

Village of Tompkins Policy

<i>POLICY TITLE:</i> HARASSMENT	<i>POLICY NUMBER:</i> 01/2018	<i>EFFECTIVE DATE:</i> November 18, 2018
<i>ORIGIN:</i> Administration	<i>ADOPTED BY COUNCIL ON:</i> November 18, 2018	<i>AMENDED DATE:</i>

Statement of Commitment

Every worker is entitled to employment free of harassment. *The Village of Tompkins* is committed to ensuring a productive work environment where the dignity and worth of every person is respected. Workplace harassment will not be tolerated and *The Village of Tompkins* will take all reasonable steps to prevent harassment and stop it if it occurs.

Definition of Harassment

This harassment policy covers the following:

Harassment Based on Prohibited Grounds

This includes any inappropriate conduct, comment, display, action or gesture by a person that:

- is made on the basis of race, creed, religion, colour, sex, sexual orientation, marital status, family status, disability, physical size or weight, age, nationality, ancestry or place of origin; and,
- constitutes a threat to the health or safety of the worker.

This type of harassment is prohibited in *The Saskatchewan Employment Act*, *Occupational Health and Safety Regulations*, and *The Saskatchewan Human Rights Code*. It also extends to sexual harassment, which is conduct, comment, gesture or contact of a sexual nature that is offensive, unsolicited or unwelcome.

Sexual harassment may include:

- A direct or implied threat of reprisal for refusing to comply with a sexually orientated request
- Unwelcome remarks, jokes, innuendoes, propositions or taunting about a person's body, attire,
- sex or sexual orientation
- Displaying pornographic or sexually explicit pictures or materials
- Unwelcome physical contact
- Unwelcome invitations or requests, direct or indirect, to engage in behaviour of a sexual nature

- Refusing to work with or have contact with workers because of their sex, gender or sexual orientation

Personal Harassment

This includes any inappropriate conduct, comment, display, action or gesture by a person that:

- adversely affects a worker's psychological or physical well-being; and,
- the perpetrator knows or ought to reasonably know would cause the worker to be humiliated or intimidated.

Personal harassment must involve repeated conduct or a single, serious incident that causes a lasting harmful effect on the worker. All incidents of inappropriate conduct should be appropriately addressed to ensure that the workplace remains respectful and free of harassment.

Personal harassment may include:

- Verbal or written abuse or threats
- Insulting, derogatory or degrading comments, jokes or gestures
- Personal ridicule or malicious gossip
- Unjustifiable interference with another's work or work sabotage
- Refusing to work or co-operate with others
- Interference with or vandalizing personal property

What is Not Harassment

This harassment policy does not extend or apply to day-to-day management or supervisory decisions involving work assignments, job assessment and evaluation, workplace inspections, implementation of appropriate dress codes and disciplinary action. These actions are not harassment, even if they sometimes involve unpleasant consequences.

Note that managerial actions must be carried out in a manner that is reasonable and not abusive.

The policy also does not extend to harassment that arises out of matters or circumstances unrelated to the worker's employment. For example, harassment that occurs during a social gathering of co-workers that is not sponsored by the employer is not covered. However, harassment that occurs while attending a conference or training session at the request of the employer is covered within this policy.

Other situations that do not constitute harassment include:

- Physical contact necessary for the performance of the work using accepted industry standards
- Conduct which all parties agree is inoffensive or welcome
- Conflict or disagreements in the workplace, where the conflict or disagreement is not based on one of the prohibited grounds

Harassment can exist even where there is no intention to harass or offend another. Every person must take care to ensure his or her conduct is not offensive to another.

Employer's Commitment

The Village of Tompkins and its council will take all complaints of harassment seriously. We are committed to implementing this policy and to ensuring it is effective in preventing and stopping harassment, as well as creating a productive and respectful workplace.

This commitment includes the following:

Informing All Persons in the Workplace of their Rights and Obligations

- A copy of the harassment policy will be provided to all workers
- A copy of the harassment policy will be posted on the company bulletin board
- The company's policy statement on harassment will be posted in each work area in a location that is visible to all staff and the public

Training All Persons in Implementing the Harassment Policy

- An information meeting will be held with all staff to explain and answer questions about the new policy
- The administrator will review the policy with new workers as part of their orientation
- Persons designated to receive, investigate or resolve complaints will be trained in their roles and responsibilities under the policy
- All *Village of Tompkins* managers, and council will be asked to set a good example and help foster a respectful workplace
- A list of persons designated to receive complaints shall be posted on the company bulletin board

Assigning Responsibility for Implementing this Policy

- The Village of Tompkins will designate three people who may receive harassment complaints and assist in facilitating their resolution
- The Village of Tompkins shall designate *three* people who will investigate harassment complaints
- The Village of Tompkins will designate all councilors authorized to take corrective action in accordance with this policy

Protecting Workers Trying to Prevent or Stop Harassment

- Harassment complaints and investigations will be held in the strictest of confidence except where disclosure is necessary for the purposes of investigating the complaint, taking corrective action with respect to the complaint or as required by law
- Action will be taken to prevent reprisal against persons who make a harassment complaint in good faith, which may mean informing complainants and alleged harassers of this commitment

Promptly Taking Action Necessary to Stop and Prevent Harassment

- Appropriate action, sufficient to ensure the harassment stops and does not happen again, will be taken against persons who are or were engaged or participated in harassment
- When necessary, customers, contractors or other visitors to the workplace will be informed that certain conduct directed toward staff will not be tolerated or allowed to continue

Ensuring the Policy Remains Current

- The effectiveness of the policy will be reviewed in consultation with the OH&S Committee worker representative or shop steward every *five* years.

Employee's Duty

In accordance with section 3-10(b) of The Saskatchewan Employment Act, all workers, including managers and supervisors employed by The Village of Tompkins shall refrain from causing or participating in the harassment of another worker, and co-operate with any person investigating harassment complaints.

Complaint Procedure

This policy sets out three types of complaint procedures that may be used following instances of harassment.

No Alleged Harasser Named and Informal Resolution Sought

Step 1

An individual reports an incident or concern to the supervisor or person designated to receive harassment complaints.

Step 2

The person receiving the complaint reviews the complaint procedures with the complainant and informs the unit manager of the complaint.

Step 3

The council takes action appropriate and necessary to address the complaint.

Such action may include:

- Having staff meetings to discuss and review the policy
- Providing workshops, videos or written information on the prevention of harassment

The administrator or council informs the complainant of the action that will be taken to address the complaint or concern.

Confidentiality

With this procedure, The Village of Tompkins, or anyone acting on behalf of the municipality, should not disclose the complainant's name or other identifying information to any person. However, in certain circumstances the complainant may agree to release identifying information in order to implement the harassment policy, the resolution process or the final resolution itself.

Alleged Harasser Named and Informal Resolution or Mediation Sought

Step 1

An individual reports an incident or concern to their supervisor or anyone designated to receive harassment complaints.

The complaint should be recorded in writing in a form consistent with the harassment complaint form attached to this policy.

Where an informal resolution is sought, the complainant should indicate the type of resolution and resolution process sought. Examples include an apology, supervisory counselling, a facilitated meeting with the alleged harasser, workshops or training sessions and mediation.

Step 2

The person receiving the complaint reviews the complaint procedures with the complainant and informs the council of the complaint. Where it is alleged that a councilor is involved in the harassment, the person receiving the complaint refers the matter to another manager. The person receiving the complaint will also meet privately with the alleged harasser to review the complaint and determine whether there is an agreement on a resolution or a resolution process.

Step 3

Where there is agreement the unit manager of the agreement and facilitates the agreed upon resolution or resolution process.

Step 4

The complainant is informed that a formal complaint procedure is possible if the complainant, the alleged harasser or the unit manager do not agree on a resolution process, or if the resolution process does not resolve the matter to the complainant's satisfaction.

Step 5

Where the complainant and alleged harasser agree to a resolution, the council follows up with the complainant to ensure the agreed resolution was effective in stopping and preventing further harassment.

Where the complainant indicates that the harassment has not ended, the council counsels the complainant to pursue an alternate resolution process, including a formal investigation.

Confidentiality

With this procedure, The Village of Tompkins, or anyone acting on behalf of the municipality, should not disclose either the complainant's or alleged harasser's name or other identifying information to any person. In certain circumstances the complainant and alleged harasser may agree to release identifying information in order to implement the harassment policy, the resolution process or the final resolution itself.

Alleged Harasser Named – Investigation Required

Step 1

An individual reports an incident or concern to their supervisor or anyone designated to receive harassment complaints. The complaint should be in writing, dated and contain the following information:

- Name and job title of the complainant and contact information
- Name and job title of the alleged harasser and available contact information
- Description of the conduct, display or events considered objectionable, including dates and location of events
- Names and available contact information of any possible witnesses
- Description of the basis of the alleged harassment, such as the prohibited grounds
- Remedy sought
- Other information or material the complainant considers relevant
- Signature of the complainant

Step 2

The person receiving the complaint reviews the complaint procedures with the complainant and provides a written copy of the complaint to the council. The person receiving the complaint also provides a copy of

the written complaint to the alleged harasser and reviews the complaint procedures with the alleged harasser.

Step 3

The council will review the complaint and determine whether conduct of the alleged harasser falls within the harassment policy and whether there are appropriate resolution options other than investigation acceptable to the complainant and the alleged harasser. This group will conduct the investigation where one is required.

Step 4

Where an investigation is required, the council appoints an investigator or investigation team. Investigators will be trained in conducting an investigation in accordance with this policy and will have no apparent bias or interest in the outcome of the investigation. Alternatively, the investigator will be chosen from a list of investigators approved by The Village of Tompkins, or the workplace representative.

Where the complainant or the alleged harasser objects to the appointment of an investigator, on the basis of bias or conflict of interest, the council will appoint another investigator.

Step 5

Investigators must act in accordance with the following guidelines:

- The investigation commences and concludes as soon as reasonably possible
- Witnesses are interviewed separately and written witness statements are prepared
- Witnesses are asked to review and sign their written statements
- Witnesses are advised to keep the investigation and the identity of the complainant and alleged harasser in confidence, unless they are required to disclose them by law
- The complainant and alleged harasser are entitled to be accompanied by legal or union counsel during the interview and investigation process
- During the investigation process, both the complainant and the alleged harasser are entitled to be informed of all the allegations made against them and allowed the opportunity to make full answer and defense

This does not mean that either party is entitled to see or receive copies of the complete statements. However, both are entitled to see or receive an adequate summary of the evidence to make a full answer and defense.

Step 6

Once the investigation is complete, investigators will prepare a written report setting out a summary of the evidence, a description of any conflict in the evidence, the conclusions on the facts and reasons for reaching those conclusions, as well as the recommended corrective action where harassment has been found to have occurred.

The investigators' report will be delivered to the council, the complainant and the alleged harasser. The report is marked as confidential and delivered with the notation that it should be kept in confidence unless disclosure is required by law or is necessary to implement corrective action or other legal remedies.

Step 7

The council will then:

- Take appropriate and effective corrective action
- Inform the complainant and harasser of the corrective action

- Inform the complainant of the right to file a complaint with OHS or The Saskatchewan Human Rights Commission

Note: Where the corrective action is different from the action recommended in the report, the council should provide reasons for not taking the investigators' recommended action.

Step 8

The council, after the corrective action has been taken, follows up with the complainant to ensure that the corrective action was effective in stopping and preventing harassment. If the complainant indicates that harassment has not ended, or suffers reprisal as a result of making the complaint, the council should take additional or alternative corrective action to resolve the complaint. Further investigation may be necessary.

Confidentiality

With this procedure, The Village of Tompkins, or anyone acting on behalf of the Village, should not disclose the name of the complainant or the alleged harasser, as well as any information that may identify the complainant or alleged harasser. The disclosure of such information may be necessary, however, to conduct the investigation, implement corrective action or pursue other legal remedies.

All documents and statements obtained during the course of the investigation, including the names and copies of witness statements, should not be disclosed to any person unless required by law.

Taking Action to Stop and Prevent Harassment

In taking action to stop harassment and prevent its reoccurrence, The Village of Tompkins will be guided by the following considerations and options.

Individual Awareness and Counselling

Individuals may not be aware of the effects of their behaviour. In many cases, speaking to the person in private about the inappropriate behaviour will be enough to resolve a situation.

In certain instances, it may be more effective for a councilor to speak with the offending person or to arrange and facilitate a meeting between the complainant and alleged harasser.

Complainants should not be encouraged to confront the alleged harasser if they are reluctant to do so, if the alleged harassment is of a very serious nature or if the alleged harasser denies engaging in the alleged conduct.

Staff Awareness and Counselling

Standards of behaviour change over the years. Some individuals or groups may not be aware that behaviour, which was acceptable to their co-workers in the past, is not acceptable anymore. A staff awareness session may be helpful to correct problems based on lack of awareness. Relevant videos, lectures and facilitated group discussions may increase awareness of behaviours that are unacceptable and the reasons for the changes.

Interim Action

The council may have grounds to believe that a complainant will be exposed to continued harassment or reprisal while waiting for the investigation or resolution process to occur. The council must take immediate action to protect the worker from continued harassment or reprisal. Any interim action should

respect the alleged harasser's rights based on the employment contract or collective bargaining agreement in place.

Considering the above-mentioned rights, the council's action may include:

- Cautioning the alleged harasser about the types of behaviour that will not be tolerated
- Moving the alleged harasser to another work unit
- Moving the complainant to another work unit at the complainant's request
- Suspending the alleged harasser with pay while waiting for a final determination

Mediation

Mediation offers both parties the opportunity to develop an understanding of the problem and resolve the complaint before or during the formal investigation process. The mediator facilitates separate discussions or joint meetings between the complainant and the alleged harasser, for the purpose of resolving the complaint.

Mediation may take place at any point in the resolution process as long as both parties agree to participate in mediation. Where the complainant and alleged harasser agree to participate in mediation, The Village of Tompkins shall arrange for a person, who is trained and independent, to act as mediator.

Disciplinary Action

An employee who has knowingly engaged or participated in the harassment of a co-worker will be disciplined. The discipline will be subject to the employee's rights under the employment contract or collective bargaining agreement in place.

The discipline imposed on an employee, who is found to have engaged or participated in harassment in the workplace, may include reprimand, relocation, demotion, suspension or termination of employment.

The severity of the discipline will depend on the following:

Seriousness of the Alleged Conduct

- Whether the conduct is an offence under the criminal code
- Whether the conduct is an offence under *The Saskatchewan Employment Act*, *Occupational Health and Safety Regulations*, or *The Saskatchewan Human Rights Code*
- The extent of the mental or physical injury caused to the complainant by the conduct
- Whether the harasser persisted in behaviour that was known to be offensive to the complainant
- Whether the harasser abused a position of authority

Risk of the Harasser Continuing with Similar Harassment of the Complainant or Others

- Whether the harasser acknowledges the conduct was unacceptable and makes a commitment to refrain participating in future harassment
- Whether the harasser has apologized to the complainant or taken action to repair any harm caused by the conduct
- Whether the harasser has agreed to participate in awareness sessions, training or other recommended counselling or treatment

Third-Party Harassers

This policy covers harassment connected to any matter or circumstance arising out of the worker's employment. Customers, clients, patients, contractors or their workers and others invited to the

workplace could engage or participate in the harassment of an employee. The Village of Tompkins may have limited ability to investigate or control their conduct.

However, The Village of Tompkins shall take reasonably practicable action to stop or reduce the risk to its workers of being harassed by third parties.

This action may include:

- Posting the harassment policy statement in locations visible to third parties
- Requiring certain contractors and their workers to accept and meet the terms of the harassment policy and removing workers who participate in harassment from the workplace

Where a client or customer has been asked to stop abusing or harassing a worker and does not, workers are authorized to end telephone conversations, politely decline service and to ask the customer or client to leave the workplace.

Malicious Complaints

It is uncommon for someone to make a false claim deliberately, but it can happen. Where an investigation finds a complainant has knowingly made a false allegation, the complainant will be subject to appropriate discipline.

Other Options for Complainants

Nothing in this policy prevents or discourages a worker from referring a harassment complaint to OHS under *The Saskatchewan Employment Act & Occupational Health and Safety Regulations*.

A worker may also file a complaint with the Saskatchewan Human Rights Commission under *The Saskatchewan Human Rights Code*.

A worker also retains the right to exercise any other legal avenues available.

Name and Title

Signature

Date

Terms and Abbreviations

Allegation

A statement or assertion that has not been proven

Alleged

Suspected but not proven

Best Practice

Wisest action to take based on current knowledge

Complainant

A person making a complaint of harassment

In Good Faith

Refers to a claim of harassment with good intentions

In Bad Faith

Refers to a claim of harassment when the complainant knows that the allegations are not true

OHO

Occupational Health Officer

OH&S Committee

Occupational Health & Safety Committee

OHS

Occupational Health and Safety

The Saskatchewan Employment Act

The Saskatchewan Employment Act, 2013

OHS Regulations:

The Occupational Health and Safety Regulations, 1996

The Saskatchewan Employment Act and OHS Regulations

The Saskatchewan Employment Act, 2013 and The Occupational Health and Safety Regulations, 1996