



THE CORPORATION OF THE TOWN OF HEARST

POLICY ON HARASSMENT/ DISCRIMINATION IN THE WORKPLACE

(By-law No. 32-11 (as amended by By-law 72-15))

In this policy, the masculine gender is used as generic, solely to avoid encumbering the text.

1. PREAMBLE

The Town of Hearst recognizes the right of all employees and Council members to work in an environment free of discrimination and harassment, where the dignity and rights of everyone are respected. The Town of Hearst is committed to provide such environment for its employees and members of Council.

2. OBJECTIVES

The purpose of this policy is:

- 2.1 to recognize everyone's right to work in a healthy environment, free from any form of discrimination or harassment;
- 2.2 to declare that the Town of Hearst will not tolerate any form of discrimination or harassment in the workplace from whatever sources, including customers, visitors, employers, supervisors, workers, board and committee members, service providers and spouses;
- 2.3 to establish the principles and mandatory requirements for maintaining a work environment free of discrimination and harassment;
- 2.4 to inform all employees, officers and management so that they are aware that discrimination and harassment are against the law;
- 2.5 to establish a process to receive complaints and provide a mechanism to address these complaints effectively.

3. DEFINITIONS

3.1 Workplace:

Any place where business or work-related activities are conducted. It includes, but is not limited to:

- ✓ the physical work premises (offices or facilities),
- ✓ work-related social functions,
- ✓ work assignments outside Corporation offices or facilities,
- ✓ work-related travel,
- ✓ work-related conferences and training sessions.

3.2 Protected Grounds:

Refers to those grounds set out in the Ontario Human Rights Code and includes race, ancestry, place of origin, colour, ethnic origin, citizenship, creed (religion), sex (including pregnancy and gender identity), sexual orientation, age, record of offences, marital status, same-sex partnership status, family status, disability, or receipt of public assistance.

3.3 Discrimination:

Differential treatment of an employee based on a protected ground.

3.4 Harassment:

Offensive comments or conducts that are known, or ought reasonably to be known to be unwelcome.

3.4.1 Psychological harassment:

Behavior detrimental to the dignity, reputation and the physical or psychological integrity of a person. Includes but not limited to:

- ✓ *verbal harassment based on any of the protected grounds,*
- ✓ *stereotypes,*
- ✓ *insults,*
- ✓ *verbal or written threats,*
- ✓ *shouts,*
- ✓ *screams,*
- ✓ *blackmail,*
- ✓ *harmful looks and actions,*
- ✓ *coarse, degrading, suggestive, humiliating and intrusive remarks*
- ✓ *offending songs*
- ✓ *jokes or innuendo,*
- ✓ *unwelcome touching,*
- ✓ *written or graphic materials of bad taste (graffiti, notes, letters or junk mail, etc.)*
- ✓ *avoidance or exclusion of any group or individual.*

3.4.2 Sexual harassment:

Any conduct, comment, or physical contact of a sexual nature that is unwelcome by the recipient. It includes, but is not limited to,

- ✓ *unwelcome sexual advances (oral, written or physical)*
- ✓ *requests for sexual favors,*
- ✓ *jokes of a sexual and gender-based nature,*
- ✓ *display of magazines, books, pornographic graphism,*
- ✓ *racial and/or sexist slurs,*
- ✓ *leering,*
- ✓ *obscene gestures.*

Harassment does not include:

- ✓ *normal management activities such as counselling, performance appraisals and disciplinary measures,*
- ✓ *stressful situations arising from legitimate work tasks,*
- ✓ *normal social behaviors, from simple companionship or tasteful banter that are well received,*
- ✓ *relationships, words, comments or conduct which do not imply any intimidation or humiliation,*
- ✓ *interpersonal conflicts.*

3.5 Workplace physical abuse:

Actions or words made or uttered that undermine the integrity or physical or mental safety of an individual or group of individuals. Includes but is not limited to,

- ✓ *threats of physical harm to an individual, his family or his relatives;*
- ✓ *threats to damage property of an individual, his job, his reputation, etc .;*
- ✓ *physical assaults, even minor, such as pushing, shoving, hitting;*
- ✓ *harm to property of an individual or group of individuals.*

3.6 Power abuse

Use his position to abuse an employee or impede the exercise of his functions irrationally. It includes, but is not limited to,

- ✓ *humiliation,*
- ✓ *intimidation,*
- ✓ *threats,*
- ✓ *blackmail,*
- ✓ *coercion (force action).*

Note: Normal management activities including counselling, performance appraisals and disciplinary measures are not based on abuse of power.

3.7 Poisoned work environment:

- *characterized by an activity or behavior that may not be directed against anyone in particular but creates a hostile or offensive work environment.*
- *can be created by the comments or negative actions of all people regardless of their position of authority or status, including a colleague, supervisor or department head.*

4. SCOPE

This policy applies to the following:

- ✓ unionized and non-unionized employees;
- ✓ members of the Council of the Corporation;
- ✓ volunteers;
- ✓ members of committees and commissions under the authority of the Town ;
- ✓ visitors;
- ✓ customers;
- ✓ suppliers.

All of these people share the responsibility to ensure that the work environment is free from harassment and discrimination.

Council members, department heads, supervisors and workers must respect this policy and will be held accountable.

5. RESPONSIBILITIES

5.1 Municipal Council

- ✓ establish measures to prevent discrimination and harassment;
- ✓ approve a list of investigators.

5.2 Heads of departments, supervisors, health and safety officer and managers

- ✓ actively promote a positive work environment free of harassment;
- ✓ intervene if problems arise or if an employee asks their involvement;
- ✓ refuse to tolerate harassment;
- ✓ ensure that employees are aware of their rights and responsibilities under the policy;
- ✓ ensure that employees are aware of this policy and mechanisms which are in place to investigate and resolve harassment complaints,
- ✓ if necessary, advise the complainant to guide his approach to find a solution;
- ✓ explain this policy;
- ✓ help the complainant to complete the form, if this option is chosen, and monitor.

5.3 Employees

- ✓ behave in a professional and respectful manner;
- ✓ report all cases of discrimination or harassment to supervisor, health and safety officer or line supervisor.

5.4 Complainants, defendants and witnesses

- ✓ provide the information as required by the steps of the complaint process;
- ✓ respect the confidentiality of the process.

5.5 Investigators

- ✓ investigate all allegations of discrimination and harassment;
- ✓ notify both parties of their rights and responsibilities;
- ✓ meet with the parties and witnesses separately;
- ✓ obtain the parties and witnesses' written statements containing the facts;
- ✓ remain objective and independent;
- ✓ base recommendations based on facts;
- ✓ prepare a report;
- ✓ make recommendations.

6. PROCEDURES

6.1 Rights and Responsibilities of the complainant, the defendant(s) and witnesses

- ✓ An employee has the right to file a complaint and obtain a review of the complaint without fear of reprisal.
- ✓ The complainant retains the right, if desired, to drop the allegations of harassment made in good faith, without resolution, provided that the decision is taken without coercion and that the complainant understands that in case of reasonable suspicion or formal evidence of harassment, the head of department, supervisor and/or manager must complete the investigation and remedy the situation.
- ✓ Employees are encouraged to take strong action if they feel that they, or another colleague, have been subjected to any form of discrimination or harassment. They will let know their feelings of discrimination or harassment immediately to the respondent advising that the behavior is unwelcome, is offensive and must stop immediately.
- ✓ Employees must maintain a register of times, dates, witnesses and the nature of the behavior as a useful reference for the future and cooperate fully with all stages of the mediation or investigation process.
- ✓ Employees against whom a complaint has been filed are entitled to be informed as soon as possible that a complaint has been filed and they must receive a statement of charges and receive the opportunity to respond.
- ✓ Employees, as witnesses, must meet and cooperate with those responsible for the investigation of the complaint.
- ✓ No employee shall be subject to retaliation because of his/her participation as a witness.
- ✓ Employees are required to maintain the confidentiality of any investigation.

6.2 Informal complaint

6.2.1 Objective

Find a just and respectful solution to any situation without resorting to

the complaint process.

6.2.2 Procedures

- ✓ The person who feels offended must notify the referred person immediately and keep a written record of the date, time, details of the offensive behavior and the names of witnesses, if any.
- ✓ If the situation is not resolved or if the offended person does not want to speak directly to the person, she will meet with her immediate supervisor, health and safety officer or a line supervisor to find a solution. The appended 'Harassment/Discrimination Complaint Form' will be completed.
- ✓ The immediate supervisor, health and safety officer or line supervisor will attempt within three (3) business days to resolve the situation
 - o seeking assistance from colleagues and supervisor to meet with the alleged harasser;
 - o questioning the witnesses, if any;
 - o undertaking a mediatory approach to the situation with the alleged harasser while informing him that a complaint has been received for some of his behavior and asking him to stop this behavior.

The documentation associated with informal complaints and their resolution will be forwarded to the health and safety officer and the direct or line supervisor.

6.3 Formal complaint

If attempts to resolve the problem informally are not appropriate or are ineffective, a formal complaint can be filed. The following procedure applies in the case of a formal complaint:

6.3.1 Filing of a complaint

- ✓ The complainant files the complaint form (attached) with his direct supervisor, health and safety officer or his immediate supervisor.
- ✓ The complaint must contain, if possible, all the items listed on the complaint form
- ✓ The complaint must be filed within one year after the alleged incident, unless there are extenuating circumstances.

6.3.2 Reception and evaluation of the complaint

- ✓ The person receiving the complaint form assesses the complaint to ensure that it contains all the relevant information and acknowledges receipt immediately.
- ✓ If the criteria are met, the investigation process is started.
- ✓ If the criteria are not met, the complainant shall be notified in writing.
- ✓ A confidential file is opened and kept separately from personnel files. This file will be kept for a period of five (5) years and destroyed appropriately.

6.3.3 Investigation

- ✓ The investigation process includes:
 - appointing impartial investigators,
 - giving a copy of the complaint and the harassment policy to the complainant and the person accused,
 - conduct an interview with the complainant, the accused party and cited witnesses.
- ✓ The investigation should be completed within thirty (30) days after the filing of the complaint. If a delay is necessary, the complainant and the person in question must provide their written approval.
- ✓ If it is determined that it is in the best interest of the parties concerned to withdraw the complainant or the person accused from the immediate workplace, the employer must move the employee to another location and/or work position or send the employee home with pay pending the outcome of the investigation.

6.3.4 Decision

- ✓ The investigator prepares a report with his recommendations and sends it to the Chief Administrative Officer or the Mayor within ten (10) business days following the end of the investigation.
- ✓ Municipal Council may request further information or professional advice before making a decision.
- ✓ Council accepts or rejects the recommendation.
 - If the recommendation is accepted, corrective or disciplinary action is taken.
 - If the recommendation is rejected, the complainant and the person accused will be informed and receive the necessary information for an appeal.

6.3.5 Appeal of the decision

- ✓ The parties may file a written request for review to the supervisor within ten (10) business days following the notice of decision.
- ✓ The application must be justified on substantial grounds, for example by presenting new facts.
- ✓ The supervisor must consider the request and prepare a new recommendation to Council.
- ✓ A decision must be made within thirty (30) days.

6.4 Malicious complaint

A complaint filed in bad faith or with malicious intent will be formally processed and may be subject to disciplinary action.

6.5 Representation

The parties may request the representation of a contact person, a colleague, a lawyer or a union representative, at their own expense, if necessary.

6.6 Burden of proof

The complainant must prove that his allegations are well-founded and evidence must be sufficient to support the allegations in the complaint.

6.7 Disciplinary or corrective measures

Council can impose sanctions based on the decisions following an investigation. Disciplinary or corrective measures may include, without limitation:

- if the victim wishes, an official apology;
- issuing a formal warning or formal reprimand;
- the requirement to attend counseling sessions and/or training;
- suspension of a number of working days without pay;
- suspension of participation in social activities;
- demotion;
- dismissal;
- in the case of a services and products provider, the termination of the service agreement;
- in the case of a client or volunteer, restrictions on entering municipal premises.

7. CONFIDENTIALITY AND RECORD KEEPING

7.1 Municipal Freedom of Information and Protection of Privacy Act

- ✓ Any documentation collected through procedures established by this policy must be consistent with the Act
- ✓ The following paragraph will be part of the forms used to collect information and will be brought to the attention of the complainant, the person accused and witnesses:
"Information received from a complainant, a person accused or a witness, related to an allegation of harassment or discrimination, including any observation, experience or participation, is collected by the Town of Hearst for the purpose of conducting an investigation into the merits of a complaint and to take the necessary steps to ensure that the workplace is safe from harassment or discrimination. The information collected can be used in subsequent proceedings arising from incidents that led to the complaint. The collection of such information is authorized by the Municipal Freedom of Information and Protection of Privacy Act. "

7.2 Confidentiality

The Town of Hearst is committed to ensuring that all information gathered as part of an investigation remains confidential. The Town shall however disclose information,

- when required by law;
- when deemed necessary to protect other people against harassment and discrimination.

7.3 Record Keeping

7.3.1 Records from staff and Council

- sealed and stored in personal folders for a period of five (5) years and then properly destroyed.

7.3.2 Records from suppliers

- kept by the Treasurer of the Town of Hearst for a period of five (5) years and then properly destroyed

7.3.3 Records from volunteers, visitors and customers

- kept by the Chief Administrative Officer of the Town of Hearst for a period of five (5) years and then properly destroyed

7.3.4 Records of a complaint which was rejected

- destroyed immediately after the decision was rendered

8. OTHER OPTIONS

8.1 Complaints to the Human Rights Commission

At any point in the procedure of the complaint, the complainant has the right to file a complaint with the Ontario Human Rights Commission

8.2 Complaints under the Criminal Code

Sexual assaults and other forms of assault are covered under the Criminal Code. In these cases, the police will be asked to investigate.

8.3 Grievance Procedure:

If necessary, the complainant has the right to file a grievance with the union at any time during the complaint process.

9. NO RETALIATION

All employees involved in cases of harassment and discrimination are protected against all forms of reprisal. Retaliation may include, without limitation:

- ✓ refusal of a position or threat of denial of a position (eg promotion, training);
- ✓ discipline or threatened disciplinary measures, including dismissal;
- ✓ ostracism (be ignored by others);
- ✓ intimidation.

Any form of retaliation will be subject to disciplinary action.

HARASSMENT/DISCRIMINATION COMPLAINT FORM

I, _____, an employee of the Corporation of the Town of Hearst
(Name of Complainant)

believe I have reasonable grounds to file a complaint under the Corporation of the Town of Hearst's Policy on Harassment/Discrimination in the Workplace.

This complaint is an:

Informal Complaint

Formal Complaint

I request that the matter be investigated in accordance with the Corporation of the Town of Hearst's Policy on Harassment/Discrimination in the Workplace.

Please provide the following details and attach additional information if need be:

1. Source of harassment or violence (name of alleged offender),

2. Link between the complainant and the alleged offender (supervisor, colleague, etc.)

3. Frequency and dates of the incident(s)

4. Where did the incident(s) happen?

5. Circumstances that could have led to the incident(s)

6. Details of the offensive behaviour (the way that harassment or violence occurred)

7. Name of witnesses, link with the situation, time(s), date(s), locations.

8. Steps taken to date by the complainant

9. Impact on the complainant (illness, depression, discomfort)

(Signature of Complainant)

(Date and time of filing of the complaint)

"Information received from a complainant, a person accused or a witness, related to an allegation of harassment or discrimination, including any observation, experience or participation, is collected by the Town of Hearst for the purpose of conducting an investigation into the merits of a complaint and to take the necessary steps to ensure the workplace is free from harassment or discrimination. The information collected can be used in subsequent proceedings arising from incidents that led to the complaint. The collection of such information is authorized by the Municipal Freedom of Information and Protection of Privacy Act. "