

CORPORATION OF THE TOWNSHIP OF SOUTH ALGONQUIN

SUBJECT:	RESPECT IN THE WORKPLACE			
TYPE:	HUMAN RESOURCES	POLICY NO. HR-002-00		
DATE:	REVIEW DATE:	FREQUENCY:	REL. BY-LAW:	PAGE #:
July 8, 2008		As Required	08-321	1 of 8
Revisions				
New Policy				

I. Purpose:

The Township of South Algonquin (“the Township”) is committed to providing a working environment in which all individuals are treated with respect and dignity, which is supportive of their productivity and of their personal goals and self esteem. The Township will not tolerate disrespectful behaviour or harassment within the workplace.

The goal of this Policy is to maintain a respectful working environment that is free from harassment. The policy includes a procedure for dealing with both informal and formal complaints of harassment in a fair and timely manner, respecting the rights of all parties.

The Township is committed to implementing this Respect in the Workplace Policy in a fair and impartial manner which respects the rights of all individuals. It encourages reporting of all incidents of harassment, regardless of who the offender may be.

II. Scope:

This Policy applies to all persons working for the Township, including management staff regardless of their tenure and including, without limitation, members of Council, indeterminate and temporary employees, casual employees, students, independent contractors, employment agency personnel, and temporary or committee volunteers.

Acts of harassment by business contacts are also considered inappropriate conduct for the workplace and are counter to the philosophy and objectives of this Policy. A “business contact” is any individual representing a vendor, subcontractor, supplier, or consultant who, during the course of business, interacts with an employee of the Township. Employees should report conduct by business contacts that violate this Policy.

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III. Definitions:

Respect means to treat with consideration; to avoid degrading, insulting, injuring, interfering with, or interrupting an individual; to spare or refrain from offending, corrupting or tempting an individual.

Complainant refers to an individual who has reasonable cause to believe that he or she has been the subject of disrespect or harassment and who complains, whether informally or formally, using the procedures outlined in this Policy.

Respondent refers to the person against whom a complaint of alleged disrespect or harassment has been made, whether formally or informally.

Workplace includes the working environment or anywhere else an employee may be located as a result of employment responsibilities or employment relationships within the Township of South Algonquin. The workplace includes, but is not limited to, the office, outside of the workplace in the course of work assignments and work-related travel; work-related conferences or training sessions; office-related social functions; Township-sponsored events; and the “virtual” workplace over the telephone, in written material such as e-mail, and on the Internet.

Harassment means any improper behaviour that is directed at and is offensive to an individual and which the person knew or ought reasonably to have known would be unwelcome. Harassment includes objectionable conduct, comment or display made on either a one-time or continuous basis that demeans, belittles, or causes humiliation or embarrassment to an employee based on a prohibited ground as defined in the Ontario *Human Rights Code*. Examples of harassment would include:

- jokes about a prohibited ground, for example, racially or homophobia motivated “jokes”;
- the display or circulation of offensive material, including racist or discriminatory offensive slides and cartoons;
- degrading words used to describe a person based on a prohibited ground;
- derogatory or degrading remarks directed towards all members of a group who share characteristics based on a prohibited ground; or
- suggestive or obscene comments or gestures.

Personal Harassment involves hostile, obnoxious, or intimidating or other disrespectful behaviours which ought reasonably to have been known to be hostile, obnoxious or intimidating. It is targeted at a person or group of people because of a personal dislike or personality conflict, and not solely because of a prohibited ground. This Policy covers personal harassment and examples include:

- disrespectful behaviours such as gossiping, rudeness, and routine interruptions;
- intimidation of an employee, either physical or psychological;
- degrading remarks directed towards an employee;
- blackmail of an employee, whether for monetary or other gain;

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- inappropriate inquiries or comments about a person's private life when the individual has indicated that he/she does not wish to discuss the same;
- verbal abuse (including, but not limited to, the repeated use of obscenities);
- repeated and unwarranted, non-constructive criticism of an employee;
- embarrassing or humiliating an employee in front of others;
- assault; and
- threats of any kind.

Sexual Harassment means any unwelcome conduct, comment, gesture or contact of a sexual nature, whether on a one-time basis or a series of incidents, that might reasonably be expected to cause offence or humiliation or that might reasonably be perceived as placing a condition of a sexual nature on employment, on an opportunity for training or promotion, or on the receipt of services or a contract. Examples of behaviour which constitute sexual harassment include, for example:

- sexist jokes;
- the display or circulation of offensive material, including sexually offensive slides and cartoons;
- sexually degrading words used to describe a person;
- derogatory or degrading remarks directed towards members of one sex;
- sexually suggestive or obscene comments or gestures;
- unwelcome sexual flirtations, advances, propositions;
- persistent unwanted contact or attention after the end of a consensual relationship;
- requests for sexual favours;
- unwanted touching;
- sexual assault.

Poisoned Work Environment means a course of conduct or pattern of comments and/or conduct that is continuous, persistent and repeated and which results in unequal terms and conditions in employment for the Complainant. A single incident may create a “poisoned work environment” if it is serious and particularly offensive. A poisoned work environment can be created by the comments or actions of any person covered by this Policy regardless of his or her position of authority or status including a co-worker, supervisor, or manager.

Abuse of Authority means an individual's improper use of power and authority inherent in the position held, to endanger an employee's job, undermine the performance of that job, threaten the economic livelihood of the employee, or in any way interfere with or influence the career of such an employee. It includes such acts or misuses of power as intimidation, threats, blackmail, coercion, isolation or deprivation of information. Abuse of authority is **NOT** normal managerial activities such as performance management and reviews, attendance management, counselling and/or corrective discipline.

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IV. Responsibilities:

Everyone working at the Township has a responsibility to treat each other with respect and to stop harassment and/or report harassment to the appropriate person(s) to ensure that the working environment is free from harassment. Everyone has a responsibility to co-operate, as required, in the investigation of a complaint.

Complainants have the right to file a complaint and to obtain a review of such complaint without fear, reprisals or retaliation.

Respondents have the right to be informed promptly that a complaint has been filed against them and to be presented with a written statement of allegations and given the opportunity to respond to the complaint. Respondents must avoid taking retaliatory action or pressuring the Complainant to withdraw the complaint.

Managers (including supervisors) are responsible for fostering a safe and respectful working environment. Managers must receive any formal or informal complaints brought to them directly. They must be sensitive to the possibility of harassment in their areas of responsibility and must be committed to ensuring that the work environment is free of disrespect and harassment. Where an instance of harassment becomes apparent, Managers have a responsibility to take immediate and appropriate action to rectify the situation. They should consult with the Clerk-Treasurer. Managers have a duty to ensure that employees appreciate diversity in the workplace and strive to create a respectful and harassment-free workplace. They must set an example by avoiding behaviour that constitutes harassment.

Clerk-Treasurer (including designate) must ensure that complaints are addressed in a timely and confidential manner and it must ensure parties to a harassment complaint are treated in a sensitive and meaningful manner. It is the responsibility of the Clerk-Treasurer to ensure all employees are made aware of this Policy and to answer any enquiries regarding this Policy.

Members of Council must, as an employer, be aware of issues of concern within the Township and promise to respect the confidentiality of anyone involved in a harassment complaint. Where harassment has been substantiated, Council will remain informed and will support the appropriate and timely corrective action taken by the Clerk-Treasurer to resolve the complaint in accordance with this Policy. Where the Clerk-Treasurer is the Respondent, the Mayor will assign a designate to resolve the complaint in accordance with this Policy. Where harassment has not been substantiated, no action will be taken against an employee who has made a complaint in good faith.

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V. Procedures:

Complaint Procedure:

i) Informal complaints

A person who believes that she has been subjected to disrespectful behaviour or harassment is encouraged to communicate her concerns directly by telling the person that the behaviour is unwelcome and must stop.

Where the Complainant does not wish to bring the matter directly to the attention of the Respondent, or where such an approach is attempted and does not produce a satisfactory result, the Complainant should seek the advice of a Manager. If the Respondent is a Manager, the Complainant should seek the advice of the Clerk-Treasurer. If the Respondent is the Clerk-Treasurer, the Complainant must file a formal complaint to the Mayor as outlined below.

Upon receipt of informal complaints, Managers shall attempt to resolve the complaint and should seek the assistance of the Clerk-Treasurer to do so.

ii) Mediation

At any time during the process and if both parties agree, the Township may retain a mediator (an outside independent third party) to assist the Complainant and Respondent in finding a mutually acceptable resolution to the complaint. Retaining a mediator is at the sole discretion of the Township.

iii) Third Party complaints

Where a person believes that a colleague has experienced or is experiencing harassment or retaliation, he or she shall report this belief to a Manager who shall then meet with the alleged Complainant to determine whether the informal or formal resolution process is applicable.

iv) Formal complaints

After meeting with a Manager or the Clerk-Treasurer, or after an unsuccessful mediation, the Complainant has the right to lay a formal complaint. To do so the Complainant must draft a written complaint which must be signed by the Complainant and given to the Clerk-Treasurer who will then provide copies of the complaint (along with a copy of this Policy), without delay, to the Respondent. If the Clerk-Treasurer is a Respondent, the written and signed complaint must be submitted to the Mayor who will assign a designate to resolve the complaint in accordance with this Policy.

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Please note that anonymous and/or unsigned complaints **will not be dealt with under this Policy.**

v) Investigation of formal complaints

The following steps will be taken in the investigation of a formal complaint:

- (a) The Clerk-Treasurer (or Mayor's designate) will arrange for the investigation of every formal written complaint unless it is decided to dismiss the complaint as outlined below. Depending on the circumstances, the Clerk-Treasurer (or Mayor's designate) may appoint an investigator from inside or outside the workplace.
- (b) The Clerk-Treasurer and the appropriate Manager(s) (or Mayor's designate) may consider the merits of separating the Complainant and the Respondent until conclusion of the investigation, where it is considered appropriate or necessary to do so.
- (c) At any time during the Investigation, the Complainant and Respondent have the right to be accompanied and assisted in the process by one (1) representative of their choice, for example, a colleague, friend or legal representative, if they wish.
- (d) The Clerk-Treasurer (or Mayor's designate) will keep both the Complainant and the Respondent informed of the status of the investigation throughout the process.
- (e) When the investigation is complete, a Preliminary Investigation Report will be drafted by the Investigator (whether internal or external) and given to both the Complainant and the Respondent. Both parties will have a period of two (2) weeks to respond to the Report, in writing.
- (f) After reviewing the responses to the Report, the Investigator will draft a Final Report, with findings with respect to each allegation in the complaint. He or she will provide this report to the Clerk-Treasurer (or Mayor's designate). If the Investigator is an outside, independent third party, the Final Report shall not include recommendations as to remedial action.
- (g) The Clerk-Treasurer will take appropriate remedial action, if any, as well as any other action that will best remedy, resolve or dispose of the complaint. If the Respondent was the Clerk-Treasurer, the Mayor's designate will make recommendations to the Township Council in regards to appropriate remedial action, if any, as well as any other recommendations that will best remedy, resolve or dispose of the complaint.
- (h) A copy of the Final Report will be provided to the Complainant and the Respondent. If the complaint is substantiated, the Complainant will be advised of any remedial action taken in relation to his or her complaint.
- (i) The Clerk-Treasurer shall inform the Council of the existence of any formal complaints, the results of any investigations, and the remedial and disciplinary actions taken, if any.

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Dismissal of Complaint:

At any time during the investigation or thereafter, the Clerk-Treasurer, , may in his discretion decide to dismiss a complaint if:

- with the agreement of the parties, the situation can be resolved through mediation;
- the complaint does not relate to disrespect or harassment as defined by this Policy;
- the complaint is obviously trivial, frivolous, vexatious or made in bad faith;
- the Complainant is pursuing other redress mechanisms as listed below;
- the complaint is based on acts or omissions which occurred more than one (1) year before the receipt of the complaint and the Clerk-Treasurer (or Mayor's designate) is not of the view that there are valid reasons for the Complainant not to have filed the complaint sooner;
- the Complainant abandons the complaint or fails to cooperate in resolving the complaint in a timely fashion; or
- the complaint is anonymous.

The Clerk-Treasurer (or Mayor's designate) will communicate the decision to dismiss a complaint to the affected parties.

Remedial Action and/or Discipline:

Discipline, up to and including immediate termination for just cause, may be imposed on the following individuals in the following circumstances:

- On Respondents when a complaint of employment related harassment has been substantiated;
- On managers who were aware of harassment and permitted it to take place;
- On Complainants who bring forward complaints in bad faith or for vexatious reasons;
- On Complainants who make a false accusation of harassment, knowingly or in a malicious manner;
- On any employee or manager who retaliates against a Complainant for having invoked this Policy;
- On any employee or manager who retaliates against any individual for having conducted, participated or co-operated in any investigation of a complaint under this Policy.

Records

During the Informal complaint Resolution Process, where the Complainant and the Manager agree that the conduct does not constitute harassment, the Manager will take no further action and will make no record in any file.

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If for any reason the Manager decides that the laying of a formal written complaint would not be appropriate, he or she will make no record in any file unless he or she decides to speak to the Respondent. The Manager will keep a written record of what was said. All such records will be kept in sealed Harassment file with the Clerk-Treasurer.

All records of formal complaints, including minutes of meetings, interview notes, results of investigations and other relevant material will be kept in a sealed Harassment Investigation file with the Clerk-Treasurer to be accessed only when disclosure is required by a disciplinary, remedial or other process.

Where the investigation determines that a complaint is founded, the outcome of the investigation and any disciplinary action that results will be recorded in the Human Resources file of the Respondent.

Where the investigation results in a finding that the complaint is not substantiated, no record of the complaint will be made on the Human Resources file of the Respondent.

If a mediated solution is reached at any time, a copy of the settlement agreement will be held in sealed Harassment files with the Clerk-Treasurer.

Additional Recourse:

Every person continues to have the right:

- To seek assistance from the Ontario Human Rights Commission and/or Tribunal even when steps are being taken under this Policy, if the conduct complained of constitutes harassment within the meaning of the *Human Rights Code*.
- To proceed with criminal charges even when steps are being taken under this Policy, if the conduct complained of constitutes criminal conduct as defined by the *Canadian Criminal Code*.

Confidentiality

The Township recognizes the Complainant's and the Respondent's interest in confidentiality.

To protect the interests of the Complainant, the Respondent and any others who may report or be witnesses to such incidents, confidentiality will be maintained throughout the investigatory process to the extent practicable and appropriate under the circumstances.

Only those with a need to know about the complaint will be made aware that an investigation is ongoing.

The results of any investigation will also be kept confidential and will be disclosed to individuals only on a need to know basis.