



Corporate Policy Manual

Sub Topic:	Harassment & Discrimination Free Workplace	Policy No.	HR.13-04
Topic:	Health & Safety	Employees Covered:	All Employees
Section:	Human Resources	Council Adoption Date:	June 21, 2010
Effective Date:	May 3, 1999	Revision No: 001	Date: June 15, 2010
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Policy Statement & Strategic Plan Linkages

The Corporation of the Town of Newmarket is committed to a harassment and discrimination free workplace by providing the foundation for and maintaining a work environment for employees which is free from harassment. Accordingly, the Town will not tolerate, ignore, or condone workplace harassment or discrimination and considers harassment and discrimination to be unacceptable behaviour at the Town of Newmarket. The Town policy emphasizes education, prevention and zero-tolerance for workplace harassment and discrimination.

All employees are expected to work in a safe and respectful manner and uphold this policy.

Purpose

The Harassment & Discrimination Free Workplace Policy and supporting program reflects the commitment of the Town of Newmarket as an employer to meeting obligations under the Ontario Occupational Health & Safety Act as well as the Ontario Human Rights Code to provide a workplace that is free from unlawful harassment and discrimination.

This policy defines workplace harassment and discrimination; the duties and responsibilities of the employer and employees; and addresses how incidents or complaints of workplace harassment or discrimination will be dealt with. The Town's harassment and discrimination free workplace strategy of prevention and elimination includes a policy, program, employee instruction and provides for a fair and effective resolution of complaints.

Definitions:

"Workplace Harassment" – The Occupational Health & Safety Act defines workplace harassment as:

- a) "Engaging in a course of vexatious comment or conduct against a worker in a workplace behaviour that is known or ought reasonably to be known to be unwelcome."
 - b) workplace sexual harassment."
- This definition of workplace harassment is broad enough to include harassment prohibited under the Ontario Human Rights Code, as well as what is often called "psychological harassment" or "personal harassment."
 - Workplace harassment can involve unwelcome words or actions that are known or should be known to be offensive, embarrassing, humiliating or demeaning to an employee or a group of employees. It may be one serious incident or a series of incidents and may also exist systemically as part of the work environment and can include behaviour that intimidates, isolates or even discriminates against the targeted employee(s).
 - Workplace harassment is not a reasonable action taken by an employer or supervisor relating to the management and direction of workers or the workplace.

Examples of workplace harassment includes, but is not limited to:

- making remarks, jokes or innuendos that demean, ridicule, intimidate or offend;
- displaying or circulating offensive pictures or materials in print, electronic or any other form;
- bullying;
- repeated offensive or intimidating phone calls or e-mails; or inappropriate sexual touching, advances, suggestions or requests.

Workplace harassment should not be confused with legitimate, reasonable management actions that are a part of the normal work function and does not include:

- measures to correct performance deficiencies
- imposing discipline for workplace infractions
- requesting medical documents in support of an absence from work.

"Workplace sexual harassment" – The Occupational Health & Safety Act defines workplace sexual harassment as:

- (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.

“Discrimination” – Is defined as:

The unequal treatment of a person based on one of the prohibited grounds identified in the Ontario Human Rights Code which include race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, age, sex, sexual orientation, disability, marital status, family status, or record of offences.

“Workplace” - Is defined as:

The Occupational Health & Safety Act defines a workplace as “any land, premises, location or thing at, upon, in or near which a worker works.”

- It should be noted that workplace harassment and discrimination can occur at off-site business-related functions (conferences, trade shows), at social events related to work, in residents homes or away from work but resulting from work (a threatening telephone call to your home from a client, customer, resident etc.).

Procedures

1. The Harassment & Discrimination Free Workplace Program implements this policy. It includes measures and procedures to protect employees from workplace harassment and discrimination, provides a procedure for employees to report incidents and complaints with respect to workplace harassment and discrimination.
2. Employees that subject another employee to workplace harassment and discrimination may be subject to progressive discipline, up to and including termination, commensurate with the severity of the incident.
3. Management who are aware of workplace harassment or discrimination are required to take corrective action.
4. The Town of Newmarket prohibits reprisals or threats of reprisal against any person who seeks to pursue or pursues their rights under this policy, or who is a witness or potential witness in a proceeding under this policy.
5. Management designates the Workplace Violence and Harassment Coordinator.
6. Human Resources will coordinate an annual review of this policy and program to ensure that it is current.
7. The Town of Newmarket will investigate and address incidents or complaints of workplace harassment and discrimination.

8. Where workplace harassment and discrimination incidents occur, an employee may choose to deal internally with a complaint or concern under this policy:

- Option A: Dealing directly with the harasser
- Option B: Requesting informal action and resolution
- Option C: Filing a formal complaint

9. Where workplace harassment and discrimination incidents occur, an employee may also choose to deal externally with a complaint or concern under this policy by making a complaint directly to the Ontario Human Rights Commission (related to prohibited grounds covered by the Code) or seeking outside legal assistance.

For more information on reporting workplace harassment and discrimination incidents, refer to the Harassment & Discrimination Free Workplace Program.

10. The pursuit of a complaint under the internal complaint mechanism does not preclude an employee from filing a complaint with the Ontario Human Rights Commission or pursuing any other available avenues.
11. Investigations can be undertaken at any time there is cause to believe harassment or discrimination may be occurring.

Responsibilities of the Employer

CAO/Commissioners/Directors/Managers/Supervisors are responsible to:

- Provide employees with a safe work environment free from harassment and discrimination and ensure that harassment and discrimination are not tolerated, ignored or condoned and take appropriate action to prevent harassment and discrimination in the workplace.
- Take action in accordance with this policy if harassment and discrimination occurs or if management becomes aware of harassment and discrimination in the workplace.
- Implement the Harassment & Discrimination Free Workplace Program as quickly as possible upon becoming aware of it, whether or not a complaint has been filed.
- Ensuring employees are aware of their rights and responsibilities under this policy and protecting the confidentiality of all parties and witnesses of the complaint.
- Attend education and training sessions on harassment and discrimination prevention.
- Provide employees who have been subjected to workplace harassment and discrimination and their co-workers who witnessed the incident, with appropriate support (EAP or other resources as appropriate) in consultation with the Human Resources Department.

- Post this policy and related programs in a conspicuous place for all employees to view.

Human Resources is responsible to:

- Ensure that this policy and relevant policies, programs and procedures are current and consistently implemented.
- Investigate incidents of workplace harassment and discrimination in accordance with this policy and the Harassment & Discrimination Free Workplace Program.
- Provide and/or coordinate workplace harassment and discrimination support as appropriate.
- Ensure that employee information related to workplace harassment and discrimination incidents is handled discretely and confidentially respecting the privacy of all parties as much as possible.

Responsibilities of the Employee

Employees are responsible to:

- Act in accordance with the Town's value of respecting other staff and the environment in which they work.
- Recognize their role as part of the Internal Responsibility System and support and maintain a harassment and discrimination free work environment.
- Report any incidents of harassment and discrimination or threatened harassment and discrimination in the workplace, to supervisors, managers, the Workplace Violence & Harassment Coordinator or directly to Human Resources and cooperate fully in any investigations.
- Be aware of the consequences of unacceptable behaviour, such as progressive discipline, as outlined in this policy.

Joint Health & Safety Committee is responsible to:

- Review the Harassment & Discrimination Free Workplace Policy and Program annually.
- Make recommendations to management with respect to policy and program.
- Promote the principles of this policy and program to all staff.

Responsibilities of the Workplace Violence & Harassment Coordinator

- The Workplace Violence & Harassment Coordinator is the main contact for employees who are involved with workplace harassment.
- The Workplace Violence & Harassment Coordinator will undertake or coordinate investigations of workplace harassment incidents.
- The Workplace Violence & Harassment Coordinator will inform department heads of workplace harassment incidents, as appropriate.

- The Workplace Violence & Harassment Coordinator will secure external resources as appropriate.

Cross-References

Employee Code of Conduct CAO.3-01

Progressive Discipline HR.4-01

Employee Complaint HR.4-02

Resignation/Termination of Employment HR.4-03

Alcohol and Drug Policy HR.5-02

Violence Free Workplace HR.13-03

Workplace Harassment & Discrimination Free Program

Applicable Provincial legislation such as the Occupational Health & Safety Act and Regulations, Workplace Safety Insurance Board Act, the Ontario Human Rights Code as amended from time to time.