



Discrimination, Harassment and Sexual
Harassment in the Workplace Policy

SCHEDULE "A" of
By-Law: No. 2020-50

Effective
Date: August 10, 2020

DISCRIMINATION HARASSMENT AND SEXUAL HARASSMENT IN THE WORKPLACE POLICY

1. POLICY STATEMENT

Workplace discrimination and harassment can undermine a person's dignity. It can prevent workers from doing their jobs effectively. Workplace discrimination and harassment, left unchecked, has the potential to escalate into violent behaviour. All workers are entitled to a safe and healthy workplace.

The Township of East Hawkesbury is committed to providing a work environment in which all workers are treated with respect and dignity. Workplace discrimination and harassment will not be tolerated from any person in the workplace. These include: employees, - part-time, casual/temporary and full-time, elected officials, members of boards and committees, volunteers and any person engaged in business with the Township of East Hawkesbury as well as all visitors to Township properties, in their relations to each other and, between all such employees and elected officials, members of boards and committees and volunteers.

PURPOSE

This document outlines the Township's policy and procedures when dealing with workplace discrimination, harassment and the prevention of it. Management will undertake all reasonable and practical measures to prevent and protect employees from harassment.

Any complaints of harassment in the workplace will be investigated thoroughly in an expeditious and confidential manner. Information about a complaint or incident will not be disclosed except to the extent necessary to protect workers, to investigate the complaint or incident, to take corrective action or as otherwise required by law.

Workers are encouraged to report any incidents of workplace harassment to the appropriate person as outlined in the attached Workplace Harassment Program. The accompanying workplace discrimination and harassment program outlines the procedures to be followed by employees who believe they are victims of harassment and for supervisors who are expected to deal with any such complaint.

No worker who reports or participates in a workplace discrimination or harassment investigation shall be subject to any penalty or other form of



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punishment. This also applies to any worker who exercises their rights under the OHSA.

Individuals, regardless of seniority or position found to have engaged in conduct constituting discrimination or harassment in the workplace will be disciplined and/or prosecuted.

Notwithstanding the existence of this policy, every person continues to have the same rights they have for any other health and safety issue, to seek assistance from the Ontario Ministry of Labour, the Ontario Human Rights Commission, Human Rights Legal Support Centre, or any other related agency at any time, regardless of the existence of this policy and the Township respects that right.

Managers and supervisors have specific responsibilities to create and maintain a workplace, which is free from discrimination and harassment. They are responsible for ensuring that discrimination and harassment is not tolerated, condoned or ignored and may be considered party to the harassment if they fail to take corrective actions and may be subject to disciplinary measures.

Note 1:b Section 1 (4) of the Act states that "A reasonable action taken by the employer or supervisor relating to the management and direction of workers or the workplace is not workplace harassment."

2. DEFINITIONS

The Occupational Health and Safety Act in Section 1 (1) contains the following definitions:

Workplace Discrimination means

- a) Distinguishing and treating someone or a group differently from the rest or from another person.

Workplace Harassment means,

- a) engaging in 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, or
- b) workplace sexual harassment;



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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

"Workplace means any land, premises, location or thing at, upon, in or near which a worker works."

Township workplaces include all locations where business or social activities of the organization are conducted including off-site venues where work related activities are being conducted. For example:

- Any location and all facilities where the business of the Township is being carried out, e.g., Municipal Office, work yards, meeting rooms, parks, etc.
- Other locations and situations such as during business travel, on the telephone, in Township vehicles, or other locations where the prohibited behaviour may have a subsequent impact on the work relationship, environment or performance

Inspector

"inspector" means an inspector appointed for the purposes of this Act and includes a Director; ("inspector").

Signed: _____

Date: _____

**This policy will be posted in each Township workplace and will be reviewed on an annual basis.



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3. WORKPLACE DISCRIMINATION AND HARASSMENT PROGRAM

The Township of East Hawkesbury has developed this workplace discrimination and harassment program to include several strategies and procedures including but not limited to:

- The development of a workplace discrimination and harassment policy and procedures for dealing with workplace harassment;
- Posting of policies and any other pertinent information on health and safety bulletin boards in each workplace;
- Consulted with employee health and safety representatives;
- Conducted awareness training for all employees, managers and elected officials on workplace harassment.

Harassment and discrimination may result from an incident or a series of incidents. It may be directed at specific individuals or groups but may also include any comments or conduct, which creates an environment that is hostile, intimidating or offensive.

Behaviours, which fall within the definition of discrimination and harassment, range in terms of the type or grounds (e.g., racial, sexual, personal, etc.), whether it is directed at an individual or non-directed, or whether it is intentional or unintentional.

REPORTING HARASSMENT

A person, who believes he or she is being harassed by a person in a position of authority or by a fellow employee, or by any other person affiliated with the Township, should:

- Make it known to the harasser that his or her action or behaviour is not welcome and is considered a form of harassment and unless stopped will be reported;
- Keep written notes about what happened and what he or she did about it, including dates, times, places and any possible witnesses;
- If after this, the offending behaviour continues and the employee wishes to continue with the internal procedure, the employee must report the problem to his or her supervisor or if the supervisor is the cause of the problem, report the problem to the next level of uninvolved management within his or her department;
- If it is not possible to resolve a complaint within the department, the complaint must be put in writing and a copy of the written complaint, with specific details, must be given by the complainant to:
- The Chief Administrative Officer or designate, or;
- The employee may forward his or her written, complaint to the Mayor and/or Council if the alleged harasser is the CAO.



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When reporting an incident of discrimination or harassment the report must include the following information:

- Name(s) of the complainant(s) and contact information
- Name of the alleged harasser(s), position and contact information (if known)
- Names of the witness(es) (if any) or other person(s) with relevant information to provide about the incident (if any) and contact information (if known)
- Details of what happened including date(s), frequency and location(s) of the alleged incident(s)
- Any supporting documents the worker who complains of harassment may have in his/her possession that are relevant to the complaint
- List any documents a witness, another person or the alleged harasser may have in their possession that are relevant to the complaint.

INVESTIGATION PROCEDURE

Management has the responsibility to ensure that the acts of supervisors or fellow employees are in no way discriminatory or encroach upon the rights of employees in any workplace.

An employer must ensure an investigation is conducted into workplace discrimination and harassment, whether a worker has formally or informally made a complaint or the employer is otherwise aware of an incident(s) - for example, if a supervisor witnessed it or learned about it from a third party.

The investigation must be objective. The person conducting the investigation, must not be directly involved in the incident or complaint, and must not be under the direct control of the alleged harasser. This person should have knowledge of how to conduct an investigation appropriate in the circumstances.

In the event a lengthy investigation is necessary, both parties to the complaint should be updated periodically on the status of the investigation. An investigation must be completed within 90 calendar days or less unless there are extenuating circumstances warranting a longer investigation.

If a complaint is not resolved within the department, the Chief Administrative Officer or designate will respond immediately to complaints of discrimination or harassment by using the following steps:

1. Inform the complainant and the alleged harasser that an investigation is being conducted;
2. Interview both parties separately as soon as possible;
3. If the complainant and the alleged harasser work in close proximity to each other, attempt to transfer one of them during the period of investigation;
4. Interview any witnesses, if such are available;
5. Advise all parties that the interviews must be kept confidential and that they are not to discuss the complaint, incident or the investigation with other workers or witnesses unless necessary to obtain advice about their rights;



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6. Reassure the parties involved that management will keep all information confidential unless disclosure is necessary to protect workers, to investigate the complaint or incident, to take corrective action or otherwise as required by law;
7. If necessary, consult the Ministry of Labour or Human Rights Commission before responding formally to the complaint;
8. Document the situation accurately and completely and then discuss the findings with both concerned parties.
9. Render a decision as soon as possible and advise the complainant and the alleged harasser of the decision.

DISCLOSURE OF PERSONAL INFORMATION

Management will take all necessary measures to protect the privacy and confidentiality of the individual(s) concerned. As per the *Occupational Health and Safety Act*, management will not disclose more personal information than is reasonably necessary for the purposes of conducting a proper investigation, taking appropriate disciplinary measures, or where required by law.

RESULTS OF INVESTIGATION

Results of the investigation and any corrective action will be provided in writing to the worker who allegedly experienced workplace harassment and the alleged harasser, if they are a worker of the employer.

The results of the investigation are a summary of the findings of the investigation. These must be communicated in writing within ten (10) calendar days of the investigation being concluded to the worker who has experienced the alleged harassment. The employer must also ensure that any corrective action taken, or to be taken, is communicated to the worker who allegedly experienced workplace harassment and the alleged harasser(s), if the alleged harasser is a worker of the employer. The amount of information provided about the corrective action will depend on the circumstances but must indicate what steps the employer has taken or will take to prevent a similar incident of workplace harassment if workplace harassment was found. The corrective action, if any, must be communicated in writing within ten (10) calendar days of the investigation being concluded.

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



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Education and training;

- Review and modification of policies, procedures and practices;
- Disciplinary action up to and including dismissal;
- Continuous monitoring.

Where the results of the investigation do not support the allegations of harassment made by the complainant, the complaint shall not proceed further. Both parties will be assured that there will be no recrimination because of the complaint.

RECORD KEEPING

Records must be kept for all complaints or incidents of workplace discrimination or harassment. Keep any documents or notes including:

- A copy of the complaint or details about the incident;
- A record of the investigation including notes;
- copy of witness statements, if taken;
- A copy of the investigation report, if any;
- A copy of the results of the investigation that were provided to the worker who reported workplace harassment and the alleged harasser; and
- A copy of any corrective action taken to address the complaint or incident of workplace harassment.
- A copy will be placed on the employee's personnel file for the duration of their employment.

The documents associated with a workplace discrimination or harassment complaint, incident and/or investigation must not be disclosed unless necessary to investigate an incident or complaint of workplace discrimination or harassment, take corrective action or otherwise as required by law.

For the OHSa purposes, records must be kept for at least one year from the conclusion of the investigation.

Note: The *Municipal Act* may require that these records be retained for a longer period.

MALICE

Where, as a result of an investigation, it is determined or concluded that the complaint was made maliciously, with a specific and directed intent to harm, or made in bad faith with reasonable knowledge of intent to harm, formal disciplinary action may be taken against the complainant.

REPRISALS

This policy prohibits reprisals against individuals, acting in good faith, who report incidents of workplace violence or act as witnesses. Management will take all reasonable and practical measures to prevent reprisals, threats of reprisal, or further harassment.

Reprisal is defined as any act of retaliation, either direct or indirect.



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ONTARIO HUMAN RIGHTS COMMISSION

It is every person's right to make a complaint as they would for any other health and safety issue to the Ontario Ministry of Labour or the Ontario Human Rights Commission at any time, regardless of the existence of this Policy and the Township respects that right.

TRAINING

Every person who works for the Township of East Hawkesbury in any capacity will receive workplace awareness training on workplace discrimination and harassment. This training will include:

- Review of the workplace discrimination and harassment policy;
- What conduct is considered workplace harassment, including workplace sexual harassment, and how to recognize it;
- How and to whom to report an incident of workplace harassment;
- How the employer will investigate and deal with an incident or complaint of workplace harassment; and
- How the employer will report the results of the investigation to the worker who allegedly experienced workplace harassment and the alleged harasser, if the alleged harasser is a worker of the employer.
- **Health and safety representatives will** receive information and instruction on the employer's workplace harassment program
- supervisors will receive specific instruction and information on how to recognize and handle a workplace harassment incident so that workplace harassment is addressed.

DUTY TO CONSULT

Management has developed and will maintain this written workplace discrimination and harassment program in consultation with Township health and safety representatives.

These consultations provide an opportunity for health and safety representatives to provide feedback, whether orally or in writing, on the program and the feedback must be considered by the township management.

REVIEW OF THE WORKPLACE DISCRIMINATION AND HARASSMENT PROGRAM

Township management in conjunction with workplace health and safety representatives will review this program annually or when any gaps or deficiencies in its program are identified as a result of an investigation.



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Appendix A

WHAT TO DO IF YOU ARE ACCUSED OF DISCRIMINATION OR HARASSMENT

If a co-worker asks you to stop behaviours, which constitute discrimination or harassment, assess your behaviour seriously. Understand that even if you did not mean to offend, your behaviour has been perceived as offensive.

Cease the behaviour that the person finds offensive and apologize. Failure to cease in this behaviour will leave you more vulnerable to a formal complaint, which could lead to disciplinary action if the complaint is substantiated.

If you believe the complaint is unfounded and/or made in bad faith, discuss the matter with your Supervisor or Department Head. You are entitled to know the allegations against you and to have an opportunity to respond.

In any event, document your version of the alleged incident, including times, places, what happened and any witnesses.



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REPORTING DISCRIMINATION OR HERASSMENT

1. Name(s) of the complainant(s) : 2. contact information:
3. Name of the alleged harasser(s): 4. position: 5. contact information (if known):
6. Names of the witness(es) (if any) or other person(s) with relevant information to provide about the incident (if any) and contact information (if known)
7. Details of what happened including date(s), frequency and location(s) of the alleged incident(s).
8. Any supporting documents the worker who complains of harassment may have in his/her possession that are relevant to the complaint.
9. List any documents a witness, another person or the alleged harasser may have in their possession that are relevant to the complaint.

Employee's name : _____

Signature: _____ Date: _____



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