

Policy Number: 2007 – 26

Policy Subject: Harassment

STATEMENT OF POLICY

The Town of Stewiacke is committed to providing a safe and respectful environment for all employees. No employee has to put up with harassment at the Town for any reason. The Town is committed to promoting equality in the workplace by taking all reasonable measures to prevent incidents of harassment and to deal promptly and fairly with any reports of harassment in a confidential and discreet manner. This harassment policy encourages the reporting of all incidents of harassment experienced by any individual as a result of his or her work with the Town. Where allegations of harassment are substantiated, the offender will be sanctioned in strict accordance with this policy, regardless of his or her status at the Town.

This Policy reflects and was developed in reference to the protections accorded within the Nova Scotia Human Rights Act, Section 5 (h) to (u) and Section 11 (<http://www.gov.ns.ca/legislature/legc/statutes/humanrt.htm>)

This policy does not preclude the reporting of harassment complaints to the Nova Scotia Human Rights Commission, or if the matter is perceived to be of a criminal nature, to the police.

DEFINING HARASSMENT

A. Who does this Policy Cover?

This policy prohibits any work-related act of harassment by any Council member or employee of the Town.

B. Where does the Policy Apply?

The prohibition against harassment includes conduct in the workplace, or elsewhere in a situation that is connected in some way to work, such as business trips and off-site meetings. Harassment through indirect methods of communication such as telephone calls or in writing is also covered by this policy.

C. What is Harassment?

Harassment is any behaviour that demeans, humiliates or embarrasses a person, and that a reasonable person should have known would be unwelcome. It includes actions and comments. It may be a single incident or continue over time. Some examples of harassment include:

- Unwelcome remarks, slurs, jokes, taunts or suggestions about a person's body, clothing, race, national or ethnic origin, Creed, Aboriginal origin, color, religion, age, sex, physical or mental disability, sexual orientation, family status, marital status, political belief/affiliation, or an irrational fear of contracting an illness or disease;
- Displays of sexist, racist, or other offensive or derogatory material;
- Written or verbal abuse or threats;
- Practical jokes that embarrass or insult someone;
- Patronizing or condescending behaviour;
- Humiliating an employee in front of co-workers;
- Abuse of authority that undermines someone's performance or threatens their career.

Sexual harassment is a particular form of harassment. It is defined in the Nova Scotia Human Rights Act and means:

- Vexatious sexual conduct or a course of comment that is known or ought reasonably to be known as unwelcome;
- A sexual solicitation or advance made to an individual by another individual where the other individual is in a position to confer a benefit on or deny a benefit to the individual to whom the solicitation or advance is made, where the individual who makes the solicitation or advance knows or ought reasonably to know that it is unwelcome; or
- A reprisal or threat of reprisal against an individual for rejecting a solicitation or advance

Examples of sexually harassing behaviour include, but are not limited to:

- demands for sexual favors in exchange for employment advantages, promises for employment advantages, or the threat of withdrawal of those advantages.
- displays of sexually suggestive posters, graffiti or objects.

- unwanted comments about a person’s body, sexuality, sexual orientation or sexual conducts.
- unwanted flirtation, sexual propositions or advances.
- unwanted touching, pinching, or fondling.
- sexually suggestive or obscene gestures.
- persistent unwanted attention or requests of a sexual nature after a consensual relationship has ended.
- sexist jokes or anecdotes or comments that are insulting, demeaning, or derogatory toward a person because of gender which are either obviously offensive or continue after the speaker is informed that those comments have caused offence.
- Sexually suggestive or obscene gestures, and /or comments either written or verbal

D. Behaviour that is not Harassment

Fraternization or consensual social relationships are not harassment, nor are appropriate performance reviews, counseling, or discipline by a supervisor or manager.

RESPONSIBILITIES

A. Responsibilities of the Town

- the Town will publicize this policy to all members of Council and employees and advise them of the relief available through this policy;
- the Town will review this policy periodically to ensure its effectiveness and review any recommended changes that may be presented.

B. The office of the Chief Administrative Officer (CAO) is responsible for ensuring:

- reported incidents of harassment are investigated in a prompt and objective manner by person(s) viewed to be impartial to the complainant and the respondent;
- staff members have an opportunity to obtain confidential advice regarding harassment;
- staff members are educated regarding this policy and procedures; and

- Supervisory and Management staff are provided the opportunity to attend any external training programs deemed necessary.

C. Supervisory and Management staff are responsible for ensuring:

- employees have access to this policy and other information regarding harassment, and are provided with the opportunity to attend any internal training programs;
- the work environment within departments discourages harassment and supports individual's dignity and respect;
- formal complaints about harassment made to them are referred immediately to the Office of the CAO; and
- maintenance of confidentiality regarding harassment complaints and investigations.

D. Employees are encouraged to:

- Become familiar with this policy ;
- Keep accurate records of any incidents of harassment, including time, place, description of the incident and names and witness. This includes where they are subject of harassment as well as incidents they have witnessed.

PROCEDURE

A. Informal Resolution Option

- **Communicating concerns directly to the alleged harassor:**

Any employee who feels that he/she is being harassed is encouraged to make it known to the harassor that his/her behaviour is unwanted. The employee should inform the harassor, clearly and directly, that their behaviour isn't welcome and must stop. This may be done verbally, or in writing. If in writing, a copy of the letter should be kept by the complainant.

OR

- **Communicating concerns to supervisor(s) or designate of their choice:**

If the complainant feels comfortable he/she may discuss concerns related to harassment with their immediate supervisor or a designate of their choice and request their assistance in resolving the situation. Again, the complainant should inform the alleged harasser clearly and directly that their behaviour isn't welcome and must stop. The complainant should keep a record of the discussion and if the concerns are communicated in writing, keep a copy of the correspondence.

B. Mediation

It may be appropriate to try to resolve a complaint through mediation before going to a formal investigation. If the complainant and the alleged harasser agree, a qualified person who is not employed by the Town will attempt to help them settle the complaint. The mediator will not be involved in investigating the complaint, and will not be asked to represent or assist the Town at any stage of any proceedings related to the complaint.

Either party has the right to decide to refuse mediation if they do not wish to participate for any reason. If mediation does take place, each party can have someone accompany and assist them at the mediation sessions.

C. Formal Complaint:

- If informal processes are not effective in resolving the situation to the satisfaction of the complainant or if the complainant prefers to file a formal complaint immediately, the complainant may register their complaint of harassment, in writing, with either;
 - (a) The office of the CAO;
 - (b) A Manager within their own Department
- Upon receiving a complaint, managers are responsible for taking immediate action by referring the complaint to the office of the CAO.
- When a formal written complaint, signed by the complainant, is filed with the office of the CAO, a copy of the formal complaint will be given to the respondent named in the complaint. The respondent will be given a copy of this policy and will be advised of the right to retain their own legal counsel or be represented by any other person when he/she is required to be present during the investigation process.

- The complainant will be advised of the availability of counseling and support services through the Town's Employee Assistance Program (EAP) and be provided with advice and assistance on how to deal with the situation. The complainant will also be informed of their right to retain and be represented by their own legal counsel or other person of choice.
- Every formal complaint will be investigated. The CAO will investigate the complaint, or appoint another person, either an employee of the Town or a person from outside the Town with appropriate experience and expertise, to investigate. The investigator(s) will interview the complainant, the respondent, other individuals relevant to the case, and review any related documentation. The investigator will decide whether, on a balance of probabilities, the harassment took place.
- The investigator will prepare a written report of their investigation as quickly as possible, preferably within two weeks of the formal complaint. The CAO will decide what action to take, and inform both parties of the decision, in writing, ideally within one week of the report being prepared.
- If the allegations are substantiated, the remedies for the victim may include an apology, lost wages, or a promotion or transfer that was denied, depending on the nature and severity of the harassment. In the event the complainant is not satisfied with the results of the investigation, he/she may contact the Nova Scotia Human Rights Commission.

DISCIPLINE

- If a complaint is substantiated, the seriousness and the effects of the offense will be discussed with the harasser, and, unless the Town terminates the employment of the harasser, they must:
 - i. agree to stop the harassment without any repercussions to the complainant;
 - ii. agree to provide to the complainant a verbal or written apology as appropriate to the circumstance, and the promise that the action will not recur; and
 - iii. acknowledge and accept that appropriate disciplinary action will be taken.

- Disciplinary action for substantiated complaints will range from a verbal or written reprimand to a suspension or dismissal. A verbal or written warning may include a requirement for counseling and anti-harassment training.
- A member of management who is in receipt of an harassment complaint or is aware of harassment and fails to take appropriate action, will be subject to disciplinary action.

CONFIDENTIALITY

- All harassment inquiries and complaints will be handled in a confidential manner. Where an investigation is required, the investigation will be handled with as much discretion as is consistent with obtaining the information needed to make a decision on the complaint.

PROTECTION AGAINST RETALIATION

- Retaliation against a complainant will not be tolerated. No member of management or staff will intimidate, discharge, suspend, or impose any other penalty on, or otherwise discriminate against an individual who has made a complaint or given evidence or assisted in any way in the investigation and resolution of a complaint of harassment.

FALSE ACCUSATIONS

- Employees who make complaints that are fabricated with the intent of damaging the integrity of an individual or individuals will be subject to disciplinary action up to and including dismissal.

RECORDS

- If harassment has been substantiated, the incident will be documented in the offender's personnel file. No formal record will be kept if the allegation is not substantiated.
- All records pertaining to the investigation will be maintained by the CAO in a confidential file.

Annotation for Official Policy Book

Date of Notice to Council Members of
Intent to consider: *November 12, 2009*

Date of Passage of Current Policy: *November 26, 2009*
I certify that this was adopted by Council as indicated above.

CAO / Clerk

Date