



Harassment & Discrimination Free Workplace Program

Program #: HR.13-04-001
Policy #: HR.13-04
Sub-Topic: Health and Safety
Topic: Health, Safety and Wellness
Applies to: All Employees

Purpose:

The Town of Newmarket (Town) Harassment & Discrimination Free Workplace Program (HR.13-04-001) implements and supports the Harassment & Discrimination Free Workplace Policy (HR.13-04). This Program defines workplace harassment and discrimination, outlines the duties and responsibilities of the Town and employees, and explains the process for reporting, investigating, and addressing these issues to ensure a fair and effective resolution of complaints.

The Harassment & Discrimination Free Workplace Policy and Program reflect the commitment of the Town as an employer to meeting obligations under the *Ontario Occupational Health & Safety Act* (OHSA) as well as the *Ontario Human Rights Code* (*The Code*) to provide a workplace that is free from unlawful harassment and discrimination.

Definitions:

“Workplace Harassment” - The *Occupational Health and Safety Act* (OHSA) defines workplace harassment as:

Engaging in a course of vexatious comment or conduct against a worker in a workplace, including virtually through the use of information and communications technology, that is known or ought reasonably to be known to be unwelcome, or workplace sexual harassment. **Workplace Sexual Harassment** means:

- Engaging in a course of vexatious comment or conduct against a worker in a workplace, including virtually through the use of information and communications technology, 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
- 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

“Vexatious”- Vexatious means causing irritation or frustration, especially in a way that feels deliberate or persistent.

The definitions of "workplace harassment" and "workplace sexual harassment" include virtual activities, recognizing harassment that occurs through digital/ virtual platforms, such as Teams, Zoom, or Google Meet, as well as social media, including email, Facebook, LinkedIn, X (Twitter), etc.

This definition of workplace harassment is broad enough to include harassment prohibited under the *Ontario Human Rights Code*.

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).

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, cyberbullying
- harassment of employees
- repeated offensive or intimidating phone calls or e-mails; or inappropriate sexual touching, advances, suggestions or requests
- harassment of employees through social media or irate customers
- displaying or circulating offensive pictures or materials
- isolating or making fun of a worker

A reasonable action taken by an employer or supervisor relating to the management and direction of workers or the workplace is not harassment.

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 documentation in support of an absence from work

Discrimination - The unequal treatment of a person based on one of the prohibited grounds identified in the Ontario Human Rights Code ("The Code") which include but are not limited to: race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability.

“Workplace” - The *Occupational Health and Safety Act* (OHSA) defines 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.)
- The definition of "workplace" applies to telework/remote work performed in or about a private residence

For the purpose of this Program, the following defines the roles of employees with respect to incidents, complaints or concerns of workplace harassment and discrimination.

Complainant/Reporting party – Refers to an employee who has raised a concern, complaint, or incident of harassment or discrimination in the workplace.

Respondent/Alleged Harasser– Refers to a person who is the alleged harasser.

Supervisor – Refers to an employee who directly supervises the complainant and/or harasser.

Workplace Violence & Harassment Coordinator (WVHC) - The Workplace Violence & Harassment Coordinator, serving as the primary contact for employees who are involved with workplace harassment, will undertake or coordinate investigations of workplace harassment incidents; inform department heads of workplace harassment incidents, as appropriate; and may secure external resources as appropriate.

Procedure

- This Program implements the Town’s Harassment & Discrimination Free Workplace Policy. It includes measures and procedures regarding, roles and responsibilities, communication and training, reporting, investigation, confidentiality of information and record keeping
- Employees that subject other employees to workplace harassment and discrimination may be subject to progressive discipline, up to and including termination, commensurate with the severity of the incident
- Management who are aware of workplace harassment or discrimination are required to take corrective action
- The Town prohibits reprisals or threats of reprisal against any person who seeks to pursue or pursues their rights under the Harassment & Discrimination Free Workplace Policy and its Program, or who is a witness or potential witness in a proceeding under the Policy and its Program
- The designated Workplace Violence and Harassment Coordinator is the Director, Human Resources
- Human Resources will coordinate an annual review of this Policy and Program to ensure that it is current. Documentation process of the review includes:

- The Agenda and Minutes of the Multi-worksite Joint Health and Safety Committee will formally record the annual review of the Harassment & Discrimination-Free Workplace Policy and Program
- The Policy date will be updated annually to reflect the most recent review
- The Chief Administrative Officer (CAO) will sign the Policy each year to confirm its approval and implementation
- The Town will investigate and address incidents or complaints of workplace harassment and discrimination
- Where workplace harassment and discrimination incidents occur, a complainant may choose to deal internally with a complaint or concern:
 - **Option A:** Dealing directly with the harasser
 - **Option B:** Requesting informal action and resolution
 - **Option C:** Filing a formal complaint
- Where workplace harassment and discrimination incidents occur, an employee may also choose to deal externally with a complaint or concern under this Program by making a complaint directly to the *Ontario Human Rights Commission* (related to prohibited grounds covered by *The Code*) or seeking outside legal assistance
- 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
- 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:

- 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
- Participate in and provide employees with information and instructions on the contents of the Harassment & Discrimination Free Workplace Policy and its Program, ensuring that they are aware of their rights and responsibilities and protecting the confidentiality of all parties
- Address harassment behaviours immediately and in accordance with the Harassment & Discrimination Free Workplace Policy and its Program
- Promptly report incidents of workplace harassment and discrimination to the Workplace Violence & Harassment Coordinator or Human Resources

- Take action in accordance with the Harassment & Discrimination Free Workplace Policy and its Program if harassment occurs or management becomes aware of an incident of workplace harassment
- Provide employees who have been subjected to harassment and/or discrimination and their co-workers who witnessed the incident, with appropriate support (EFAP or other resources as appropriate) in consultation with Human Resources
- Ensure the posting of the Harassment & Discrimination Free Workplace Policy and its Program in a conspicuous place such as health & safety boards for all employees to view. Electronic versions will also be posted on the Town's Intranet

Human Resources:

- Ensure that the Harassment & Discrimination Free Workplace Policy and its Program are current and consistently implemented
- Investigate incidents of workplace harassment and/or discrimination in accordance with the Harassment & Discrimination Free Workplace Policy and its Program once they become aware
- 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
- Ensure the Harassment & Discrimination Free Workplace Policy and its Program are communicated to all employees, and any necessary training is also coordinated as needed

Responsibilities of the Workplace Violence & Harassment Coordinator:

- Serve as the main contact for employees who are involved with workplace harassment and discrimination
- Undertake or coordinate investigations of workplace harassment and discrimination incidents
- Inform department heads of workplace harassment and discrimination incidents, as appropriate
- Secure external resources as required and appropriate

Employee Responsibilities:

- Act in accordance with the Town's Employee Code of Conduct of respecting other staff and the environment in which they work
- Recognize their role as part of the Internal Responsibility System (IRS) and support and maintain a harassment and discrimination free work environment

- Report any incidents of harassment and/or discrimination or threatened harassment and discrimination in the workplace, to supervisors, managers, the Workplace Violence & Harassment Coordinator or to Human Resources and cooperate with any investigations
- Be aware of the consequences of unacceptable behaviour, such as progressive discipline, up to and including termination, as outlined in this Program

Multi-site Joint Health & Safety Committee (MJHSC):

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

Workplace Harassment and Discrimination Reporting:

Where workplace harassment and discrimination incidents occur, a complainant may choose to deal internally with a complaint or concern. The complainant can select one of the following options. See Appendix “A”, Harassment and Discrimination Reporting and Investigation Process Flowchart.

- **Option A:** Dealing directly with the harasser; or
- **Option B:** Requesting informal action and resolution; or
- **Option C:** Filing a formal complaint. Electronic reporting such as e-mail, will also be considered a formal documentation of a report of harassment

If the complainant chooses Option B or C, the incident should be reported immediately (either verbally or in writing) to the Workplace Violence and Harassment Coordinator as well as the employee’s immediate (or another) supervisor and/or Human Resources.

Reporting a complaint using any of these options does not preclude an employee from filing a complaint with the Ontario Human Rights Commission or pursuing any other available avenues.

Additional consideration should be given to employees covered by a collective agreement. Unionized employees are advised to consult their collective agreement with respect to union involvement when reporting incidents of workplace harassment, workplace sexual harassment or discrimination.

Option A: Dealing directly with the respondent:

An employee who experiences harassment or discrimination should attempt to make it known to the employee(s) responsible that the behaviour is offensive and unwelcome, and contrary to the Town’s Policy and request that it stop. The respondent(s) may not realize the behaviour is unwelcome and offensive. In many instances this will stop the offensive behaviour.

The Town recognizes that in some incidents dealing with the respondent may be difficult or inappropriate, or the employee may have told the respondent to stop but the offensive behaviour continues. In this case, the employee is advised to take immediate action as outlined in Option B or C.

However, when a supervisor becomes aware of a concern, they must ensure that the concern is addressed and resolved in a prompt and confidential manner, as much as possible.

Option B: Handling a Concern in an Informal Manner:

An employee who experiences harassment or discrimination and has unsuccessfully tried to deal directly with the respondent or who feels that a direct approach is inappropriate, may choose to have the matter dealt with on an informal basis with the assistance of management or Human Resources prior to proceeding with a formal complaint.

The incident should be reported immediately (either verbally or in writing) to the employee's:

- Immediate or another supervisor; or
- Workplace Violence and Harassment Coordinator or Human Resources

Once a supervisor has been informed of a concern about an incident of workplace harassment or discrimination, the supervisor is obligated to treat the conversation or written complaint as serious and attempt to resolve the matter in a confidential manner. It is important to clarify the concern that is being raised and document information pertinent to the concern. When the supervisor has all the relevant information, the supervisor can attempt a mutually agreeable resolution.

The supervisor will document the situation and ensure that the Department Head and the Workplace Violence and Harassment Coordinator are notified. All documentation will go into a separate file with the Workplace Violence and Harassment Coordinator.

Where attempts to achieve a resolution at this stage are unsuccessful or unsuitable, a formal written complaint may be filed as outlined in Option C.

Option C: Initiating a Formal Complaint:

Formal complaints must be filed with the Workplace Violence & Harassment Coordinator and the formal complaint must be in writing and include a description of the incident (e.g. date, time, etc.), parties involved, witnesses, and steps, if any, already taken to date.

Formal complaints will be investigated by the Workplace Violence & Harassment Coordinator, designate or a third party depending on the circumstances. Where an employee is unable, or under the circumstances it is unreasonable to request a written complaint, assistance will be made available to ensure that the complaint is documented on their behalf. The complaint may be documented by the Workplace Violence & Harassment Coordinator and verified in writing, by the complainant.

The Workplace Violence & Harassment Coordinator will schedule a confidential meeting with the employee to discuss and clarify the incident and identify steps taken to date. The employee may request the support of another employee.

The respondent will be notified of the complaint where it is determined reasonable cause exists.

The Workplace Violence & Harassment Coordinator or designate will conduct an investigation as outlined in the next section.

Measures and procedures for employees to report workplace harassment to a person other than the supervisor, if the supervisor is the alleged harasser:

- If the alleged harasser is a supervisor, the complainant shall report to Workplace Violence & Harassment Coordinator, Human Resources or the supervisor of the alleged supervisor
- Wherein an incident of workplace harassment and/or discrimination occurs by a member of senior management, i.e. the CAO, Commissioner or Director, the complainant will consult with the Workplace Violence and Harassment Coordinator

Investigation of an Incident, Complaint or Concern:

File Opening:

Where a formal complaint is received a file will be opened by the Workplace Violence & Harassment Coordinator.

Where it is determined that reasonable cause exists, the Workplace Violence & Harassment Coordinator or designate will investigate complaints or will arrange to have the investigation carried out by a neutral third party. The Workplace Violence & Harassment Coordinator may request additional resources to assist with an investigation.

The investigative process involves three primary steps; fact finding, preliminary findings and further investigations as outlined below.

Step 1 - Fact Finding:

The Workplace Violence & Harassment Coordinator will conduct confidential interviews with relevant parties to obtain information and clarify the details of the reported incident. The complainant and the respondent will have an opportunity to identify witnesses or others to be interviewed. All interviews will be conducted confidentially and in a manner that respects the nature of the work environment.

Step 2 - Preliminary Findings:

Where the information revealed early in the investigation suggests a reasonable possibility of resolution, the Workplace Violence & Harassment Coordinator may make resolution recommendations prior to conducting the entire investigation. In these instances, the Workplace Violence & Harassment Coordinator will meet with the complainant and the respondent involved discussing preliminary findings of the investigation and informing participants of the possibility and nature of an early resolution.

The Workplace Violence & Harassment Coordinator shall ensure that the investigation results (summary) and any corrective action are provided to the complainant and the respondent, if they are employees of the Town, in writing.

Step 3 - Further Investigations:

Whereas a result of preliminary findings, a more intensive review is warranted, a resolution cannot be reasonably proposed or achieved, or where the Workplace Violence & Harassment Coordinator determines that file closure at this point would not be appropriate, further investigation will be conducted.

Results of Investigations and Mediation:

Upon completion of further investigation, the Workplace Violence & Harassment Coordinator, or designate, will prepare a written report summarizing the steps taken during the investigation, the complaint, allegations, response, witness evidence and evidence gathered. The report will set out findings of fact and come to a conclusion about whether workplace harassment was found or not. A copy of the report will be provided to the Department Head and/or Commissioner, and the CAO.

The Workplace Violence & Harassment Coordinator shall ensure that the investigation results (summary) and any corrective action are provided to the complainant and the respondent, if they are employees of the Town, in writing. The results of the investigation are not the same as the investigation report. The results of the investigation are a summary of the findings of the investigation.

Complaint Supported:

Where the results of the investigation support a specific complaint of harassment or discrimination, or where the results suggest the existence of systemic problem(s) in the work environment which caused or contributed to the incident, the following, without limitation, may be recommended forms of remedial action(s):

- Education and training
- Review and/or modification of policies, procedures, programs and practices
- Disciplinary action up to and including dismissal
- Documentation on employee's personnel file, as appropriate
- Continuous monitoring

Where deemed reasonable and appropriate, the Workplace Violence & Harassment Coordinator in consultation with the parties involved in the complaint, may propose and develop a more comprehensive strategy for the elimination and/or prevention of workplace harassment and discrimination to improve the culture of the overall workplace.

In an effort to ensure that the incident has been addressed, the investigation file will remain open for a reasonable period of time to allow for the monitoring of actions to be taken and subsequent updates, as appropriate, to be placed on the file.

Complaint Unsupported:

Where the results of the investigation do not support the allegations of harassment or discrimination made by the complainant, the complaint shall not proceed and will be closed.

Where the results of the investigation do not support the specific complaint, but where the investigation suggests the existence of systemic problems in the work environment which may cause, contribute to, or encourage harassment, the Workplace Violence & Harassment Coordinator may further investigate and make recommendations for change.

Malicious Complaints:

Where it is determined that the complaint was made maliciously or in bad faith with reasonable knowledge of and intent to harm, disciplinary action may be taken against the complainant.

The complainant (now respondent to allegation of malicious complaint) will be notified in writing of this decision including the justification.

File Retention and Disposal

Upon determination and notification of a complaint supported or non-supported decision, the file will be closed and retained in Human Resources for a period not less than five years from the date of closing unless subsequent issues arise.

Reopening of Files:

Reopening of a closed file may occur in the following circumstances:

- New and relevant information regarding a closed case has been brought forward to the Workplace Violence & Harassment Coordinator
- A new incident of harassment has taken place post-closure by the same respondent;
or
- A reprisal from a closed case is alleged to have occurred

Monitoring

Where complaints have been supported, follow-up is a critical component of effective complaint resolution. The Workplace Violence & Harassment Coordinator in conjunction with the relevant supervisor will ensure that an effective monitoring plan is developed, as appropriate.

Implementation of Resolutions

Where, as a result of the monitoring process, or through other means, it is determined that there are difficulties in implementing or executing the solutions recommended from the investigation, or where actions have been taken but are deemed ineffective, inappropriate or untimely; the Workplace Violence &

Harassment Coordinator, in consultation with the Department Head or Commissioner, shall determine what further actions and/or support can be provided to ensure that the terms of resolution can be met more effectively and efficiently.

Anonymous Complaints

Complaints that have been made anonymously do not carry an immediate right of investigation. An anonymous complaint is difficult if not impossible for the Town to adequately investigate and take appropriate action. The Workplace Violence & Harassment Coordinator has the discretion whether to act based on the information provided and extent to which a respondent would have an opportunity to reasonably respond to the allegation.

Information and Instruction:

The Town will provide appropriate information and instruction to employees on the contents of the workplace harassment Policy and Program, as required by the OHSA. When the workplace harassment Policy or Program is revised, employers may need to provide additional information and instruction to employees.

Supervisory staff will receive training in the following:

- Intent and content of the Harassment & Discrimination Free Workplace Policy and its Program
- Obligations of supervisors under the Harassment & Discrimination Free Workplace Policy and its Program and relevant legislation
- Investigation procedures related to harassment and discrimination incidents and/or complaints
- Implementing or assisting in implementation of the corrective actions regarding their staff and/or departments

Employees will receive training in the following:

- Intent and content of the Harassment & Discrimination Free Workplace Policy and its Program
- How to report an incident of workplace harassment, workplace sexual harassment and discrimination
- How the Town will investigate and deal with incidents, complaints or concerns

Confidentiality of Complaints and Investigations

The Town recognizes the sensitive nature of harassment and discrimination complaints and will keep all complaints confidential, to the extent that it can do so. The Town will only release as much information as is necessary to investigate and respond to the complaint or incident or if required to do so by law.

Out of respect for the employees involved in a complaint, it is essential that the complainant, respondent, witnesses and anyone else involved in the

investigation of a complaint maintain confidentiality throughout the investigation and afterwards.

It must also be recognized that information collected and retained may be subject to release under the Municipal Freedom of Information and Protection of Privacy Act, the Ontario Human Rights Code or the rules governing court proceedings.

Duty to consult with the Multi-worksite Joint Health and Safety Committee:

- The Town shall develop and maintain the Harassment & Discrimination Free Workplace Policy and its Program in consultation with the Multi-worksite Joint Health and Safety Committee
- During one of the monthly Multi-worksite Joint Health and Safety Committee meetings, usually the first two months of each calendar year, the committee will review the Harassment & Discrimination Free Workplace Policy and its Program
- Agenda and/or Minutes for the Multi-worksite Joint Health and Safety Committee meeting will document the review

Cross-References

- Drug and Alcohol, Policy No. HR.5-02
- Employee Code of Conduct, Policy No. CAO.3-01
- Employee Complaint, Policy No. 4-02
- Harassment and Discrimination Reporting and Investigation Process Flowchart
- Harassment & Discrimination Free Workplace, Policy No. HR.13-04
- Health and Safety Policy & Procedures Manual:
 - Section 1-01, Health & Safety Policy Statement
 - Section 3-01, Accident Reporting and Investigation
- Resignation/Termination of Employment, Policy No. HR.4-03
- Progressive Discipline, Policy No. HR.4-01

Government Legislation:

- [Ontario Occupational Health & Safety Act \(OHSA\) and Regulations.](#)
- [Ontario Human Rights Code](#)
- [Ontario Municipal Freedom of Information and Protection of Privacy Act \(MFIPPA\).](#)
- [MLITSD's Understand the law on workplace violence and harassment](#)

Applicable Provincial legislation as amended from time to time

Contact

- Human Resources at hr@newmarket.ca , (905) 953-5300, Ext.2050

Details

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Dec.02.2025, Workplace Harassment & Discrimination Reporting and Investigation Process Flow Chart.

