



<b>SECTION</b>	HUMAN RESOURCES	<b>POLICY NUMBER</b>	
<b>SUB-SECTION</b>	Conduct	<b>EFFECTIVE DATE</b>	November 2018
<b>DATE REVISED</b>	November, 2018	<b>REVIEW DATE</b>	November 2018
<b>SUBJECT</b>	Harassment and Respectful Workplace		
<b>AUTHORITY</b>	Council		

### **Purpose**

The Township of East Garafraxa is committed to providing a safe, healthy and professional workplace free from all forms of harassment, discrimination and disrespectful behaviour. The Township recognizes that workplace harassment is both a health and safety and a human resources issue, and will take reasonable precautions to prevent workplace harassment and to protect its employees.

The Township expects and promotes respectful interactions which show regard for the rights, dignity, and health and safety of all.

This policy is consistent with the spirit and provisions of the Ontario Human Rights Code and the Occupational Health and Safety Act, and should be read in conjunction with any applicable legislation.

This policy is intended to:

- Create and foster a work environment free from workplace discrimination and harassment
- Provide solution based approaches when conflict arises
- Provide definitions of workplace discrimination and harassment
- Establish and detail the responsibilities of all persons in Township workplace(s) to maintain a workplace free from discrimination and harassment
- Ensure that incidents of workplace discrimination and harassment are reported to Township management, and/or law enforcement as appropriate
  
- Ensure that complaints of harassment are handled in a timely and equitable manner by the Township and that an investigation is conducted which is appropriate in the circumstances

## Policy

### Scope and Application

This policy applies to all Township employees regardless of position or classification. It applies in any location in which employees are engaged in work-related activities (see definition of workplace below).

This policy also applies to all persons who attend a Township workplace, including but not limited to visitors, contractors, vendors, delivery persons, Council, Board and Committee members.

### Definitions

#### Harassment

Harassment is defined under the Occupational Health and Safety Act as:

- (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.

Harassment is a pattern of inappropriate actions that are not in keeping with the Township of East Garafraxa's expectation of respectful interactions. Harassment is ongoing behaviour that a reasonable person would consider to be humiliating, demeaning, offensive or intimidating and is unwelcome. A single incident may constitute harassment, depending on the severity of the behaviour. Harassment is a form of discrimination.

Examples of harassment may include, but are not limited to:

- Yelling at an employee
- Taking credit for another's work
- Ostracizing an employee
- Abuse of authority
- False accusations/allegations
- Practical jokes which insult or embarrass an individual
- Sabotaging an employee's work
- Withholding information from an employee required for him/her to do his/her job
- Belittling, condescending comments
- Bullying, workplace pranks, vandalism, hazing
- Gossiping or spreading malicious rumours
- Inappropriate, embarrassing, humiliating comments or jokes about an individual.

In addition to contravening this Policy and Township of East Garafraxa's values, harassment may violate the Ontario Human Rights Code if the inappropriate behaviour is associated with any of the prohibited grounds listed in the Code.

Under the Ontario Human Rights Code, prohibited grounds include: race, colour, ancestry, creed (religion), place of origin, ethnic origin, citizenship, sex (including pregnancy, breastfeeding, gender identity and gender expression), sexual orientation, age, marital status (including same-sex partnership), family status, disability (including perceived or past) and record of offences for which a pardon has been granted and has not been revoked or an offence in respect of any provincial enactment.

Examples of discriminatory harassment may include, but are not limited to:

- Unwelcome remarks, jokes, innuendos, or taunting that disparage or ridicule a person's membership in one of the protected grounds
- Practical jokes of a racial or religious nature which causes awkwardness or embarrassment
- Displaying or electronically transmitting racist pictures, jokes or other offensive material
- Condescending or paternalistic behaviour which undermines self-respect based on a person's membership in one of the protected grounds
- Offensive gestures based on a person's membership in one of the protected grounds
- Refusing to converse or work with an employee because of his/her race or ethnic background
- Imitating a person's accent, speech or mannerisms

### **Sexual Harassment**

The Occupational Health and Safety Act defines 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.

Examples may include, but are not limited to:

- Continuous conversation of a sexual nature
- Persistent and offensive jokes of a sexual or gender-specific nature
- Suggestive or insulting sounds (example, whistling or cat-calls)
- Lewd gestures
- Sexual comments about body shape, clothes or weight
- Comments about a person's sex life or relationship with partner

- Posting or electronically transmitting pornographic or sexually explicit pictures and jokes
- Sexual exposure
- Unnecessary physical contact (example pinching, touching or patting)
- Sexual assault
- Sexual innuendoes or taunting
- Vulgar humour or language
- Leering (persistent sexual staring)
- Sexual advances or demands that are unwelcome
- Threats, punishment or denial of a benefit for refusing a sexual advance
- Offering a benefit in exchange for a sexual favour

Harassment is not:

- Appropriate direction, delegation or discipline administered under the course of supervision
- Measures to correct performance deficiencies such as placing someone on a performance improvement plan
- Requesting medical documents in support of an absence from work, in accordance with applicable legislation.
- Stressful events encountered in the performance of legitimate job duties
- A relationship of mutual consent or flirtation
  
- Friendly teasing or bantering that is mutually acceptable and not offensive to others
- Normal workplace conflict that may occur between individuals or difference of opinion between co-workers.

### **Discrimination**

The unequal treatment of a person on the basis of a prohibited ground. In general, discrimination is an act or practice that intentionally or unintentionally causes a type of disadvantage prohibited by the provisions of the Ontario Human Rights Code.

Examples of discrimination may include, but are not limited to:

- Refusal to work with, or differential treatment of a person on the basis of the prohibited grounds
- Decisions of recruitment, promotion, pay increases or employment practices based in whole or in part on one or more of the prohibited grounds

### **Systemic (Indirect) Discrimination**

The use or application of a requirement, either in policy or practice, that has a negative impact on an identified group on the basis of a prohibited ground. Systemic discrimination occurs when policies or practices exclude, limit or restrict members of designated groups from employment or opportunities within employment.

### **Workplace**

Any location where a Township of East Garafraxa employee is carrying out their occupational duties, including those locations that are not on primary work sites. This may include work-related social functions, training and conferences, during work-related travel, at restaurants, hotels or meeting facilities being used for business purposes, during telephone, e-mail or other communications.

### **Poisoned Work Environment**

Workplace harassment may also include behaviour, conduct, comments or activities which are not directed specifically at an individual but which nonetheless create a degrading or offensive poisoned work environment.

### **Abuse of Authority**

An individual using undue authority or power related to their position with the intention of compromising an employee's job performance and adversely affecting their career.

### **Bullying**

Behaviour which intimidates, degrades, humiliates and ultimately undermines the self-confidence of an individual. It is generally repetitive, although a single serious incident of such behaviour may constitute bullying if it has a lasting harmful effect.

### **Complainant**

A person who brings a complaint forward under this policy because the person was the target of or a witness to harassment or discrimination.

### **Respondent**

A person alleged to have engaged in behaviour of harassment or discrimination under this policy.

### **Investigator**

The Manager or designate will conduct investigations under this policy. The Township of East Garafraxa reserves the right to retain an external third party to investigate allegations against Senior Management, or other staff members depending upon the situation.

### **Trivial, Frivolous or Malicious Complaints**

Trivial or frivolous complaints are those with no merit. Malicious complaints are those which are made in bad faith with the intent to harm the respondent.

### **Responsibilities**

#### **Organization**

It is the responsibility of the Township:

- To take reasonable, preventative measures to protect employees and others in Township workplaces from workplace discrimination and harassment
- To ensure that all employees are trained in this policy
- To post this policy in a conspicuous place in the workplace
- To ensure that this policy is communicated to contractors and other persons who attend Township workplaces
- To establish a process for reporting and responding to incidents of workplace discrimination and harassment
- To ensure the process for reporting and responding to incidents of workplace discrimination and harassment is communicated, maintained and followed
- To ensure that this policy is reviewed at least annually

### **Managers and Supervisors**

It is the responsibility of managers and supervisors:

- To understand and abide by the requirements of this policy
- To communicate and review this policy with the employees they supervise or manage
- To verify that all contractors and others who attend Township workplaces are aware of this policy
- To adequately train employees in Township procedures that address the workplace harassment risk(s) applicable to the employee
- To encourage employees to report complaints or incidents of workplace discrimination and harassment
- To respond to all complaints or incidents of workplace discrimination and harassment in a professional manner appropriate in the circumstances
- To promptly report all complaints or incidents of workplace discrimination or harassment they receive or witness to the Management or designate

### **Employees (Including Managers and Supervisors)**

It is the responsibility of employees:

- To comply with this policy at all times to protect themselves and others in the workplace from workplace discrimination and harassment
- To immediately notify their supervisor or other designated person of any incident of workplace discrimination or harassment whether the notifying employee is the victim or not. In the case of an extreme or imminent threat of physical harm to themselves or any person, the employee should contact the police
- To participate in training regarding this policy and Township procedures directed at workplace harassment risks in the workplace
- To fully cooperate in any investigation of complaints or incidents of workplace harassment or breaches of this policy.

### **Informal Resolution Approaches**

If an employee is either directly affected by, or has witnessed harassment in the workplace, he/she is encouraged to speak to the person directly, and let them know that their behaviour is unwelcome, and ask for it to stop.

As an alternative, an informal mediation can be arranged with both employees. The Senior Management or designate will assist the employees to discuss the incident and their concerns and come to an agreed upon outcome. Participation in mediation is voluntary and either party can withdraw at any time.

Should the above approaches be ineffective, and/or the behaviour continues, it should be reported.

### **Reporting Incidents of Workplace Harassment**

Employees can at any time report incidents of workplace harassment or reprisal to the Department Manager.

All complaints and incidents are to be recorded in writing by the reporting person/employee, and the supervisor or manager receiving the report. The date, time, location, potential witnesses and nature of the incident should be documented.

If an incident of workplace harassment involves a person who is not an employee of the Township, a member of the Senior Management team will report the incident to that person's employer and/or such other person as the Township determines is appropriate in the circumstances.

### **Investigation Procedure**

#### **Investigation:**

All complaints or incidents of workplace harassment or reprisal will be promptly investigated by Senior Management. Where the Respondent is a Township employee, the investigation will be conducted as quickly and confidentially as possible in the circumstances. Every effort will be made to protect the privacy of the individuals involved in an investigation and to ensure that Complainants and Respondents are treated fairly and respectfully. Information about the alleged incident or complaint of workplace harassment, including identifying information about any individuals involved, will not be disclosed unless the disclosure is necessary for the purposes of investigating or taking corrective action with respect to the incident or complaint, or is otherwise required by law.

In all cases, staff are encouraged to report their concerns internally to the direct supervisor, provided he/she is not the alleged Respondent, in which case concerns should be reported to Senior Management or any other Department Manager. However, if a complaint is regarding the conduct of senior management, or

staff are uncomfortable or unable to report it internally, the complaint may be reported to an outside party such as the Ministry of Labour. Nothing in this policy prevents or discourages an employee from filing an application with the Human Rights Tribunal of Ontario on a matter related to the Ontario Human Rights Code. An employee also retains the right to exercise any other legal avenues that may be available, including filing a grievance if the employee is a member of the bargaining unit.

If the Complainant decides not to lay a formal complaint, the Township of East Garafraxa has a legal obligation to conduct an investigation which is reasonable in the circumstances and will file such documents with the person against whom the complaint is laid (the Respondent).

At the discretion of the CAO, the Township may obtain outside assistance and/or legal counsel.

**The investigation will include:**

- A documented interview with the Complainant and/or victim
- A documented interview with the alleged Respondent(s)
- A documented interview with any witnesses with relevant information
- Any other step the investigator(s) deems necessary to fully and fairly investigate the complaint or incident
- At the conclusion of the investigation into an incident or complaint, the CAO or designate will prepare a written report of the findings
- Where the Respondent is a Township employee, their supervisor, in consultation with management, will take any necessary corrective action warranted in the circumstances
- Where the Complainant is a Township employee and is found to have brought forward a complaint in bad faith, their supervisor, in consultation with management, will take any necessary disciplinary action
  
- The severity of any disciplinary action, which may include dismissal from employment, will be consistent with the seriousness of the conduct at issue, such that more significant discipline will follow more serious conduct or repeated violations of this policy
- Upon completion of the investigation, the Township will advise in writing the Complainant and Respondent, if the Respondent is a Township employee, of the findings of the investigation and any corrective action that has been or will be taken as a result of the investigation

**No Reprisal**

This policy prohibits reprisals against employees who have made complaints in good faith and without malice or provided information regarding a complaint or incident of workplace discrimination or harassment.

Employees who engage in reprisals or threats of reprisals may be disciplined up to and including dismissal from employment.

**Reprisal includes:**

- Any act of retaliation that occurs because a person has complained of or provided information about an incident of workplace discrimination or harassment
- Intentionally pressuring a person to ignore or not report an incident of workplace discrimination or harassment; and
- Intentionally pressuring a person to lie or provide less than full cooperation with an investigation of a complaint or incident of workplace discrimination or harassment

An employee who makes a false complaint or otherwise abuses this policy may be disciplined up to and including dismissal from employment. Such discipline is not a reprisal or breach of this policy.

**Timeline for Review**

As required by the Occupational Health and Safety Act, the Township of East Garafraxa will review this policy annually and will post the policy in a conspicuous place in the workplace.



Susan M. Stone  
Chief Administrative Officer