

MUNICIPAL POLICY HANDBOOK

Policy Title: Anti-Harassment

Policy No.: A-00-19

Date: May 23, 2017

Reference No: 2017-05-15

Policy Statement: All employees have the legal right, at any time to raise the issue of harassment without fear of reprisal.

Notes:

Purpose:

It is public policy in Canada to recognize the dignity and worth of every person and to provide for equal rights and opportunities without discrimination.

Town of Bow Island is committed to building and preserving a safe, productive and healthy working environment for its employees based on mutual respect. In pursuit of this goal, the Town of Bow Island does not condone and will not tolerate acts of harassment against or by any Town of Bow Island employee.

In accordance with workplace rights set out under the Human Rights Act, every employee has a right to freedom from:

1. harassment in the workplace by the employer or agent of the employer or by another employee because of race, religious beliefs, colour, gender, gender identity, gender expression, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status or sexual orientation.
2. a sexual solicitation or advance made by a person in a position to confer, grant or deny a benefit or advancement to the person where the person making the solicitation or advance knows or ought reasonably to know that it is unwelcome;
3. a reprisal or a threat of reprisal for the rejection of a sexual solicitation or advance where the reprisal is made or threatened by a person in a position to confer, grant or deny a benefit or advancement to the person.

Making a false complaint or providing false information about a complaint is prohibited and a violation of this Anti-Harassment Policy. Individuals who violate this Policy are subject to disciplinary and/or corrective action, up to and including termination of employment.

Definitions

Harassment is a form of discrimination. It involves any unwanted physical or verbal behaviour that offends or humiliates you. Harassment includes when someone threatens or intimidates you, makes unwelcome remarks, jokes about your race, religion, sex, age, disability. Stalking of Co-workers, Supervisors and Councillors will not be tolerated and is considered a form of harassment.

Racial Harassment is defined as harassment suffered by individuals or groups because of their color, race, or ethnic or national origins.

Sexual Harassment is defined as unwelcome sexual conduct, including but not limited to the making of unwanted sexual advances or obscene remarks.

Workplace Violence or Bullying is repeated health-harming mistreatment of one or more persons by one or more perpetrators. It is abusive conduct that is threatening, humiliating, or intimidating.

Managing and/or Coaching that includes counselling, performance appraisal, work assignment, and the implementation of disciplinary actions, is not a form of personal harassment, and the policy does not restrict a manager/supervisor's responsibilities in these areas.

Policy

The workplace harassment policy is not meant to stop free speech or to interfere with everyday interactions.

However, what one person finds offensive, others may not. Generally, harassment is considered to have taken place if the person knows, or should know, that the behaviour is unwelcome. Harassment is often defined as "engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome".

Sexual or racial harassment can be defined as any behaviour, in the form of words, jokes, actions, generally repeated or other behaviour or gestures of a sexual nature that has undesired sexual or racial connotations which has a negative impact on a person's dignity or physical or psychological integrity, or which results in the person being subjected to unfavourable working conditions. This also includes insulting remarks

about sexual orientation, threats or intimidating behaviour, sexually insulting remarks about race, gender, ability or class.

Usually, harassment can be distinguished from normal, mutually acceptable socializing. It is important to remember it is the perception of the receiver of the potentially offensive message be it spoken, a gesture, a picture or some other form of communication which may be deemed objectionable or unwelcome that determines whether something is acceptable or not.

Harassment is offensive, insulting, intimidating, and hurtful and does include unacceptable behaviour related to violence or bullying. It creates an uncomfortable work environment and has no place in employee relationships.

Inappropriate humor is a form of unacceptable behaviour that would be considered harassment. If someone objects to the sexual nature of jokes, they have a right to complain. Employees should use discretion and keep humour appropriate to a work environment. A person has to be offended for a joke to be harassment.

The Town will not tolerate harassment of any kind. The comprehensive policy is meant to ensure every employee knows what to do if incidents occur.

Application of this Policy

This policy applies to all individuals working for the Town of Bow Island including front line employees, temporary employees, contract service providers, Contractors, all supervisory personnel, Managers, Mayor, Councillors and Volunteers. The Town will not tolerate personal harassment whether engaged in by fellow employees, managers, the Mayor, Councillors, Volunteers or contract service providers of the Town.

The Town of Bow Island will not tolerate any form of harassment or discrimination against job candidates and employees on any grounds mentioned above, whether during the hiring process or during employment. This commitment applies to such areas as training, performance, assessment, promotions, transfers, layoffs, remuneration, and all other employment practices and working conditions.

All Town of Bow Island employees are personally accountable and responsible for enforcing this policy and must make every effort to prevent discrimination or harassing behaviour and to intervene immediately if they observe a problem or if a problem is reported to them.

This Anti-Harassment Policy must never be used to bring fraudulent or malicious complaints against employees.

It is important to realize that unfounded/frivolous allegations of personal harassment may cause both the accused person and the Town significant damage. If it is determined by the Town that any employee has knowingly made frivolous unfounded false statements regarding an allegation of personal harassment, immediate disciplinary action will be taken. As with any case of dishonesty, disciplinary action may include immediate dismissal without further notice.

Special Circumstances

All records of harassment, and subsequent investigations, are considered confidential and will not be disclosed to anyone except to the extent required by law.

In cases where criminal proceedings are forthcoming, Town of Bow Island will assist police agencies, lawyers, insurance companies, and courts to the fullest extent possible.

Confidentiality

Town of Bow Island will do everything it can to protect the privacy of the individuals involved and to ensure that complainants and respondents are treated fairly and respectfully. The Town of Bow Island will protect this privacy so long as doing so remains consistent with the enforcement of this policy and adherence to the law.

Neither the name of the person reporting the facts nor the circumstances surrounding them will be disclosed to anyone whatsoever, unless such disclosure is necessary for an investigation or disciplinary action. Any disciplinary action will be determined by the Town Manager and will be proportional to the seriousness of the behaviour concerned. The Town of Bow Island will also provide appropriate assistance to any employee who is victim of discrimination or harassment.

Where appropriate, the Town Council will be made aware of all harassment complaints as soon as possible, while preserving confidentiality as much as is practicable. As with all personnel matters, Council discussions on such complaints will be In-Camera.

Employee/Supervisory Roles in Maintaining a Positive Work Environment

As an employee of Town of Bow Island, you have the following responsibilities to our workplace. We trust that all of our employees will help us eliminate harassment from our workplace.

Co-worker's Role

If you are a co-worker who has witnessed harassment in the workplace:

- Inform the harassed person that you have witnessed what you believe to be harassment and that you find it unacceptable. Support is often welcome. If that person does not feel that they have been harassed, then normally the incident should be considered closed.
- If practicable, inform the harasser(s) that you have witnessed the act(s) and find it unacceptable.
- Encourage the harassed person to report the incident to their Manager.

Manager's and Management's Role

- Management is responsible for creating and maintaining a harassment-free workplace.
- Managers must be sensitive to the climate in the workplace and address potential problems before those problems become serious.
- If a manager becomes aware of harassment in the workplace and chooses to ignore it, that Manager and the Town risk being named co-respondent in a complaint and may be found liable in legal proceedings brought about by the complainant and/ or local human rights' authorities.

When an employee has asked their manager to deal with a harassment incident, the manager should:

- Support the employee without prejudging the situation.
- Work with the employee and document the offensive action(s) and have the employee sign a complaint.
- Contact their superior and/or senior management and provide details of the incident on behalf of the employee.

Procedures

Lodging A Complaint

Any person who believes they are being harassed should report the incident immediately to their Supervisor in order to resolve the issue quickly and in confidence without fear of retaliation. If the Supervisor is the harasser all complaints should be immediately reported to the Town Manager. If the Town Manager is the harasser the incident should be immediately reported to the Mayor. It is equally important to be aware not to use your fellow co-workers as a sounding board because of the possible damage it can cause to the accused before proper process has been followed.

Individuals who believe they have been the subject of personal or sexual discrimination/harassment by a Town employee, Manager, the Mayor, Councillors or

contract service providers of the Town should first make their objection clearly known to the offender. Although it is preferable that objections to discrimination/harassment be voiced to the offender, it is not a prerequisite to filing a complaint.

Complaints regarding discrimination/harassment can be dealt with through an informal or formal process. A decision to use this resolution recourse can also be made by the Town Manager.

1. Informal Resolution

An individual may choose to initiate action to resolve a harassment situation. Possible action could include some or all of the following:

- a) the complainant may inform the harasser that the actions are unwelcome and must stop immediately.
- b) the complainant may request the involvement of a colleague, or a supervisor to provide informal intervention towards an acceptable resolution of the situation.
- c) the complainant should keep a record of incident(s) which lists dates, times, locations, possible witnesses, description of the incident(s), personal response and outcome.

2. Formal Resolution

- a) The formal process of resolution may be pursued if the informal process does not resolve the situation or if the complainant or the Town Manager believes the formal process to be more appropriate. If at any point in the formal process a consensus is reached the informal approach is more appropriate, the formal process may be suspended.
- b) Complainants are encouraged to file a complaint as soon as possible after the incident. The Town reserves the right not to deal with any complaint that is based on alleged incidents that occurred more than one (1) year prior to the date of the complaint.
- c) The complainant must submit a formal complaint in writing to the Town Manager to commence a formal process.
- d) Complaints involving the Town Manager or Councillors may be submitted in writing to Mayor for Council to deal with.

- e) Complaints involving the Mayor may be submitted to the Council Committee of the Whole.
- f) If a formal investigation is deemed necessary, the Town Manager shall:
 - i. Advise the alleged harasser, in writing, of the nature and specifics of the allegations and an investigation has been initiated.
 - ii. Advise the complainant of the investigation.
 - iii. Provide the alleged harasser with a copy of the written complaint.
 - iv. Interview the alleged harasser, the complainant and witnesses separately.
 - v. The alleged harasser shall be given a reasonable opportunity to be heard and reply to the evidence.

3. Investigation and Reporting

- a) The investigation shall be carried out by the Town Manager, a designate or a committee of Council. The complainant has a right to request that the investigator be of the same gender as the complainant.
- b) The investigator shall approach the investigation with an open mind, with no predisposition or any particular finding.
- c) The designate can be someone from outside the organization if the Manager and/or Council feel it is appropriate and if the parties involved agree. The designated individuals may be a person outside of the organization with experience in harassment situations. It would be preferable this person not know either party.
- d) The investigation and report shall not contain or be influenced by information that is prejudicial, ill-founded or irrelevant, and findings of fact shall be based upon evidence, not assumptions. The standard of proof to be used in determining if a complaint has merit is based on a balance of probabilities.
- e) A written report shall be submitted within thirty (30) working days of the complaint.
- f) Based on the evidence and recommendations in the written report, the Town Manager shall take action that is consistent with this and other Town policies as soon as possible.
- g) The Town Manager or designate will advise the complainant and alleged harasser of the outcome of the investigation.

- h) The Town Manager shall make appropriate support services available for victims of harassment and for the complainant and alleged harasser if the allegations are dismissed.

4. Appeals

- a) Appeals by either party must be made in writing to the Town Manager within ten (10) working days after the said action has been taken
- b) The Town Manager will respond within (30) working days.
- c) Either party has the right to seek civil or criminal redress through the courts or to file a complainant with the Alberta Human Rights Commission.
- d) Extenuation circumstances may affect some of the time lines outlined in this policy. Such circumstances will be documented and communicated to all parties involved as they arise.

Disciplinary Measures

If it is determined any employee has been involved in personal harassing of another employee, immediate disciplinary action will be taken. Such disciplinary action may involve counselling, a formal warning and could result in immediate dismissal without further notice.