. The Recognize, Assess, Control and Evaluate (RACE) process for conducting this assessment will be used. The hazard assessment will take into account:

- a) Circumstances that would be common to similar workplaces;
- b) Circumstances specific to the workplace; and
- c) Any other elements prescribed by applicable legislation.

The Hazard Assessment shall be reviewed annually at a minimum, and anytime an incident of violence occurs, to determine what changes need to be made to prevent a re-occurrence. The Corporation shall advise the Safety Committee/Representative of the results of the assessment.

8.1 Controlling the risks identified in the assessment

The Corporation will institute measures to control any risks to worker safety identified in the hazard assessment.

The Corporation will comply with its duty to provide information to a worker related to a risk of workplace violence from a person with a history of violent behaviour if the worker can be expected to encounter that person in the course of carrying out their work and the risk of workplace violence is likely to expose the worker to physical injury. No more personal information shall be disclosed than is reasonably necessary to protect the employee from physical injury.

8.2 Communicating the results of an assessment

Upon the completion of a hazard assessment, the Corporation will advise the Safety Committee/Representative of the results of the assessment and provide a copy of the assessment in writing.

8.3 Reassessment

The Corporation will reassess the risk of workplace violence as often as necessary to ensure that this policy continues to protect workers from workplace violence.

9. Summoning Immediate Assistance

If a worker becomes aware of threat of harm, the worker should immediately summon assistance including by:

- Calling their immediate supervisor
- Contacting the police or emergency assistance
- Contacting on-site security services, if applicable

In appropriate circumstances, a supervisor may initiate a lockdown of the workplace to prevent a threat of workplace violence. A lockdown involves any protection action and may include the following:

- a) An emergency protocol to prevent people or information from entering or exiting an area;
- b) People taking refuge in a secure location for protection from a dangerous external event;
- c) A security measure in which those inside a building are required to remain confined in it for a time;
- d) Evacuating an area.

Lockdown and evacuation procedures are part of the Corporation's Emergency Plan.

10. Reporting Violations of this Policy

All workers must report any violations of this policy promptly to Human Resources Supervisor (or designate). If the alleged perpetrator is the Human Resources Supervisor, the report must be made to the Corporation's highest-ranking officer. If the alleged perpetrator is the Corporation's highest-ranking officer, the report must be made to Council.

Where possible, the report should be made in writing and include details of:

- a) What happened – a description of the events or situation;
- b) When it happened – dates and times of the events or incidents;
- c) Where it happened;
- d) Who saw it happen – the names of any witnesses, if any.

10.1 No Derogation of Rights

This policy in no way affects the right of any worker to:

- a) contact the police or other law enforcement agency on their own initiative;
- b) exercise their right(s) under any legislation including, their right to refuse unsafe work as provided by the Ontario *Occupational Health and Safety Act*, or
- c) take any other available legal action.

10.2 No Reprisal

Workers can report any violation of this policy without fear of reprisal. The Corporation does not permit or condone reprisal against anyone who, in good faith, reports or participates in an investigation of a possible violation of this policy. Good faith means that the worker has made a genuine and honest attempt to provide accurate information, even if it turns out the worker was mistaken.

It is a violation of this policy to discipline or punish a person because they have made a report in good faith as to any violation of this policy. Reprisal may be subject of a report under this policy, and persons engaging in reprisal will be subject to disciplinary measures in accordance with the Corporation's Discipline Policy.

10.3 Bad Faith Reports

If a worker makes a report that is frivolous, vexatious or made in bad faith, the worker will be subject to disciplinary measures in accordance with the Corporation's Discipline Policy. Examples of bad faith include, but are not limited to, making a report knowing the allegations are untrue or making a report for an improper purpose.

11. Investigations

All reports of violations of this policy will be promptly investigated in a manner appropriate in the circumstances. If necessary, the Corporation may retain the services of an independent third-party investigator to assist in an investigation.

An investigator will be a competent person who can be impartial and has the requisite knowledge, training and experience regarding investigations and the relevant legislation.

An investigation into reported violations of this policy will follow the process set out below.

11.1 Preliminary Assessment of the Complaint

An initial screening of the complaint will be conducted to ensure it includes sufficient information. The complainant may be contacted if additional information is required to determine whether the complaint can advance.

Complaints are presumed to advance to an investigation, unless there is a reason to screen out a complaint. The following is non-exclusive list of factors that may justify a complaint being screened out:

Frivolous: complaints that lack substance, are trivial, or lack an air of reality.

Vexatious: complaints that are made out of anger or a desire to seek retribution. Vexatious complaints may lack a reasonable purpose or be made with the intention to harass or annoy. Such complaints are often repeatedly filed after a previous complaint has been screened out.

Bad faith: complaints made for improper purposes including deceiving the Corporation or where the issues raised have previously been addressed by proceedings under another redress process for which a remedy has been granted.

Not about this Policy: complaints that do not disclose allegations that, if true, would constitute violation(s) of this policy.

Should a complaint be screened out, a brief written report will be provided to the complainant summarizing why the complaint was screened out.

11.2 What is Included in the Investigation

Complaints that pass the preliminary assessment will proceed to an investigation. The investigation will include:

- a) Disclosing as much information to the parties as necessary to facilitate the investigation and ensure procedural fairness;
- b) Interviewing the complainant, the alleged aggrieved person, and any person involved in the incident or any identified witness;
- c) Interviewing any other person who may have knowledge of the incidents related to the report or any other similar incidents;
- d) Ensuring the results of interviews are documented either through audio recording or being reduced to writing; and
- e) Reviewing any relevant documentation.

Should circumstances warrant, the Corporation might implement interim measures pending the outcome of the investigation, which may include suspending the Respondent's employment with the Corporation with pay during all or part of the Corporation's investigation.

When the investigator determines that it is appropriate and, in any case, before interviewing the respondent about the merits of the complaint, the investigator will prepare written notice of the investigation, including particulars of the allegations made against the respondent, and provide a copy to the respondent.

After written notice of the investigation is provided to the respondent, the following will occur:

- a) The respondent will be invited to reply in writing to the allegations, and the response will be made known to the complainant;
- b) To the extent possible, details of the incident being investigated and the identities of any individual who participates in the investigation will be protected from unnecessary disclosure;
- c) During the investigation, the complainant, alleged aggrieved person and the respondent will be interviewed, as will any relevant witnesses;
- d) While the incident is being investigated, to the extent possible, contact between the parties will be limited;
- e) Upon completion of the investigation, the Corporation will inform both the alleged aggrieved person and the respondent in writing of the findings of the investigation and any corrective action that has been or will be taken as a result of the investigation.

The Corporation may implement corrective measures as a result of the investigation. Possible measures may include:

- referral for counselling;
- education and training;
- establishing appropriate security measures;
- where a violation of the policy is found to have occurred,
 - a) a letter of apology or a performance agreement, if the parties will agree to these;
 - b) disciplinary measures in accordance with the Corporation's Discipline Policy;
 - c) any other corrective action deemed appropriate under the circumstances.

12. Confidential Information and Communication

Information about complaints and incidents shall be kept confidential to the extent possible. Information obtained about an incident or complaint under this policy, 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 alleged aggrieved person, complainant, the respondent(s) and any witnesses are prohibited from discussing 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 to the extent permitted by applicable law. In particular, reports from investigations into complaints under this policy shall be kept by the Corporation in a confidential file and be readily available for examination by a representative of the Ministry of Labour.

13. No interference with investigation

It is a violation of this policy to hinder, obstruct or interfere with or attempt to hinder, obstruct or interfere with an investigation. Workers engaging in such conduct will be subject to disciplinary measures in accordance with the Corporation's Discipline Policy.

14. Record Keeping

The Corporation 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) except in cases where legal counsel for the Corporation is involved in the complaint processes as, in such cases, all copies of the investigation report shall be kept by legal counsel for the Corporation;
- d) a summary of the results of the investigation that was provided to the alleged aggrieved person and the respondent, if a worker; and
- e) a copy of any corrective action taken to address the complaint.

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, take corrective action, or otherwise as required by law.

Records will be kept in accordance with the Corporation's applicable policies.

15. Violations of this Policy by Third Parties

If the respondent is not a worker of the Corporation, the Corporation may have limited ability to investigate or control the conduct of the individual. However, the Corporation will take reasonable steps to stop or reduce the risk to its workers of a violation of this policy by third parties.

Such action may include:

- a) posting this policy in a location visible to third parties; and
- b) requiring certain supplier or contractors and their workers to accept and meet the terms of this policy; and
- c) removing third party violators;
- d) contacting law enforcement; and
- e) taking legal action against third party violators.

Where a third party engaged in workplace harassment or workplace violence has been asked to stop and does not, workers are authorized to:

- a) end telephone conversations;
- b) politely decline service; and
- c) ask the third party to leave the workplace.

16. Policy Review

As required by the Occupational Health and Safety Act, the Corporation will review this policy at least annually. The most current version of this policy shall be posted in a conspicuous place in the workplace and/or on the Corporation's website.

17. Training

The Corporation will ensure all workers have read this policy. Training to enhance the understanding of how to prevent and respond to workplace harassment and workplace violence will be conducted by the Corporation. More frequent training may be requested or directed to individuals or groups as may be required.