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Notes:	Report
Copies to:	

Corporation of the Township of Brock

Staff Report to the Mayor and Members of Council

From:	Ingrid Svelnis
Position:	CAO
Title / Subject:	Respect in the Workplace- Harassment and Violence Policy
Date of Report:	June 15, 2021
Date of Meeting:	June 28, 2021
Report No:	2021-CO-23

1.0 Issue / Origin

Respectful work environment for the Township of Brock

2.0 Background

As part of the Respectful Workplace Assessment Report written by Bakertilly October 7, 2020, several recommendations were proposed which included the creation of policies to focus on restoring the workplace. It was understood these would benefit the municipality as they would define clear expectations regarding how the public, Staff and Council are expected to interact. In the following three reports, three policies are being presented to Committee for consideration and adoption.

It was also recommended that the existing Council Code of Conduct be reviewed and updated as appropriate especially in addressing matters pertaining to Councillor professionalism and respect; and a social media policy for Council, either as part of the Code of Conduct or as a stand-alone policy. This work has not yet been completed but will fall into cue as we move through the recommendations.

Council and senior staff have already participated in a Respectful Workplace Workshop and this policy will help to ensure everyone is clear on the expectations.

3.0 Analysis

The policy draft was submitted to the Township by Bakertilly. The document has been the focus of discussions at the Senior Management level for the past several months. Brain Harding CEO Brock Libraries was tasked with chairing the discussions and providing the final version which is presented today. Multiple drafts were created and sections

requiring refinement were also discussed with legal. We feel this document addresses the concerns that should be considered and that the policy is now ready for review by Council.

It is understood that Council may wish to table the approval of these until the July meeting to provide further opportunity to discuss with staff.

4.0 Related Policies / Procedures

Employee HR Policies, Council policies, etc.

5.0 Financial / Budget Assessment

No financial impact is expected unless complaints drive resources being required to address situations.

6.0 Communications


Policy will be shared with staff and where possible with the public. A strategy on how to communicate this with all parties will be developed.

7.0 Conclusion

This policy is long overdue since it was suggested in the September 2020. We thank everyone for their patience while we worked steadily on this since mid April 2021.

8.0 Recommendation

That Council approve Respect in the Workplace – Harassment and Violence Policy as submitted June 28, 2021.

Title	Name	Signature	Date
Chief Administrative Officer	Ingrid Svelnis		June 18 / 2021

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Policy: Respect in the Workplace – Harassment and Violence Policy		
Issued: June 29, 2021	Last Revision Date (Annually): June 29, 2022	Number:
Replaces: Violence in the Workplace Policy and Harassment in the Workplace Policy		

Policy Statement

The Corporation of the Township of Brock ('the Corporation') is committed to providing and maintaining an environment in which all individuals are treated with respect and dignity. It is the organization's goal to provide a healthy and safe work environment that is free from discrimination, harassment or violence of any kind.

Purpose

The purpose of this policy and procedure is to:

1. Promote and support a work environment free from discrimination, harassment and violence;
2. Provide definitions of discrimination, harassment and workplace violence;
3. Identify the responsibilities of the workplace parties to maintain a workplace free of discrimination, harassment and actual, attempted or threatened violence including domestic violence; and
4. Establish procedures for reporting, resolving and investigating complaints of discrimination harassment or workplace violence.

Scope of Policy

The Respect in the Workplace – Harassment and Violence policy applies to all employees, including managers, supervisors, temporary employees, students, volunteers, firefighters, members of outside boards and committees, contractors and subcontractors, and members of Council. It applies to virtual engagements and any physical location where employees are engaged in work-related activities, including telephone, email or other communications, including online/social media.

This policy also applies to situations in which an individual is harassed or subjected to violence in the workplace from individuals who are not employees of the organization.

Definitions

Behaviours associated with harassment and violence in the workplace fall under the broad categories of discriminatory harassment, workplace harassment (bullying), sexual harassment and workplace and domestic violence.

1. Discrimination (Code Related)

Workplace discrimination includes any distinction, exclusion or preference based on the protected grounds in the *Ontario Human Rights Code* (the Code). Elements of the Code which have particular importance to the Township of Brock are outlined in Part 1, Section 5 (1) and 5 (2) of the Code which states that:

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Employment

5 (1) Every person has a right to equal treatment with respect to employment without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, record of offences, marital status, family status or disability.

Discriminatory harassment includes comments or conduct based on the protected grounds in the Ontario *Human Rights Code* which the recipient does not welcome or that it offends them.

Part 1, s.5 (2) of the Code states:

Harassment in employment

5 (2) Every person who is an employee has a right to freedom from harassment in the workplace by the employer or agent of the employer or by another employee because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sexual orientation, gender identity, gender expression, age, record of offences, marital status, family status or disability.

Harassing comments or conduct can poison someone's working environment making it a hostile or uncomfortable place to work, even if the person is not being directly targeted, this is commonly referred to as **poisoned work environment** and it is a form of harassment.

Employees are reminded of the expectation that they behave and communicate in a professional manner at all times. Some examples of actions that can create a poisoned work environment include:

- displaying offensive or sexual materials such as posters, pictures, calendars, web sites or screen savers;
- distributing offensive e-mail messages, or attachments such as pictures or video files;
- practical jokes that embarrass or insult someone; or
- jokes or insults that are offensive, racist or discriminatory in nature.

2. Workplace Harassment (Non-Code Related)

Under the Ontario *Occupational Health and Safety Act* (OHSA), **workplace harassment** is defined as:

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.

Workplace harassment may have some or all of the following components:

- It is generally repetitive, although a single serious incident may constitute workplace harassment if it undermines the recipient's psychological or physical integrity and has a lasting harmful effect;
- It is hostile, abusive or inappropriate;
- It results in a poisoned or toxic work environment;
- The behaviour intimidates, isolates or affects a person's dignity.

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3. 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 expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, or
- b. making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome;

4. What Isn't Harassment

Legitimate and reasonable action taken by the employer or supervisor/managers relating to the management and direction of employees or the workplace is not workplace harassment, including:

- Measures to correct performance deficiencies, such as coaching, placing someone on a performance improvement plan;
- Imposing discipline for workplace infractions;
- Requesting medical documents in support of an absence from work, in accordance with the applicable collective agreements and Attendance Improvement program; or
- Respectful and professional workplace conflict that may occur between individuals or differences of opinion between co-workers.

5. Workplace Violence

In compliance with the *Occupational Health and Safety Act* (OHSA), this policy should be consulted whenever there are concerns of violence, including the threat of violence in the workplace.

Violent behaviour in the workplace is unacceptable from anyone. This policy applies to all employees, representatives, agents, contractors, volunteers, visitors and clients. All employees of Brock are expected to uphold this Policy and Program and share responsibility for understanding and preventing violence in the workplace. Employees should treat others in a professional manner with courtesy and respect and, as well as discourage any behaviours that could be seen as violent.

Workplace violence is defined in the OHSA as:

- The exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker,
- An attempt to exercise physical force against a worker, in a workplace, that could cause physical injury to the worker,
- A statement or behaviour that a worker could reasonably interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker [subsection 1(1)].

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This definition of workplace violence is broad enough to include acts that would constitute offences under [Canada's Criminal Code](#).

It is important to note that the definition of Workplace Violence under this policy does not require that the violent person intended to be violent or to appreciate that his or her actions could cause or may cause physical harm.

Examples of workplace violence may include (in no particular order):

- Verbally threatening to attack an employee;
- Leaving threatening notes or sending threatening emails to a workplace;
- Physically threatening or aggressive behaviour such as shaking a fist in an employee's face;
- Wielding a weapon at work;
- Hitting or trying to hit a employee;
- Throwing an object at an employee;
- Sexual violence against a employee;
- Trying to run down an employee with a vehicle or equipment.

This policy applies to any location where employees are engaged in work-related activities. Violence that occurs outside the normal workplace, but which has an impact on the working environment including working relationships, may also be considered violence in the workplace.

6. Domestic Violence

If an employee is experiencing domestic violence that would likely expose them or other workers to physical injury that may occur in the workplace, the Corporation will take every precaution reasonable to protect the employee and their co-workers in the circumstances.

Responsibilities:

It is the mutual responsibility of the employees and the Corporation to ensure a harassment and violent free workplace and address violence and or threats of violence from all possible sources (including citizens, customers, employers' supervisors workers strangers and domestic/intimate partners)

1. The Corporation of the Township of Brock:

The Corporation will ensure this Policy and the supporting Program are implemented and maintained. The Corporation is committed to investigating issues of discrimination, harassment and violence consistent with this policy. The Corporation will review this policy annually.

2. Supervisors and Managers:

Management is responsible for ensuring that all employees and other workers will receive appropriate communication and instruction on the contents of this policy and that measures and procedures are followed by workers and other employees and that employees have the information they need to protect themselves.

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Management must also take every reasonable precaution to protect employees and other workers from workplace violence, including evaluating a person's known history of violent behaviour to determine whether an employee, or someone outside the organization poses a risk and to whom.

It is the responsibility of management to ensure that workplace harassment and violence does not occur, and to ensure protection from retaliation against any employee or other workers who has made a complaint in good faith.

Management will investigate and deal with all incidents and complaints of workplace harassment and violence in a fair and timely manner, respecting the privacy of all concerned as much as possible. Information provided about an incident or about a complaint will not be disclosed except as necessary to protect employees, to investigate the complaint or incident, to take corrective action or as otherwise required by law.

Managers, supervisors and employees are expected to adhere to this policy and will be held responsible by the employer for not following it. Employees are not to be penalized or disciplined for reporting an incident or for participating in an investigation involving workplace harassment.

3. All Employees

Employees are responsible for knowing and following this policy and demonstrating respectful workplace behaviours at all times. Employees should treat others in a professional manner with courtesy and respect and discourage any behaviour that can be seen as harassing, discriminatory or violent.

Employees and other workers are required to report to a member of the management team, the existence of any workplace harassment, violence or threat of workplace violence, or any situation where the actions/behaviours of other parties (family members, citizens, clients, etc.) may present a potential risk to Brock employees and other workers.

Employees are obligated to participate in the investigation process when identified as a complainant, as a witness or as a respondent in a complaint; failure to do so may result in disciplinary action up to and including dismissal. Any employees involved in an investigation process may be temporarily relocated, reassigned, or suspended from work as required while the investigation is ongoing.

Other than management, employees may seek advice and support on related matters from other resources such as Employee Assistance Program, Union representative, Joint Health and Safety committee members, Health and Safety representatives or the Steps to Justice portal for legal information.

Notwithstanding this Policy, an employee has the right to exercise their rights under applicable collective agreement and/or pursue their complaint through the Ontario Human Rights Commission or the Ministry of Labour.

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Respect in the Workplace Policy: Program and Procedure

Procedure for Resolving and Investigating Complaints:

Informal Resolution Procedure:

If you believe that you are being harassed, the first thing to do is to tell the person to stop. Do so as soon as you receive any unwelcome comments or conduct. Although this may be difficult to do, telling the person you do not like their actions is often enough to stop the behaviour. Some of the things you can say that might stop the behaviour include:

- "I don't want you to do that"
- "Please stop doing or saying..."
- "It makes me uncomfortable when you..."
- "I don't find it funny when you..."
- "I do not discuss my personal affairs at work"

Keep a record of any incident(s) that you experience. This includes when the harassment started, what happened, whether there were any witnesses and your response.

If you believe that someone who is not a member of our organization (e.g., a citizen, supplier etc.), has harassed or discriminated against you, report the situation to your manager. The Township of Brock will take appropriate measures to address the issue and prevent further problems from arising.

Formal Complaint Procedure:

Employees can report incidents or complaints of workplace harassment and violence verbally or in writing to their supervisor and/or CAO. Complaints that name the CAO may be brought directly to the Mayor, or designate.

If you bring a complaint forward, complete the Respect in the Workplace Complaint Form (Appendix A), providing as much written information as possible, including:

- Name(s) of the employee who has allegedly experience workplace harassment,
- Name(s) of the alleged harasser,
- Names of any possible witnesses, and
- Details of the incident(s) including location, date, time, and supporting documentation (if applicable)

It is important that your complaint is received as soon as possible so that the problem doesn't escalate or happen again. Once your complaint is received, it will undergo a preliminary review to assess whether a formal investigation will be initiated. The Township of Brock will ensure that an investigation appropriate in the circumstances is conducted. The CAO shall determine the extent and scope of an investigation. Complaints that will not proceed to a formal investigation will be referred back to managerial staff in the affected area to address.

Discrimination, harassment and violence are serious matters. Therefore, if you decide not to make a formal complaint, the matter may still be investigated, and steps taken to prevent further

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harassment and violence. For example, the Corporation may need to continue with an investigation if the allegations are serious or if there have been previous complaints or incidents involving the respondent.

Commitment to Investigate:

The Township of Brock will ensure that an investigation appropriate in the circumstances is conducted when the employer, a manager, or a supervisor becomes aware of an incident or receives a complaint of workplace harassment or violence.

Who will Investigate?

The CAO or designate will appoint an internal or external investigator, depending on the nature of the complaint. The investigation will commence as quickly as possible. If the allegations of workplace harassment involve the Senior Leadership, the employer will refer the investigation to an external investigator to conduct an impartial investigation.

Timing of the Investigation:

The investigation must be completed in a timely manner and generally within 90 days unless there are extenuating circumstances (i.e. illness, complex investigation) warranting a longer investigation. Immediate steps may be taken to protect employees involved in a given complaint while the investigation process is ongoing.

Investigation Process:

The person conducting the investigation, whether internal or external to the workplace will at a minimum complete the following:

- a) Ensure the investigation is kept confidential and identifying information is not disclosed unless necessary to conduct the investigation. The investigator should remind parties of this confidentiality obligation at the beginning of the investigation.
- b) Interview the Complainant and Respondent to ascertain all the fact relevant to the complaint. If the Respondent is not an employee, the Investigator should make reasonable efforts to interview the Respondent.
- c) The Respondent must be given the opportunity to respond to the specific allegations raised by the Complainant.
- d) Interview relevant witnesses who may be identified by either the Complainant or Respondent.
- e) Collect and review any relevant documents.
- f) The Investigator must take appropriate notes and statements during interviews with all parties.

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- g) The Investigator must prepare a written report summarizing the steps taken during the investigation, the complaint, the allegations, the response from the Respondent, the evidence of any witnesses and the evidence gathered. The report must set out findings of fact and come to a conclusion about whether workplace harassment or violence was found or not.

Results of the Investigation:

Where possible, results of the investigation will be communication to the complainant and respondent in a summary format within ten (10) calendar days of the investigation being concluded. Any corrective action that has been taken or will be taken as result of the investigation will be communicated to the Respondent and Complainant in writing.

Potential Outcomes:

The CAO or designate will determine what action should be taken as a result of the investigation.

If a finding of harassment is made, the organization will take appropriate corrective measures, regardless of the respondent's seniority or position in the Corporation.

The Corporation's response to findings of harassment or violence may include one or more of the following:

- Discipline, such as a verbal warning, written warning or suspension without pay;
- Referral for counseling, training or attendance at educational programs on workplace respect/civility;
- A demotion or denial of promotion;
- Reassignment or transfer;
- Contact authorities for follow-up action in the relation to workplace violence; or
- Any other disciplinary action deemed appropriate under the circumstances up to and including termination with or without cause.

The CAO or designate has the authority to place employees in suitable positions temporarily or permanently to ensure the purpose of this program is met.

Protection from Reprisal:

The Township of Brock will not tolerate retaliation, taunts or threats against anyone who complains about harassment/discrimination or takes part in an investigation. Any person who taunts, retaliates against or threatens anyone in relation to a harassment or discrimination complaint may be disciplined up to and including termination.

If an employee makes a complaint in good faith and without malice, regardless of the outcome of the investigation, they will not be subject to any form of discipline and/or reprisal. Those who are named in a complaint, regardless of the outcome, shall not retaliate in any manner. The Township of Brock may however discipline up to and including termination, anyone who brings a false/malicious complaint or who engages in retaliatory behaviour after being named in a complaint.

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Confidentiality:

Information about complaints shall be kept confidential to the extent possible. Information obtained about an incident or complaint of workplace harassment and violence, including identifying information about any individuals involved will not be disclosed unless disclosure is necessary to protect employees, to investigate the complaint or incident, to take corrective action or otherwise as required by law.

While the investigation is on-going, the Complainant, Respondent and witnesses should not discuss the incident or complaint with each other or other employees unless necessary to obtain advice about their rights. The investigator may discuss the investigation and disclose the incident or complaint-related information only as necessary to conduct the investigation.

All records of the investigation will be kept confidential.

Handling Complaints:

Interim measures that may be taken by the employer could include transfers, leaves of absence, staff training, supervision and support.

Record Keeping:

The Office of the CAO/Human Resources will maintain records of the investigation including:

- A copy of the complaint and details about the incident
- A record of the investigation including notes;
- A copy of the investigation report; a summary of the results of the investigation that was provided to the employee who allegedly experienced the workplace harassment and the alleged harasser, if an employee of the organization;
- A copy of any corrective action taken to address the complaint or incident of workplace harassment.

Such records will be maintained in a file, separate from the employee's personnel file with the exception of the corrective action note on the appropriate individual's file.

Records resulting from the investigation will be held in accordance with the Township's Records Retention by-law.

Measures and Procedures for Addressing Workplace Violence:

In appropriate circumstances, the Corporation may have to contact the police, or other emergency responders as appropriate, to assist, intervene or investigate workplace violence.

Employees are encouraged to contact police (911) at any time if they feel threatened or at risk of physical injury.

Procedure for Assessing the Risk of Workplace Violence

It is the responsibility of the Corporation to:

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- Assess the risk of workplace violence that may arise from the nature of the workplace, type of work or conditions of work,
- Take into account the circumstances specific to the workplace,
- Develop measures and procedures to control identify risks that are likely to expose a worker to physical injury,
- Advise the Joint Health and Safety Committee of the assessment results,
- Repeat the assessment as often as necessary to ensure that the policy and program continue to protect employees.

Unless a situation arises that warrants an early review of our risk assessment, the risk assessment will be reviewed annually.

Individuals with a History of Violent Behaviour

The Corporation will provide to an employee, information including personal information, relating to a risk of workplace violence from a person with a history of violent behaviour if:

- The employee can be expected to encounter that person in the course of their work, and
- The risk of workplace violence is likely to expose the worker to physical injury,

The Corporation and management will disclose as much information about a person with a history of violent behaviour as is needed to protect employees from physical injury, while respecting privacy as much as possible.

Procedure for Addressing Domestic Violence

If you are experiencing domestic/intimate partner violence that could lead to disruption, intimidation or physical injury to yourself or other team members in the workplace, you may seek immediate assistance by contacting the CAO or a member of the management team, who will appoint appropriate resources to help prevent and respond to the situation.

Work Refusals Rights

Employees have the right to refuse work if the potential of workplace violence is likely to endanger themselves or a co-worker. In that instance, a member of the management team should be contacted immediately at which point appropriate measures will be taken to protect the employee and investigate the situation. Employees will be moved to a safe place as near as reasonably possible to their normal workstation and will need to be available for the purposes of investigating the incident. In some circumstances, employees may be provided with reasonable alternative work during normal working hours.

Procedure to Report Incidences of Violence

Employees and other workers are required to summon immediate assistance when workplace violence occurs or is likely to occur and to report to a member of the management team, either verbally or in writing, the existence of any workplace violence or threat of workplace violence, or any situation where the actions/behaviours of other parties (family members, clients, etc.) may present a potential risk to Brock employees.

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Steps to Respond to Reports of Violence

Management will:

1. Immediately make the appropriate inquiries and observations of the victim/complainant and/or witnesses to determine if the report of a workplace violence incident or threat of workplace violence is minor or serious.
2. Ensure the safety of all employee(s) or other workers and themselves. Thorough observation, questioning and discussion may be required.
3. Ensure proper first aid and/or medical attention is provided or obtained (e.g. doctor or ambulance).
4. Contact police, if required, and the Ministry of Labour, to report the workplace violence incident or threat of workplace violence.
5. Contact the CAO to assess who should conduct further investigation.
6. Prepare detailed notes on facts, times, witness(es), witness accounts during their immediate intervention.
7. Advise the Joint Health and Safety Committee in writing, within 24 hours, of the workplace violence incident or threat of workplace violence (see Appendix B – Violence Incident Report Form).

Respect in the Workplace Policy and Program Review

Guidelines outlined in the Respect in the Workplace Policy and Harassment and Violence program will be maintained in consultation with the Joint Health and Safety Committee (JHSC) or health and safety representative, if any. They will be continuously monitored by the CAO and reviewed annually.

Approved by CAO:

Date:



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Appendix A – Respect in the Workplace Complaint Form

Employee Name: _____ Position: _____

Manager: _____ Date: _____

Name(s) of the individual(s) you
are complaining about: _____

Position(s): _____

Description of the Complaint

Please describe in as much detail as possible the situations that caused you concern. This will include dates of the alleged harassment or disrespectful behaviour, where it happened, what occurred, any history of similar behaviour from the individual(s) and the name of any possible witnesses.

Attached any supporting documents, such as emails, handwritten notes, or photographs. Physical evidence, such as vandalized personal belongings, can also be submitted. This form and all documentation should be submitted to your manager or the CAO and/Clerk for formal processing.



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Appendix B – Workplace Violence Incident Report Form

Date: _____ Time: _____ AM/PM

Location: _____

Department: _____

Type of Incident: ☐ Physical ☐ Verbal Threat ☐ Other: _____

Name(s), Job Title and Contact Information of Involved Parties:

Incident reported to me by: _____

Victim: _____

Alleged Perpetrator: _____

Witness(es): _____

Police Called? ☐ Yes ☐ No If yes, provide details:

First Aid and/or Medical Attention Required? ☐ Yes ☐ No If yes, provide details:

Property Damage? ☐ Yes ☐ No If yes, provide details:



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WSIB Report? ☐ Yes ☐ No If yes, provide details:

Report to JHSC/Union Required? ☐ Yes ☐ No If yes, provide details:

Report to Ministry of Labour required? ☐ Yes ☐ No If yes, provide details:

Description of Incident: In your own words, please provide a detailed description of the incident based on what you experienced or was reported to you and other pertinent information.

Describe immediate actions taken (e.g., contacted supervisor, told Respondent to stop behaviour, called 911, etc.):



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Describe your recommendations for corrective and preventive actions, if any:

Completed By: _____ Date: _____

Position and contact Information: _____