



## WORKPLACE HARASSMENT PREVENTION PROGRAM

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## 1.0 INTRODUCTION

The Regional Municipality of Waterloo is committed to taking all reasonable steps to create and maintain a fair and equitable work environment that is free of unlawful discrimination and workplace harassment. All employees of the Region must treat one another with respect and professionalism and refrain from engaging in unlawful discrimination and workplace harassment contrary to the *Ontario Human Rights Code* and the *Occupational Health and Safety Act*. The management in each department is responsible for taking steps to prevent unlawful discrimination and workplace harassment and for stopping it if it does occur. This includes unlawful discrimination and workplace harassment from all possible sources such as employees, independent contractors, volunteers, customers, clients, supervisors, workers, strangers, and domestic/intimate relationships.

For clarity, this Program may apply to employment-related incidents that occur beyond the traditional workplace, such as on social media or outside of normal working hours.

## 2.0 DEFINITIONS

For the purposes of this program, the following definitions apply:

### **Workplace Harassment:**

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

### **Workplace Sexual Harassment:**

- 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 expressions, where the course of the comment or conduct is known or ought reasonably to be known to be unwelcome, or
- b) An unwelcome sexual solicitation or advance made by a person making the solicitation or advance is in a position to confer, grant, or deny a benefit or advancement if the person making the solicitation or advance knows or ought reasonably to know that it is unwelcome.

### **Unlawful Discrimination:**

**Any action or behaviour which negatively effects the employment status of an employee or the right to equal treatment with respect to services, goods and facilities that is based on one or more of the categories of prohibited grounds as set out in the *Ontario Human Rights Code* which include:**

Race, colour, ancestry, citizenship, ethnic origin, or place of origin;

- Creed, religion;
- Age;
- Sex (including pregnancy and breastfeeding);
- Sexual orientation;
- Gender identity or expression;
- Family, marital (including same-sex partnership and single) status;
- Disability or perceived disability;
- A record of offences for which a pardon has been granted under the Criminal Records Act (Canada) and has not been revoked, or an offence in respect of any

- provincial enactment;
- Receipt of public assistance (in housing only)

**Complainant:**

**a person who makes a complaint of workplace harassment.**

**Respondent:**

**a person who is alleged to have perpetrated workplace harassment.**

**What is not Harassment:**

Reasonable actions taken by the employer or supervisor relating to the management and direction of workers and the workplace is not workplace harassment. This includes but is not limited to actions such as legitimate performance and attendance management, warranted discipline, reasonable requests for medical information when employees are absent from work and changes to work and work assignments done for legitimate business purposes.

Harassment also does not include normal workplace conflict that may occur between individuals or differences of opinion between coworkers. Please refer to Policy I-14, Interpersonal Conflict (DOC#41664), for expectations related to interpersonal interactions in the workplace.

**Workplace means:**

Any land, premise, or location where the business of the Region is being conducted or where Regional services are provided. Harassment that occurs outside the workplace may be considered unlawful workplace harassment if it proves to have repercussions in the work environment that adversely affect working relationships. The individual circumstances of the incident will be considered.

### **3.0 PURPOSE**

This Program outlines:

- a) reporting actions that an employee alleging workplace harassment should take,
- b) recourse for an employee accused of workplace harassment,
- c) how complaints of unlawful discrimination and workplace harassment are investigated in an unbiased manner and resolved internally,
- d) reporting actions that an employee should take in the event that the alleged harasser is the supervisor, and,
- e) information and instruction requirements.

Nothing in this program prevents an employee from exercising their rights under the *Ontario Human Rights Code*, or taking any other legal avenues that may be available.

## 4.0 ROLES AND RESPONSIBILITIES

### **The Region of Waterloo is responsible for:**

- ensuring that a Workplace Harassment Prevention Policy and Program is established and reviewed annually
- ensuring confidentiality and the limited disclosure of confidential information, including identifying information, about any individual involved in a complaint or incident of workplace harassment.
- ensuring employees are trained and:
  - have an understanding of what constitutes unlawful discrimination and workplace harassment,
  - know how to report incidents of unlawful discrimination and workplace harassment; and
  - know how the Region will investigate and deal with incidents or complaints of unlawful discrimination or workplace harassment

### **Management is responsible for:**

- treating others in a professional manner with courtesy and consideration and discourage harassment.
- providing a workplace free of discrimination and harassment.
- develop this program in consultation with the Joint Health and Safety Committees
- being familiar with their responsibilities under the Region's *Workplace Harassment Prevention Policy* (HR I-13) and *Workplace Harassment Prevention Program* (Appendix A)
- investigating and dealing with incidents and complaints of workplace harassment in an unbiased manner.
- ensuring that a bargaining unit employee is aware of their right to have the assistance of a union representative during all steps of a harassment investigation, if they so choose.
- making decisions on what steps to take, if any, due to the result of any investigation.
- ensuring that the Region's *Workplace Harassment Prevention Policy* is posted in the workplace in a visible and accessible spot, and;
- promoting and restoring a positive and respectful work environment before, during and after any conflicts.

### **Employees are responsible for:**

- treating others in a professional manner with courtesy and consideration and to discourage harassment
- being familiar with their rights and responsibilities under the Region's *Workplace Harassment Prevention Policy* and *Workplace Harassment Prevention Program*
- complying with the Region's *Workplace Harassment Prevention Policy* and *Workplace Harassment Prevention Program*.
- refraining from 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 and constitutes unlawful discrimination including workplace harassment.
- raising concerns as soon as possible if they have been discriminated against or harassed or if they observe this type of behaviour in the workplace
- co-operating in interventions and investigations to resolve discrimination and harassment issues, and;
- maintaining confidentiality related to discrimination and harassment issues.

### **Human Resources and Citizen Service is responsible for:**

- developing a Workplace Harassment Prevention Program including policies, procedures, and training,
- providing advice on the policy and program provisions,
- providing assistance as required to resolve concerns and complaints,
- provide staff with options of not reporting the alleged harassment occurrence to their direct supervisor

### **Joint Health and Safety Committee:**

- review policy and program and provide feedback to Human Resources and Citizen Service
- ensuring that the policy and program are reviewed on an annual basis or when circumstances change.

## **5.0 OPERATING DETAILS**

### **5.1 Employee Alleging Workplace Harassment**

An employee who believes they have experienced discrimination or workplace harassment can take the following actions:

#### **Step One – Clearly and directly ask the offending party to stop immediately**

- **If the employee feels safe doing so**, inform the person that their behaviour is unwelcome or distasteful to them and that it is against Regional policy and/or the collective agreement
- If the behaviour continues, escalate the concern by informing their supervisor (unless their immediate supervisor is the cause of concern, in which case the employee should escalate the matter to the next level of management or **to Human Resource and Citizen Service**)
- For confidential advice on what to do or advice on how to approach the offending party, or advice on how to approach their supervisor, **the employee may** contact a Human Resources Business Partner, or the Manager, Employee Services, or a union representative
- For support contact Homewood Health (1-800-663-1142), the Region's Employee and Family Assistance Program, which is a confidential and anonymous counselling service

#### **Step Two – Make a written record of what happened**

- Note the date, time, place and the nature of the offensive conduct or comment, the names of any witnesses who were present and any other details

#### **Step Three – File a complaint**

- File a complaint with the **employee's direct supervisor** if experiencing unlawful **discrimination or** workplace harassment and the offensive behaviour continues after the individual has been clearly asked to stop, **the employee feels unsafe confronting the individual**, or the harassment is of a more serious nature.
- In cases where the alleged harasser is the employee's direct supervisor, a complaint can be filed with the next level of Management. If there is cause for concern in reporting to

the next level of Management then the employee may contact a Human Resources Business Partner, or the Manager, Employee Services or their designate.

- The Region reserves the right to not investigate complaints relating to incidents that have occurred more than one year ago.
- The Region reserves the right to not investigate complaints of frivolous or vexatious nature.

## **5.2 Recourse for an Employee Accused of Workplace Harassment:**

### **Step One - Cease the behaviour that the complainant finds offensive, and offer an apology to the complainant.**

- Failure to cease the offensive behaviour will leave an employee vulnerable to a harassment complaint and to more severe disciplinary action if the complaint is substantiated.

### **Step Two - If you believe the complaint is unfounded and/or made in bad faith**

- For confidential advice contact a HR Business Partner or the Manager, Employee Services, and advise any investigator(s) that may have been appointed to review the allegations of workplace harassment
- For support contact Homewood Health (1-800-663-1142), the Region's Employee and Family Assistance Program, which is a confidential and anonymous counselling service

### **Step Three – Make a written record of what happened.**

- Note the date, time, place and your version of the alleged incident, the names of any witnesses who were present and any other details

## **5.3 Anonymous Complaints**

To the greatest extent possible, management will maintain confidentiality **except to the extent necessary to investigate the incident or complaint, to take corrective action with respect to the incident or complaint, or as otherwise required by law.** In the event of an anonymous complaint, the department Commissioner, or his/her designate **in consultation with the Director Employee Relations or his/her designate, will conduct a preliminary investigation to determine if there is sufficient cause to warrant further action.**

## **5.4 Informal Resolution Process**

This process provides an opportunity to resolve relatively straightforward complaints in an expeditious manner. The complaint can be verbal or in writing and should be filed with your direct supervisor. If your direct supervisor is the source of the complaint then the complaint can be initiated with the next level of management. It should be noted that, if a complaint is initiated verbally, it may be committed to writing and signed by the complainant.

In situations involving relatively straightforward complaints, departmental management representative(s) will discuss the allegations with the Complainant and the Respondent. During the informal resolution process, either party may be accompanied by a Union representative, if appropriate. If a resolution acceptable to both the Complainant and the Respondent is agreed

upon, the issue will proceed no further. If no resolution is achieved, the Complainant may request that the matter be formally investigated by filing a formal complaint.

**PLEASE NOTE: not all complaints (particularly those of incivility) will result in a full and formal investigation.**

## 5.5 Formal Resolutions

When a complaint cannot be resolved informally, or if it is of a serious nature, an employee may file a formal complaint. The formal complaint can be verbal or in writing and must be made with a department Commissioner or designate. If a complaint is initiated verbally, it may be committed to writing and signed by the complainant. The department Commissioner or designate, share prime responsibility for resolving the complaint.

For a formal investigation to occur, the evidence submitted by the complainant must, on its face, support the allegation of unlawful discrimination or workplace harassment as defined by the *Ontario Human Rights Code* or the *Occupational Health and Safety Act*.

Before declining to formally investigate a complaint that does not appear to constitute a claim of discrimination or workplace harassment under the *Ontario Human Rights Code* or the *Occupational Health and Safety Act*, **a meeting may occur between the complainant, and department Commissioner , and the Director, Employee Relations** or their designates to ensure that the complaint was fully articulated and properly understood.

### 5.5.1 Responsibilities During a Formal Investigation

#### Department Commissioner or Designate:

- initiating a formal workplace harassment investigation  
(Exceptions may be where the department Commissioner appears to have a conflict of interest related to the situation. In such cases, primary responsibility for a formal investigation may be assumed by the C.A.O., the Commissioner, Human Resources **and Citizen Service**, or their designate.)

#### Management is responsible for:

- supporting the department Commissioner with any portion of the investigation deemed necessary.
- keep all information confidential and maintain a workplace free of harassment during the investigation

#### Employee(s) (Complainant, Respondent, & Witnesses):

- required to cooperate during an investigation
- refrain from discussing the complaint in the workplace

#### Investigator:

- conduct an investigation to determine whether unlawful discrimination or workplace harassment as defined under the *Ontario Human Rights Code* and the *Occupational Health and Safety Act* has occurred
- submit findings to the department Commissioner and the Director, Employee Relations

### **Director, Employee Relations or Designate:**

- provide advice and support to the department Commissioner, the Investigation Planning Team and any follow up action as necessary

### **5.5.2 Process for Formal Investigation of a Workplace Harassment Complaint**

If the department Commissioner, or their designate, in consultation with the Director Employee Relations or their designate, determine that a formal investigation is appropriate, they will convene an Investigation Planning Team to plan and coordinate the process as quickly as possible.

The Investigation Planning Team is comprised of the department Commissioner (or Director) or designate where appropriate, the Director of Employee Relations or designate, and the Commissioner of Human Resources and Citizen Service or designate.

The Investigation Planning Team will select a trained and neutral investigator(s), who may be an external consultant. The investigator(s) will conduct the formal investigation as expeditiously as possible. The purchase and payment of any consultant's services will be arranged through Human Resources and Citizen Service.

If a complaint is received more than one year after the date on which the most recent incident allegedly occurred; management may decline to investigate. This decision would be made after considering the nature of the complaint and any extenuating circumstances.

An investigation may be commenced or continued even if the complainant withdraws their complaint.

The investigation may include:

- interviewing the Complainant and Respondent to ascertain all of the facts and circumstances relevant to the complaint, including dates and locations
- interviewing witnesses, if any
- reviewing any related documentation; and
- making detailed notes of the investigation and maintaining them in a confidential file

### **5.5.3 Interim Measures during a Formal Investigation**

The Region will consider what, if any, interim measures are necessary while an investigation is ongoing. Such interim measures may include workplace separation of **the Complainant and the Respondent** for the duration of the investigation.

## **5.6 Confidentiality**

Management is required to maintain confidentiality regarding complaints of workplace harassment to the greatest extent **possible and except to the extent necessary to investigate the incident or complaint, to take corrective action with respect to the incident or complaint, or as otherwise required by law.** It is expected that anyone involved in the investigation of a harassment complaint will maintain confidentiality through the investigation and afterwards.

## 5.7 Union Representation/Observer

Unionized staff may choose to have the assistance of a union representative throughout an investigation process. If union representation is declined, unionized staff will be required to sign an official waiver.

Non-union employees may choose to have an observer present during the investigation process. The observer will be required by the investigator to sign a confidentiality agreement prior to the interviews taking place.

## 5.8 Investigation Findings and Corrective Actions

The findings of the investigation are submitted to the department Commissioner and the Director, Employee Relations or their designate. Upon reviewing the findings, the department Commissioner or designate, in consultation with the Director, Employee Relations will take appropriate action. The Complainant and the Respondent will be informed of the findings and/or corrective actions of the investigation in writing.

Confirmed instances of unlawful discrimination or workplace harassment by an employee will be subject to disciplinary action, up to and including dismissal. Appropriate disciplinary action will be determined having regard to all relevant circumstances, including the severity of the discrimination/harassment and the employee's disciplinary record. Pertinent information will be documented in the harasser's file. No documentation will be placed on the complainant's file, where the complaint is made in good faith, whether the complaint is upheld or not.

In the event that the complaint was made in bad faith, in reprisal, frivolously or with malicious intent, the person making the complaint may be subject to disciplinary action, up to and including dismissal.

In addition to disciplinary measures, non-disciplinary action may be taken where appropriate. Non-disciplinary action may include, for example, counselling or sensitivity training for the harasser.

If the investigation does not find evidence to support the complaint, no documentation concerning the complaint will be placed in the file of the alleged harasser.

## 5.9 Protection from Reprisals

Regardless of the outcome of an unlawful discrimination or workplace harassment complaint made in good faith, the employee making the complaint, as well as anyone providing information in good faith, will be protected from any form of reprisal **or retaliation**. Anyone who engages in such reprisal or retaliation may be subject to discipline, up to and including dismissal, having regard to all relevant circumstances.

When a complaint is **made in good faith, whether it is** found to be substantiated **or not**, the department Commissioner or the Director, Employee Relations, or their designate, will follow up to ensure that there has been no further harassment, **reprisal** or retaliation.

## 5.10 Record Keeping

All copies of all documentation related to a formal harassment complaint or investigation will be transferred to Human Resources and Citizen Service and stored in a central file under appropriate security.

No documentation will appear on an employee's file unless there is a finding of unlawful discrimination or workplace harassment or that the complaint was made in bad faith, in reprisal, frivolously or with malicious intent. Where there is a finding of unlawful discrimination or workplace harassment, pertinent information will be recorded on the Respondent's file only. Where there is a finding that a complaint was made in bad faith, or in reprisal, or frivolously or with malicious intent, pertinent information will be recorded on the Complainant's file only. All other documentation pertaining to the complaint will remain in the central investigation file.

## 6.0 OTHER

If the provisions of this program differ from the terms and conditions of the applicable collective agreement, the collective agreement will apply.

### SEE ALSO:

- Applicable Collective Agreement
- [Workplace Harassment Prevention Policy \(I-13\)](#)
- [Interpersonal Conduct Policy \(I-14\)](#)
- [Workplace Violence Prevention Policy \(IV-15\)](#)
- [Workplace Violence Prevention Program](#)
- [Disciplinary Action Policy \(I-28\)](#)
- [External Complaints Policy \(I-19\)](#)
- [Performance Management Policy \(II-2\)](#)
- [Complaint Intake Form](#)

### FOR FURTHER INFORMATION, PLEASE CONTACT:

- **Director, Employee Relations  
Human Resources and Citizen Service**