




CORPORATION OF THE TOWNSHIP OF PRINCE



BY-LAW NO. 2016-35

Being a by-law to adopt a revision to the Human Resources Policy Manual By-law 2013-35 for the Township of Prince.


THE COUNCIL of the Corporation of the Township of Prince ENACTS as follows:

1. THAT the Council hereby adopts a revision to the Human Resources Policy Manual for the Township of Prince in the form of adding a policy on Bullying, Harassment and Violence Prevention in the Workplace, to comply with Bill 132, amendments to the Occupational Health and Safety Act, and revisions to section 3.3: Workplace Harassment, Ministry of Labour
 2. SCHEDULE "A", being the proposed addition to the Human Resources Policy Manual forms part of this by-law.
 3. This by-law shall come into force on the date of its final passing.
- 

READ and passed in open Council this 11th day of October, 2016.



Ken Lamming
Mayor

Seal

Peggy Greco
CAO/Clerk-Treasurer

Schedule "A"

SECTION: 7

HEALTH AND SAFETY BULLYING, HARASSMENT AND VIOLENCE PREVENTION IN THE WORKPLACE

DATE APPROVED:

DATE LAST REVISED:

AUGUST 2016

DATE LAST REVIEWED:

AUGUST 2016

POLICY

The employer believes that all employees should be able to work in a safe and healthy workplace and as such, makes every effort to eliminate or minimize the risk to employees of bullying, harassment and violence in the workplace. The employer understands that employees have the right to refuse work if they have a reason to believe they are in danger of workplace violence.

Violent behaviour in the workplace is unacceptable from anyone. Everyone is expected to uphold this policy and to work together to prevent workplace bullying, harassment and violence. The procedure/program that implements this policy includes measures and procedures to protect workers from workplace bullying, harassment and or violence, a means of summoning immediate assistance and a process for workers to report incidents, or raise concerns.

The employer will ensure that this policy and the supporting program are implemented and maintained. In addition, the employer will ensure that all employees and supervisors have the appropriate information and instruction to protect them from bullying, harassment and violence in the workplace.

Supervisors will adhere to this policy and the supporting program. Supervisors are responsible for ensuring that measures and procedures are followed by workers and that workers have the information they need to protect themselves.

Every employee must work in compliance with this policy and the supporting procedure/program and are encouraged to raise any concerns about workplace bullying, harassment and/or violence and to report any incident, violent incidents or threats.

RATIONALE:

The Employer complies with the Occupational Health and Safety Act (Violence and Harassment in the Workplace), 2009, by identifying hazards, ensuring controls are in place and providing training to all employees exposed to or at risk of workplace bullying, harassment and/or violence.

The Employer also complies with Bill 132, Schedule 4, amendments to the Occupational Health and Safety Act, in effect September 8, 2016.

BACKGROUND INFORMATION:

Effective September 8, 2016, the Occupational Health and Safety Act amends the definition of workplace harassment and adds a definition of workplace sexual harassment in section 1:

- An investigation is conducted into incidents and complaints of workplace harassment that is appropriate in the circumstances;
- The worker who has allegedly experienced workplace harassment and the alleged harasser, if he or she is a worker of the employer, are informed in writing of the results of the investigation and of any corrective action that has been taken or that will be taken as a result of the investigation;
- The program developed under section 32.0.6 is reviewed as often as necessary, but at least annually, to ensure that it adequately implements the policy with respect to workplace harassment.

The results of the investigation and any report created in the course of or for the purposes of the investigation are not reports respecting occupational health and safety for the purposes of subsection 25 (2) of the Act.

And in section 32.0.8, that require the employer to provide a worker, in addition to any other prescribed information, with:

- Information and instruction that is appropriate for the worker on the contents of the policy and program with respect to workplace harassment; and

Order for workplace harassment investigation, in a new section 55.3:


- An inspector from the Ministry of Labour may order in writing, an employer to cause an investigation to be conducted at the expense of the employer, by an impartial person possessing such knowledge, experience or qualifications as are specified by the inspector and to obtain, at the expense of the employer, a written report by that person. Again, this report is not a report respecting occupational health and safety for the purposes of subsection 25 (2) of the Act.

Workplace Harassment includes comments or conduct that typically happens more than once and could occur over a relatively short period of time; (for example, during the course of one day) or over a longer period of time; (weeks, months or years). Workplace harassment can involve unwelcomed words or actions that are known or should be known to be offensive, embarrassing, humiliating or demeaning to a worker or group of workers. It can also include behaviour that intimidates, isolates or even discriminates against the targeted individual(s). Workplace harassment often involves repeated words or actions, or a pattern of behaviours, against a worker or group of workers in the workplace that are unwelcome. In addition, workplace harassment could include making remarks, jokes or innuendos that demean, ridicule, intimidate, or offend; displaying or circulating offensive pictures or materials in print or electronic form; bullying; repeated offensive or intimidating phone calls or e-mails; or inappropriate sexual touching, advances, suggestions or requests. This definition of workplace harassment is broad enough to include harassment prohibited under Ontario's Human Rights Code, as well as what is often called "psychological harassment" or "personal harassment."

The Occupational Health and Safety Act defines workplace violence in Section 1. (1):

"workplace violence" means,

- (a) the exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker;

- 
- (b) an attempt to exercise physical force against a worker in a workplace, that could cause physical injury to the worker;
 - © and 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.

Key Terms and Concepts of Workplace Harassment and Violence


The Ontario Ministry of Labour defines the key terms and concepts of workplace harassment and violence.

The definition of workplace violence is broad enough to include acts that would constitute offences under Canada's Criminal Code. Examples of workplace violence include verbally threatening to attack a worker; leaving threatening notes or sending threatening e-mails to a workplace; shaking a fist in a worker's face; wielding a weapon at work; hitting or trying to hit a worker; throwing an object at a worker; sexual violence against a worker; kicking an object the worker is standing on such as a ladder; or trying to run down a worker using a vehicle or equipment such as a forklift.

What if a worker is accidentally pushed or hurt?

Accidental situations – such as a worker tripping over an object and pushing a co-worker as a result, are not meant to be included.

Does the person need to intend to hurt the worker?



For workplace violence to occur, a person must apply or attempt to apply physical force against a worker. However, he or she does not need to have the capacity to appreciate that these actions could cause physical harm.

For example, a person may have a medical condition that causes them to act out physically in response to a stimulus in their environment. This would still be considered workplace violence.

In addition, workplace violence would include situations where two non-workers (patients for example), are fighting and a worker is injured when he or she intervenes. The non-workers may not have intended for their violence to spill over to anyone else, but they used physical force, which could ultimately cause physical injury to a worker.

Employers would be expected to take these situations into account when assessing the risks of workplace violence and when dealing with incidents. They would be required to establish measures and procedures to protect workers from this type of behaviour.

PROCEDURE:

For further information see Ministry of Labour:

<https://www.labour.gov.on.ca/english/hs/pubs/wpvh/harassment.php>

1. The Employer's Responsibilities include:

- a. Provide a safe, healthy, and bullying, harassment and violence-free workplace;
- b. Dedicate sufficient attention, resources, and time to address factors that contribute to bullying and harassment and workplace violence including but not limited to, bullying, teasing, abusive, and other aggressive behaviour, and to prevent and protect against it;
- c. Adopt a corporate standard and expectation for all employees of achieving workplace harmony through effective working relationships, communication, dialogue and by building trusting relationships between employees and management;
- d. Communicate to employees information about factors contributing to workplace violence;
- e. Assist employees who have been exposed to workplace violence;
- f. Post this policy as mandated.
- g. Ensures all employees are aware that the employer will investigate all complaints of bullying, harassment and/or violence and will seek resolution of complaints as soon as possible. As such, the employer encourages employees, where possible, to bring complaints of workplace health and safety to the attention of their immediate supervisor.

2. Employee Rights include:

- a. If the employee is alleging that the employer or the supervisor is the alleged harasser, the employee has a legal right to report the incident to a person other than the employer or the supervisor. Depending on the circumstances of the incident or complaint, a workplace harassment investigation could be carried out by a number of individuals noted in section Workplace Harassment, Ministry of Labour, Revised Sept. 13, 2016, section 3.3):
 - Someone in the workplace (such as a manager or a supervisor, or a member of the human resources department);
 - Someone in the organization (such as someone from another company location or from the corporate head office);
 - Someone associated with the workplace or organization (such as someone from another franchise or from a business association); or
 - Someone from outside the workplace or organization (such as a licensed private investigator, a human resource professional, or a lawyer).
- b. The employee may contact this person themselves without having to advise the employer that they are doing so (see Section 5. Notification and Investigation).
- c. In certain circumstances, a Ministry of Labour inspector may order the employer to have an investigation carried out by an "impartial person possessing such knowledge, experience, or qualifications as are specified by the inspector". The inspector decides the criteria for knowledge, experience or qualifications to be set out in the order. The specific criteria would depend on the circumstances of each case, and could include:
 - knowledge of the workplace harassment and reprisal provisions under the OHSA, and other applicable laws;
 - experience in conducting workplace investigations, dealing with confidentiality and privacy in the context of those investigations, preparing comprehensive reports, and dealing with complex and/or sensitive situations.
- d. An "impartial person" would be someone who is unbiased, with no conflict of interest, and in good standing with their professional body (if applicable). While one

may expect that an “impartial person” may be someone external to the workplace or organization, in some circumstances it could be someone in the organization.

- e. Where it would be more appropriate for a third party to investigate, the person could be someone who is:
 - a business leader in the community or a business association;
 - a certified human resource professional;
 - a lawyer; or
 - a licensed private investigator.

3. Continuum of Inappropriate Behaviour:

A continuum of inappropriate behaviours can occur at the workplace. This can range from offensive remarks to violence. Workplace harassment may escalate over time into threats, or acts of physical violence. In some cases, a targeted worker may react violently to prolonged harassment in the workplace.

The employer will recognize these behaviours and deal with them promptly as they may lead to workplace violence.

4. Assessing the Risks of Workplace Violence

At least annually, the employer, in consultation with the health and safety committee or representative, must and will assess the potential risk for workplace bullying, harassment and violence that may arise from the nature of the workplace, type of work or conditions of work.

Workplace Violence Assessment Tools

The employer utilizes the tools that have been developed to help Ontario employers by the Public Services Health and Safety Association.

- a. **General Physical Environment Assessment**
 - Focused on the nature of the workplace, to survey the physical environment and security measures at the workplace
- b. **Risk Factor Selection Tool**
 - Used to identify risks specific to the workplace.
- c. **Assessments for Specific Risks**
 - Completes the assessment for any specific risk that exists in the workplace including: direct contact with clients; handling cash; working alone or in small numbers; working with unstable or volatile people; working in a community-based setting; mobile workplace; working in high crime areas; securing or protecting valuable goods; transporting people or goods.

This assessment includes:

Taking into account the circumstances of the workplace and circumstances common to similar workplaces, as well as any other elements prescribed in regulation and,

- Developing measures and procedures to control identified risks that are likely to expose a worker to physical injury. These measures and procedures will be part of the workplace violence program.
- Advising the Joint Health and Safety Committee or health and safety representative of the assessment results. If the assessment is in writing, the employer will provide a copy to the committee or the representative.
- If there is no committee or representative, the employer will advise workers of the assessment results. If the assessment is in writing, the employer will provide copies to workers upon request or advise the workers how to obtain copies.
- Repeating the assessment as often as necessary, and at least annually, to ensure the workplace violence policy and related program continues to protect workers from workplace violence and inform the Joint Health and Safety Committee, health and safety representative, or workers of the results of the re-assessment.

5. Domestic Violence:

A person who has a personal relationship with a worker (such as a spouse or former spouse, current or former intimate partner or a family member) may physically harm, attempt or threaten to physically harm, that worker at work. In these situations, domestic violence is considered workplace violence.

If the Employer becomes aware of domestic violence that would likely expose an employee(s) to a physical injury that may occur in the workplace, the Employer will take every precaution reasonable in the circumstances to protect employees.

Defining Domestic Violence:

Domestic abuse, also known as *spousal abuse*, occurs when one person in an intimate relationship or marriage tries to dominate and control the other person. Domestic abuse that includes physical violence is called *domestic violence*.

Domestic violence is a pattern of coercive tactics which can include physical, psychological, sexual, economic and emotional abuse perpetrated by one person against an adult intimate partner, with the goal of establishing and maintaining power and control over the victim.

The Employer protects all employees and does not let personal biases stand in the way.

Signs and behaviour that are workplace-specific:

Specific Signs and behaviours (Look for a pattern, rather than a single sign or symptom) that are workplace-specific that might suggest an employee is a victim of domestic violence include:

- Arriving to work late or very early.
- Unplanned or increased use of Earned Time or Paid Time off.
- Decreased productivity.
- Tension around receiving repeated personal phone calls.
- Wearing long sleeves on a hot day or sunglasses inside.
- Difficulty in making decisions alone.
- Difficulty concentrating on tasks.

- Avoiding windows, main entrances of office.
- Repeated discussion of marital or relationship problems.
- Flowers or gifts sent to employee at the workplace for no apparent reason.
- Bruises, chronic headaches, abdominal pains, muscle aches.
- Vague, non-specific medical complaints.
- Sleeping or eating disorders.
- Signs of fear, anxiety, depression.
- Fatigue.
- Intense startle reactions.
- Suicidal or homicidal thoughts.
- Nightmares or flashbacks.

Signs of abusers in the workplace include:

- Employee shows attitude of domination and aggression toward domestic partner or co-worker.
- Employee threatens domestic partner or children or discusses threats with co-workers.
- Employee experiences outbursts of anger while talking with a domestic partner or co-worker on the telephone or in person at the workplace.
- Spouse, partner, or co-worker of employee appears to be afraid of employee and becomes submissive in the allegedly abusive employee's presence.
- Employee has been accused of or charged with abusing a partner, child, or other family member.

Management of Potentially Violent and Violent Situations:

Tips for verbal communication:

- Focus your attention on the other person to let them know you are interested in what they have to say.
- Do not glare or stare, which may be perceived as a challenge.
- Remain calm and try to calm the other person down. Do not allow the other person's anger become your anger.
- Remain conscious of how you are delivering your words.
- Speak slowly, quietly and confidently.
- Speak simply.
- Avoid communicating a lot of technical and complicated information when emotions are high.
- Listen carefully. Do not interrupt or offer unsolicited advice or criticism.
- Encourage the person to talk. Do not tell the person to relax or calm down.
- Remain open-minded and objective.
- Use silence as a calming tool.
- Acknowledge the person's feelings. Indicate that you can see he or she is upset.

Tips for non-verbal behaviour and communication:

- Use calm body language – relaxed posture with hands unclenched and an attentive expression.
- Arrange yourself so that your exit is not blocked.

- Position yourself at a right angle rather than directly in front of the other person.
- Give the person enough physical space (this varies by culture, but normally 1–2 metres is considered an adequate distance).
- Get on the other person's physical level. If they are seated, try kneeling or bending over, rather than standing over them. Do not pose a challenging stance, such as: standing directly opposite someone; putting your hands on your hips; waving your arms; crossing your arms.
- Do not make sudden movements which can be seen as threatening.
- Do not fight. Walk or run away. Get assistance from security or police.

If the person has threatened violence, or if others present feel afraid for their safety, immediately refer the matter to security or police

If violence appears imminent, or is in progress, notify security immediately and contact police; if you cannot do so safely, try to motion to someone else to get help.

If an employee has suffered an injury, apply first aid and call a medic or ambulance and, if necessary:

- Offer emotional support
- Advise the injured person to consult a health professional for treatment and counselling
- Debrief the employee on the incident, as appropriate

If possible, the employer or supervisor should make sure all victims and bystanders remain near the scene, their workstations or another safe place until an initial investigation takes place so they will be available for questioning:

The employer will take every reasonable precaution to protect employees.

6. Review:

At least annually, the employer, in consultation with the health and safety committee or representative, reviews all measures, policies and procedures put in place to prevent, minimize, and/or control workplace bullying and harassment and/or violence to ensure effectiveness or to adjust to any changes that would compromise the effectiveness of those measures, policies, and procedures.

7. Notification and Investigation:

- a. The Employer recognizes its legal responsibility to protect a worker from workplace harassment and/or violence.
- a. If the Employer or any employee becomes aware of any allegations or incidents of workplace bullying and harassment and/or violence or alleged workplace bullying and harassment and/or violence, the employee shall notify the employer and the employer shall ensure an investigation is conducted.
- b. As noted in section 1., if the employee is alleging that the employer or the supervisor is the alleged harasser, the employee has a legal right to report the alleged incident to a person other than the employer or the supervisor. This person shall be (See Section 2). The employee may contact this person themselves without having to advise the employer they are doing so. The employee will be advised of the process to be

undertaken by the Investigator and the steps of the investigation shall be consistent with this policy and procedure and all legal requirements.

- c. Employees are requested to complete an Incident and/or Complaint form and submit it to their immediate supervisor, or another Manager. Unless the complaint is against the immediate Supervisor, the employee can report the alleged incident to another person as noted in c. above.
- d. The person(s) alleged to have bullied, harassed and/or committed the violent act should be removed from the workplace immediately and placed on a paid leave of absence (a non-disciplinary leave), until the investigation is complete.
- e. The employer appoints a competent person to investigate the matter and provides that person with any relevant information that can be disclosed without prohibition by law and that would not reveal the identity of the persons involved without their consent, unless reasonably necessary to undertake such investigation.
- f. Upon completion of the investigation the employer:
 - 1. Develops a Report of Findings and Conclusions;
 - 2. Keeps a record of the report;
 - 3. Informs the complainant (the worker who has allegedly experienced workplace harassment), and the respondent (the alleged harasser), in writing, of the results of the investigation and of any corrective action that has been taken or that will be taken as a result of the investigation;
 - 4. Provides the Workplace Committee or the health and safety representative with a copy of the Report of Findings and Conclusions, providing any relevant information that can be disclosed without prohibition by law and that would not reveal the identity of the persons involved without their consent; and
 - 5. Adapts or implements controls to prevent a recurrence of the workplace harassment or violence.

8. Training:

The Employer provides information, instruction, and training on the factors that contribute to workplace bullying and harassment and/or violence that are appropriate to the workplace of each employee exposed to workplace bullying and harassment and/or violence or are at risk of workplace bullying and harassment and/or violence.

- a. Unless otherwise prescribed, the employer shall ensure that a health and safety representative receives training to enable him or her to effectively exercise the powers and perform the duties of a health and safety representative.
- b. The health and safety representative is deemed to be at work while he or she is receiving the training described above, and the employer shall pay the representative for the time spent, at the representative's regular or premium rate as may be appropriate.

The information, instruction, and training, includes the following:

- a. The nature and extent of workplace bullying and harassment and/or violence and how employees may be exposed to it;
- b. The communication system established by the Employer to inform employees about workplace violence;
- c. Information on what constitutes workplace bullying and harassment and/or violence and on the means of identifying the factors that contribute to workplace bullying and harassment and/or violence;

- d. The workplace violence prevention measures that have been developed; and
- e. The Employer's procedures for reporting on workplace bullying and harassment and/or violence or the risk of workplace bullying and harassment and/or violence.

9. Violations of this policy, procedure/program will result in disciplinary action, up to and including termination of employment.

This policy and procedure is signed and dated by the employer as an indication of acceptance of the policy and procedure and a confirmation to abide by it.

Signed: Peggy Greco
(Most Senior Employee)

Date: Oct 11, 2016

Signed: Ka Lon
(Board/Organization Chair if one)

Date: Oct 11, 2016