



# **North Algona Wilberforce Township** **Workplace Harassment Prevention Policy**

## **PURPOSE**

North Algona Wilberforce Township (NAW) is committed to providing a work environment in which all individuals are treated with respect and dignity. Workplace harassment will not be tolerated from any person in the workplace

## **APPLICATION AND SCOPE**

This policy applies to all employees, elected officials, appointed officials and other persons representing NAW in an official capacity. This policy also applies to all municipal workplaces. By definition, this is any location where Township personnel are carrying out their assigned duties, during working or related travel times, while operating Township vehicles or equipment or while wearing Township uniforms or equipment. This policy also applies to Township social or other work related events

## **POLICY STATEMENT**

Any act of harassment committed by or against any member of our workplace or a member of the public is unacceptable conduct that will not be tolerated.

Harassment means engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome. Harassment may also relate to a form of discrimination as set out in the Ontario Human Rights Code.

## **PRINCIPLES**

- ⇒ NAW will address and investigate all concerns, complaints, or incidents of workplace harassment in a fair and timely manner. Results of such investigation will be shared with the complainant and the respondent, having due regard for confidentiality of third party information.
- ⇒ Workers are encouraged to report any incidents of workplace to their supervisor for appropriate action.
- ⇒ Workers are entitled to a workplace free from harassment.
- ⇒ Nothing in this policy prevents or discourages a worker from filing an application with the Human Rights Tribunal on a matter related to Ontario's Human Rights Code or any other recourse that may be available under any other legislation.
- ⇒ This policy will be reviewed on an annual basis

## POLICY VIOLATIONS

Policy violations include, but are not limited to, engaging in the following behaviours and practices:

- ⇒ Inappropriate behaviours , conduct, comments or activities, based on race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, record of offences, marital status, same sex partnership status, family status or disability whether or not directed at a specific individual
- ⇒ Displaying of material that is sexually explicit or degrading, racist, ethnic or religious in a degrading or derogatory manner
- ⇒ Use of patronizing behaviour or language which reinforces stereotypes and undermines self-respect or adversely affects work performance or work conditions
- ⇒ Retribution or retaliation towards persons exercising their rights under this policy

## INVESTIGATIONS AND CORRECTIVE ACTION

All reported incidents, threats, or complaints of workplace harassment must be taken seriously and investigated. Action must be taken to prevent occurrence or recurrence as soon as possible

Each situation must be investigated on a case-by-case basis. The investigation will be documented and may involve interviewing the complainant(s), the alleged perpetrator(s), and witness(es). In most situations, the immediate manager/supervisor will be conducting the initial investigation. In some situations, a department head from another work unit and/or external professionals should conduct the investigation. Full and complete cooperation in the investigation of incidents of workplace harassment is required from all workers.

An immediate review of the facts surrounding the incident should be completed and findings reported to the Department Head for referral to Township Council.

Based on the investigation of the incident, appropriate action must be taken to prevent workplace harassment from occurring or recurring. Should the complaint be found to be credible, there are several options available for corrective action.

With the agreement of all parties to the incident, an apology, further training or confidential mediation may be adequate to prevent further incidents and restore workplace relationships.

For more serious incidents, or where the parties cannot agree to joint resolution, direct management action, in the form of disciplinary action may be necessary.

Employees found to have violated this policy will be held accountable and may be subject to disciplinary action up to and including dismissal from employment.

The investigation may result in the matter being addressed as a policy violation and/or under legislation such as the Criminal Code of Canada or Ontario Human Rights Code.. Staff found to have violated the WHP Policy will be subject to discipline up to and including dismissal from employment. If, at any point, the investigation finds evidence of a physical assault or serious threats of harm, the police shall be informed and requested to investigate possible Criminal charges.



*WORKPLACE HARASSMENT  
PREVENTION PROGRAM*

Issued: June 14, 2010  
First Revision: April 26, 2011

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## INTRODUCTION

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In December 2009, Ontario passed Bill 168, *An Act to amend the Occupational Health and Safety Act with respect to violence and harassment in the workplace and other matters*. This legislation amends the *Occupational Health and Safety Act (OHSA)* by creating new obligations for employers and conferring new rights on workers with respect to workplace violence and harassment prevention.

The provisions of this legislation that pertain to workplace harassment are reflected in the Workplace Harassment Prevention Policy. The policy addresses the prevention, control, reporting, and investigation of workplace harassment and forms the basis of the new Workplace Harassment Prevention (WHP) Program.

This Program provides direction and assistance to North Algona Wilberforce (NAW) managers/supervisors and workers in implementing the workplace WHP Program.

The employer, for the purposes of the *OHSA*, is deemed to be NORTH ALGONA WILBERFORCE TOWNSHIP.

### **Objectives**

The purpose of the Workplace Harassment Prevention Program is to:

1. Provide managers/supervisors and workers with an overview of the new workplace harassment provisions of the *OHSA*.
2. Assist managers/supervisors and workers to fulfil their statutory obligations under the *OHSA*.
3. Provide information, guidance and tools to support managers/supervisors and workers in the implementation and maintenance of the WHP Policy in their workplace.

It should be noted that, while the amended *OHSA* also addresses workplace violence, this Program pertains only to harassment in the workplace.

### **Legislation**

The Ontario Human Rights Code and the *OHSA* are two pieces of legislation that address Workplace Harassment in Ontario.

## **Occupational Health and Safety Act**

The *OHSA* is the overarching piece of legislation that governs health and safety in most Ontario workplaces. Under s. 25(2)(h) of the *OHSA*, all employers have a general duty to take every precaution reasonable in the circumstances to protect the health and safety of their workers. As a result of Bill 168 amendments, the *OHSA* now specifically outlines workplace harassment as a health and safety hazard in the workplace.

### **DEFINITION OF WORKPLACE HARASSMENT**

“Harassment” is defined by the *Ontario Health & Safety Act* as engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome.

Harassment may also include such inappropriate behaviours, conduct, comments or activities, based on race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, record of offences, marital status, same sex partnership status, family status or disability which are not directed at a specific individual, but nonetheless generate a degrading or offensive work environment for others. Some examples include: displaying of material that is sexually explicit or degrading, racist, ethnic or religious in a degrading or derogatory manner; use of patronizing behaviour or language which reinforces stereotypes and undermines self-respect or adversely affects work performance or work conditions.

Harassment does not include appropriate direction, evaluation, or discipline by a manager or supervisor related to the performance of job duties.

## **Definitions**

**Employer:** A person who employs one or more workers. This includes someone who contracts for a worker's services. For example, if you pay a temporary help agency for the services of workers supplied by the agency, you are the employer of those workers while they are under your direction. A contractor or subcontractor who performs work or supplies services for an owner, constructor, contractor or subcontractor is also an employer if he or she in turn employs workers.

**Manager/Supervisor:** A person who has charge of a workplace or authority over any worker.

**Worker:** Defined under *OHSA* as a person who performs work or supplies services for monetary compensation

**Workplace:** Defined under the *OHSA* as any land, premises, location or thing at, upon, in or near which a worker works. Workplaces are more than just office buildings. For example, if an employee attends a TWP-sponsored event (i.e. retirement party) or conference which occurs outside the normal work location and/or core business hours, the event or conference location may be considered a workplace. Consistent with this definition, a vehicle is considered to be a workplace if an employee drives the vehicle in the course of performing the job. Further, when an employee is providing service in a client's home or business, that location is also considered to be the employee's workplace.

**THE TOWNSHIP HAS DEVELOPED A FOUR STEP PROGRAM TO ASSIST MANAGERS / SUPERVISORS IN FULFILLING THE REQUIREMENTS OF THE POLICY.**

- 1. WORKPLACE HARASSMENT PREVENTION POLICY REQUIREMENTS**
- 2. INFORMATION AND INSTRUCTION**
- 3. RESPOND TO, REPORT AND INVESTIGATE WORKPLACE HARASSMENT**
- 4. PROGRAM EVALUATION**

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**1. WORKPLACE HARASSMENT POLICY REQUIREMENTS**

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The WHP Policy applies to all employees, elected officials, appointed officials and other persons acting on behalf of, or representing NAW in any capacity.

NAW policy is to take every precaution reasonable in the circumstances for the protection of workers. To protect its workers NAW has developed and will maintain and implement a workplace harassment prevention program that includes the following components:

- providing workers and other officials with information and instruction on the workplace harassment prevention policy and program, and
- responding effectively to incidents and complaints of workplace harassment.

**Procedures for Clerk-Treasurer**

The Clerk-Treasurer will:

1. Ensure that the Program is implemented across the Organization.
2. Ensure that the WHP Policy is posted in a conspicuous place in township fixed workplaces.
3. Ensure that all workers receive and review the mandatory information and instruction

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## 2. INFORMATION AND INSTRUCTION

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Information and instruction are essential to preventing workplace harassment and protecting workers. The legislation requires the employer to provide a worker with “information and instruction that is appropriate for the worker on the contents of the policy and program with respect to workplace harassment

All workers (current, new and those returning from an extended absence) are required to complete this training. It is the responsibility of each Department Head to manage this requirement for their workers.

In addition to the general information and instruction provided to workers, the Department Head is to ensure workplace-specific information is provided to every worker:

- Local measures and procedures that are in place to address workplace harassment (i.e. local standing orders, posted information etc.)
- Details for reporting local incidents of workplace harassment to the manager/supervisor for his/her investigation.
- Details for reporting local incidents of workplace harassment to an alternate official for his/her investigation in the event that the workers direct supervisor is the subject of the allegation.

### **Procedures**

1. General Information and Instruction: As a best practice, Department Head will communicate via the following:
  - workplace email
  - staff meetings and pre/post shift briefings
  - posting the information in conspicuous common areas, such as the staff room
  - Basic, periodic or refresher educational sessions.

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### 3. RESPOND TO, REPORT AND INVESTIGATE WORKPLACE HARASSMENT

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#### ***Responding to Workplace Harassment***

All reported incidents, threats, or complaints of workplace harassment must be immediately addressed to resolve or mitigate the situation as soon as possible and with minimal disruption to the work environment.

***If a worker feels they are in immediate danger of workplace violence due to an incident of workplace harassment they should call for assistance of Co-workers, a supervisor and/or police without delay.***

#### ***Reporting Workplace Harassment***

The written report of workplace harassment should include:

- Information about the victim;
- Information about the alleged offender;
- A description of the interaction or work activity;
- Details about the incident;
- Names of any witnesses;
- Other relevant information (i.e. contributing factors, suggested preventative actions).

#### ***Victim and Employee Assistance***

When workplace harassment is identified it is vital that the incident be addressed promptly to prevent undue emotional hardship to the recipient and to other workers in the workplace. Should a worker(s) identify a need for emotional support the worker(s) should be encouraged to contact family, friends, or the Employee Assistance Program (EAP) for further support.

Victims and affected workers may need:

- Practical assistance from the employer;
- A personal or group meeting to “defuse” immediate reactions;
- A personal or group meeting to debrief participants about their reactions to the event;
- Access to personal counseling

Counseling and support can be obtained through the EAP provider. The Clerk-Treasurer can provide advice and assistance in obtaining these services.

## ***Investigating Workplace Harassment***

All reported incidents, threats, or complaints of workplace harassment must be taken seriously and must be investigated. Action must be taken to prevent occurrence or recurrence as soon as possible. Dealing with harassing behaviours along including prompt, impartial investigations are important in preventing further workplace harassment or escalation from harassment to violence.

Each situation must be investigated on a case-by-case basis. The investigation will be documented and may involve interviewing the complainant(s), the alleged perpetrator(s), and witness(es). In most situations, the immediate manager/supervisor will be conducting the initial investigation. In some situations, a department head from another work unit and/or external professionals should conduct the investigation. Full and complete cooperation in the investigation of incidents of workplace harassment is required from all workers.

An immediate review of the facts surrounding the workplace harassment incident should be completed and findings reported to the Department Head for referral to Township Council.

Based on the investigation of the incident, appropriate action must be taken to prevent workplace harassment from occurring or recurring. This may include a review of workplace procedures, training requirements or direct management action including appropriate discipline.

Should the complaint be found to be credible, there are several options available for corrective action

With the agreement of all parties to the incident, an apology, further training or confidential mediation may be adequate to prevent further incidents and restore workplace relationships.

For more serious incidents, or where the parties cannot agree to joint resolution, direct management action, in the form of disciplinary action may be necessary.

Employees found to have violated this policy will be held accountable and may be subject to disciplinary action up to and including dismissal from employment.

The investigation may result in the matter being addressed as a policy violation and/or under legislation such as the Ontario Human Rights Code or the *Criminal Code of Canada*. Staff found to have violated the WHP Policy will be subject to discipline up to and including dismissal from employment. If, at any point, the investigation finds evidence of a physical assault or serious threats of harm, the police shall be informed and requested to investigate possible Criminal charges.

## **Confidentiality and Privacy**

Every effort must be made to maintain the confidentiality of any personal information obtained during the investigation process. However, such information will be subject to the *Freedom of Information and Protection of Privacy Act* and any other legal requirements including the obligations to provide information under the *OHSA*.

Where maintaining confidentiality puts the victim or other workers at risk of physical harm, the manager/supervisor must disclose the minimum amount of information necessary to those individuals to protect their safety or to enforce a legal order. Information obtained when an incident is reported may be released in order to conduct an appropriate investigation. This may involve disclosing pertinent information to law enforcement or medical personnel as necessary, human resources and management/supervisory personnel. When in doubt about what should and should not be released, the Clerk-Treasurer should contact the Township Solicitor for advice.

Reports or complaints of workplace harassment must not be referenced in a worker's human resource file unless disciplinary action was taken against the worker.

## **Procedures for Investigating Workplace Harassment**

1. Every alleged act of workplace harassment must be reported to the manager/supervisor.
2. Managers/supervisors dealing with alleged acts of workplace harassment will ensure that:
  - The parties are separated pending an initial investigation; ;
  - the alleged victim is offered referral to assistance through the EAP (only applicable to Township workers);
  - an immediate review is conducted, including interviews with the complainant, the respondent and any witnesses, documenting the facts surrounding the incident, and reporting the findings to the Clerk-Treasurer. One of three findings is possible
    - Evidence supports a violation of the WHP Policy
    - Evidence is insufficient to support a violation of the WHP Policy
    - Further investigation is required.
  - the Head of Council will be notified of all incidents of Workplace Harassment;
  - the worker complainant(s) and respondent(s) will be kept informed of all proceedings;
  - within fourteen (14) days the incident is reviewed jointly by the Head of Council, Department Head and Clerk-treasurer to determine whether further administrative action should be initiated (i.e legal advice, discipline etc).
  - The incident will be reported to Council, during an IN CAMERA session, at either the next scheduled meeting of Council or at a special meeting as determined by the Head of Council.

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## 4. PROGRAM EVALUATION

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Program evaluation is a good practice to ensure that the workplace harassment prevention program stays current and continues to be effective as workplace circumstances change. Program evaluation should occur on a regular basis, based on the needs of the workplace.

The program evaluation may include:

- Review of workplace harassment incidents or complaints and the control measures taken.
- Ensuring all workplace parties have received information and instruction on the WHP Policy and associated programs.

### **Procedures**

1. The Clerk-Treasurer will ensure that annual reviews of the program are completed.
2. The Clerk-Treasurer will ensure that all department heads provide initial and ongoing WHP training to all Township staff.
3. The Clerk-Treasurer will ensure any new control measures are implemented as required.