

THE CORPORATION OF THE MUNICIPALITY OF TEMAGAMI

BY-LAW NO. 10-932

Being a by-law to adopt a Workplace Harassment Policy for the Municipality of Temagami

WHEREAS under Section 8.1 of the Municipal Act, 2001, S.O., 2001, c.25, as amended, the powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;


AND WHEREAS the Occupational Health and Safety Amendment Act, 1990, S.O. 2009 C.23 Part III.0.1 requires employers to prepare a policy with respect to workplace harassment;

NOW THEREFORE the Council of the Corporation of the Municipality of Temagami hereby enacts as follows:

1. The Corporation of the Municipality of Temagami hereby adopts the Workplace Harassment Policy attached hereto as Schedule "A" and forming part of this by-law;
2. That this By-law shall take effect on the final passing thereof.

TAKEN AS READ A FIRST time on this 24th day of June, 2010.

READ A SECOND AND THIRD time and finally passed on this 24th day of June, 2010.


MAYOR


CAO/Clerk

Schedule A to Bylaw 10-932 - To Adopt a Workplace Harassment Policy

1 ANTI-HARASSMENT POLICY STATEMENT

1.1 Our commitment

At the Municipality of Temagami, we are committed to providing a safe and respectful work environment for all Council, staff and members of the public. No one, whether a manager, an employee, a volunteer, a contractor, or a member of the public, has to put up with harassment at the Municipality of Temagami, for any reason, at any time. And no one has the right to harass anyone else, at work or in any situation related to employment. This policy is one step toward ensuring that our workplace is a comfortable place for all of us.

1.2 Harassment is against the law

The Canadian Human Rights Act, the Ontario Human Rights Code, the Canada Labour Code and the Ontario Occupational Health and Safety Act protect us from harassment. The Criminal Code protects us from physical and sexual assault. You have a right to live and work without being harassed, and if you are harassed, you can do something about it.

1.3 Employees' responsibilities

All employees have the responsibility to treat each other with respect, and to speak up if they or someone else is being harassed. All employees have a responsibility to report harassment to the appropriate person. All employees are responsible for respecting the confidentiality of anyone involved in a harassment complaint.

1.4 Managers' responsibilities

Each manager and supervisor is responsible for fostering a safe working environment, free of harassment. Managers must set an example for appropriate workplace behaviour, and must deal with situations of harassment immediately upon becoming aware of them, whether or not there has been a complaint. Courts may impose penalties on the employer and the manager, even if neither of them was actually involved in or aware of the harassment, but should have known about it. A manager that didn't do anything to prevent harassment or to mitigate its effects may find her or himself facing financial and legal consequences.

1.5 The Municipality of Temagami's responsibilities

As an employer, the Municipality of Temagami also has a responsibility to be aware of what is happening in the workplace. The Municipal Council promises to ensure all incidents of harassment are treated seriously and to ensure that action is taken on all complaints and to ensure that they are resolved quickly, confidentially, and fairly. Anyone who has harassed a person or group of people or who retaliates in any way against anyone who has complained of harassment, given evidence in harassment investigations, or been found guilty of harassment shall be disciplined appropriately. The CAO and/or Council shall discipline managers who do not act properly to end harassment in accordance with our HR Policy. The Municipality shall also address any incidents of harassment by

members of the public toward employees or volunteers working on behalf of the Municipality. At the Municipality of Temagami, we will not put up with harassment.

2 INFORMATION FOR VICTIMS

2.1 What is harassment?

Harassment is any behaviour that demeans, humiliates, or embarrasses a person, and that a reasonable person should have known would be unwelcome. It includes actions, comments, or displays. It may be a single incident or continue over time.

Some examples of harassment include:

- unwelcome remarks, slurs, jokes, taunts, or suggestions about a person's body, clothing, race, national or ethnic origin, colour, religion, age, sex, marital status, family status, physical or mental disability; sexual orientation, pardoned conviction, or other personal characteristics;
- unwelcome sexual remarks, invitations, or requests (including persistent, unwanted contact after the end of a sexual relationship);
- displays of sexually explicit, sexist, racist, or other offensive or derogatory material;
- written or verbal abuse or threats;
- practical jokes that embarrass or insult someone;
- leering (suggestive staring) or other offensive gestures;
- unwelcome physical contact, such as patting, touching, pinching, hitting,
- patronizing or condescending behaviour;
- humiliating an employee in front of co-workers;
- abuse of authority that undermines someone's performance or threatens her or his career;
- abuse of authority that censures someone's performance when acting in accordance with municipal policy.
- vandalism of personal property; and/or
- physical or sexual assault.

The Canadian Human Rights Act and the Ontario Human Rights Code protect employees and customers from harassment that is related to their race, national or ethnic origin, colour, religion, age, sex, marital status, family status, disability; pardoned conviction, or sexual orientation.

Disrespectful behaviour, known as "personal" harassment, is also covered in this policy; 'While it also involves unwelcome behaviour that demeans or embarrasses an employee, this behaviour is not based on one of the protected grounds named above.

Harassment can take place in many settings, for example between co-workers, between a manager and employee, between people of the opposite sex or of the same sex, between an employee and a member of the public, or between an employee and a job applicant.

2.2 What isn't harassment?

Consensual banter or romantic relationships, where the people involved agree with what's happening, are not harassment.

Appropriate performance reviews, counseling, or discipline by a supervisor or manager are not harassment.

2.3 Where harassment happens

Work-related harassment can take place in the workplace itself, or outside of the workplace in a situation that is in some way connected to work. For example, Council, employees and the public must be protected from harassment during service delivery, off-site meetings, business trips, and any other event or place related to employment or when the employee is present in the course of employment.

3 COMPLAINT PROCEDURES

3.1 Speak up

If you believe you are being harassed, speak up right away. If possible, tell the person that you are not comfortable with their behaviour and want it to stop. Usually, that will be all you need to do. You can speak to them directly, or write them a letter (date it and keep a copy). In addition, tell someone you trust what is going on.

3.2 Keep notes

Record all unwelcome or harassing behaviour. Write down what has happened, when, where, how often, who else was present, and how you felt about it. Write down every instance of harassment. If the harassment involves a member of the public, the General Complaint Form, as found in the Municipality of Temagami Human Resources Policy, Appendix I should be filled out and submitted to the designated anti-harassment person for the Municipality of Temagami, who is the Treasurer/Human Resources Manager.

3.3 Report it

If the harassing behaviour occurs again, **or** if you are unable to deal directly with the person harassing you, report it to the designated anti-harassment person for the Municipality of Temagami, who is the Treasurer/Human Resources Manager. If that person is involved in the complaint, please see the CAO. If the CAO is not able to resolve the complaint, at that point it shall be brought to Council in Camera. Employees may also choose to make an anonymous report of harassment in accordance with the current Human Resources Policy, Section 4.23 Anonymous Reporting. If for some reason you are unable to report harassment to someone at the Municipality of Temagami, you may go directly to the Ontario Human Rights Commission. In cases of sexual or physical assault, you may also choose to go directly to the police.

Once a person reports harassment, the designated anti-harassment person shall ask questions such as what happened, when, where, how often and who else was present and shall keep notes of this conversation.

3.4 Informal procedures

You may want to proceed informally at first. This means you can ask the designated person to help you communicate with the other person, or to speak to them on your behalf, without going through actual mediation or a formal complaint. The informal approach may not always be possible or successful, but when it is, you may be able to resolve the situation quickly.

3.5 Mediation

It may be appropriate to attempt to resolve the complaint through mediation before going to a formal investigation. If a qualified person from outside the organization is available to act as a mediator, and the complainant and alleged harasser agree, that person shall attempt to help the parties settle the complaint. If no one is available, a designated person may help settle the complaint, if the parties agree. The mediator should not be involved in investigating the complaint, and should not be asked to represent the company at any stage of any proceedings related to the complaint.

However, either party has the right to refuse mediation. You are the only one who can decide if mediation is appropriate for you. Do not agree to it if you feel pressured into it, or feel that you are at a disadvantage or vulnerable because of your age, sex, race, colour, religion, sexual orientation, economic position, or for any other reason. If someone suggests mediation but you are uncomfortable with it, you can say so, and it shall not be part of the complaint process. If mediation does become part of the process, each person has the right to be accompanied and assisted during mediation sessions by someone they choose.

3.6 Investigation

If you want to go ahead with a formal complaint, it shall be investigated either by a specially trained person from within the organization, or a consultant. This person shall investigate the complaint thoroughly. He or she shall interview the complainant, the alleged harasser, and any witnesses. All employees have a responsibility to cooperate in the investigation.

Both you and the alleged harasser have the right to be accompanied by someone with whom you feel comfortable during any interviews or meetings.

An investigation shall involve:

- getting all pertinent information from the complainant;
- informing the alleged harasser of the details of the complaint, and getting her or his response
- interviewing any witnesses;
- deciding whether, on a balance of probabilities, the harassment did take place; and
- recommending appropriate remedies, penalties, or other action

3.7 Substantiated complaints

If the investigator decides the complaint is valid, he or she shall report in writing to the CAO, ideally within a week of completing the investigation. The investigator shall recommend appropriate remedies and disciplinary action, and any other necessary action. The CAO shall decide what action to take, and shall inform both parties of the decision, in writing, ideally within a week of the report being submitted.

3.8 Remedies for the victim

Remedies for a person who has been harassed may include any of the following, depending on the nature and severity of the harassment:

- an oral or written apology from the harasser and The Municipality of Temagami;
- lost wages;
- a job or promotion that was denied;
- compensation for any lost employment benefits, such as sick leave; and/or
- a commitment that he or she shall not be transferred, or shall have a transfer reversed, unless he or she chooses to move.

3.9 Corrective action for harassers

Employees

Corrective action for harassers may include any of the following, depending on the nature and severity of the harassment:

- a written reprimand;
- a fine;
- a suspension, with or without pay;
- a transfer, if it is not reasonable for the people involved to continue working together;
- a demotion; or
- a dismissal.

Harassers may also be obliged to attend an anti-harassment training session.

Council

Corrective action for members of Council may include any of the following, depending on the nature and severity of the harassment:

- a fine;
- a public censure recorded in the minutes of a Council meeting
- a transfer of portfolios
- other recourse as prescribed by the Municipal Act for improper behaviour or misconduct.

Public

If the harasser is a member of the public, the CAO shall send them a letter to advise them of our harassment policy and to advise that if the behaviour continues that appropriate legal action shall be taken.

Contractors/suppliers

If the harasser is a contractor or supplier for the Municipality of Temagami, the CAO shall advise the owner or manager of the company of our harassment policy and that if the behaviour continues, they may be suspended as a supplier to the municipality.

3.10 Unsubstantiated complaints

If there is not enough evidence to support an allegation of harassment, the investigator shall not recommend any penalties or remedies.

3.11 Complaints made in bad faith

In the rare event that the complaint was made in bad faith, that is deliberately and maliciously filed knowing it had absolutely no basis, the complainant shall be subject to the same penalties as a harasser. The person unjustly accused of harassment shall have her or his reputation restored, and shall be given the benefit of any necessary remedies that would be given in a case of harassment.

3.12 Retaliation

Anyone who retaliates in any way against a person who has been involved in a harassment complaint shall be subject to the same penalties as a harasser.

3.13 Confidentiality

The Municipality of Temagami shall not disclose any information about a complaint except as necessary to investigate the complaint or to take disciplinary action, or as required by law. All persons, whether a party to the harassment complaint or a witness to it, are to treat the matter as strictly confidential and shall not discuss it with anyone outside the proper investigation procedure as set forth in this policy.

3.14 Time limits

Managers have a responsibility to make sure harassment ends as soon as they become aware of it. Complaints shall be resolved as quickly as possible, ideally within one month of being made. Complainants should be aware that there is a one-year time limit for filing a complaint with either the Ontario or the Canadian Human Rights Commission.

3.15 Other options

- As detailed in section 3.3, an employee may make an anonymous complaint in accordance with the Municipal Human Resources Policy.
- A complainant to the Municipality of Temagami who is not satisfied with the result of a harassment complaint may also consult the Ontario Human Rights Commission.
- If the harassment involves physical or sexual assault, which are criminal offences, the police are the appropriate avenue.

4 POLICY CHANGES

If you have questions or comments about the policy or its application, please speak to the Treasurer/ Human Resources Manager or to the CAO of the Municipality of Temagami. We may make changes to the policy as necessary, and shall review it regularly.