

Respect in the Workplace Procedures

Department:	All Staff and Council		
Section:	Human Resources	Effective Date:	November 28, 2011
Subject:	Respect in the Workplace	Revised Date:	September 24, 2019
Authority:	Occupational Health and Safety Act		
By-Law:	By-Law 2011-90, By-Law 2016-063, By-Law 2018-053, By-Law 2019-109		
Attachment:	Appendix A – Workplace Respect Complaint Form		

Purpose:

Brockton is committed to providing and maintaining a working environment that is based on respect for the dignity and rights of everyone in the organization. It is Brockton’s goal to provide a healthy and safe work environment that is free of any form of harassment or violence.

Scope:

This procedure applies to all employees, contractors, consultants and Brockton Council. It applies in any location in which you are engaged in work-related activities. This includes, but is not limited to:

- The workplace
- During work-related travel
- At restaurants, hotels or meeting facilities that are being used for business purposes
- In company owned or leased facilities
- During telephone, email or other communications
- At any work-related social event, whether or not it is company sponsored; and
- During use of the internet, including instant messaging, blogging and social networking sites

This procedure also applies to situations in which you are harassed or subjected to violence in the workplace from individuals who are not employees of the organization, such as customers and suppliers, although the available remedies may be constrained by the situation.

Definitions

1. Advisor

For the purposes of the procedure, any staff from the Human Resources Department or Alternate Acting Chief Administrative Officer (CAO) will act as advisors.

2. Discrimination

Workplace discrimination includes any distinction, exclusion or preference based on the protected grounds in the Ontario Human Rights Code, which nullifies or impairs equality of opportunity in employment, or equality in the terms and conditions of employment.

The protected grounds of discrimination are:

- Race, colour, ancestry, citizenship, ethnic origin or place of origin
- Creed, religion
- Age
- Sex (including pregnancy and gender identity)
- Sexual orientation
- Family, marital (including same-sex partnership) status
- Disability or perceived disability
- A record of offences for which a pardon has been granted under the Criminal Records Act (Canada) and has not been revoked, or an offence in respect of any provincial enactment.

3. Sexual Harassment

Sexual harassment includes 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 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.

Both men and women can be victims of sexual harassment, and someone of the same or opposite sex has the capability to harass someone else.

Some examples of sexual harassment are:

- Sexual advances or demands that the recipient does not welcome or want
- Threats, punishment or denial of a benefit for refusing a sexual advance
- Offering a benefit in exchange for a sexual favour
- Leering (persistent sexual staring)
- Displaying sexually offensive material such as posters, pictures, calendars, cartoons, screen savers, pornographic or erotic web sites or other electronic material
- Distributing sexually explicit e-mail messages or attachments such as pictures or video files
- Sexually suggestive or obscene comments or gestures
- unwelcome remarks, jokes, innuendoes, propositions or taunting about a person's body, clothing or sex
- Persistent, unwanted attention after a consensual relationship ends
- Physical contact of a sexual nature, such as touching or caressing; and
- Sexual assault

4. Discriminatory Harassment

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 offends him or her.

Some examples of discriminatory harassment include:

- Offensive comments, jokes or behaviour that disparage or ridicule a person's membership in one of the protected grounds, such as race, religion or sexual orientation
- imitating a person's accent, speech or mannerisms
- Persistent or inappropriate questions about whether a person is pregnant, has children or plans to have children; or

- Inappropriate comments or jokes about an individual's age, sexual orientation, personal appearance or weight.

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 a **poisoned working environment** and it is also a form of harassment.

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 is offensive, racist or discriminatory in nature.

5. Workplace Harassment and Bullying

Workplace harassment is a health and safety issue that is covered under the Occupational Health and Safety Act.

The Occupational Health and Safety Act define **workplace harassment** 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.

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 affects the person's dignity or psychological integrity; and
- It results in a poisoned work environment.

In addition, behaviour that intimidates isolates or discriminates against the recipient may also be included.

Some examples of workplace harassment are:

- verbally abusive behaviour such as yelling, insults, ridicule and name calling including remarks, jokes or innuendos that demean, ridicule, intimidate or offend
- Workplace pranks, vandalism, bullying and hazing
- gossiping or spreading malicious rumours
- excluding or ignoring someone, including persistent exclusion of a particular person from workplace-related social gatherings
- undermining someone else's efforts by setting impossible goals, with short deadlines and deliberately withholding information that would enable a person to do their job
- providing only demeaning or trivial tasks in place of normal job duties
- humiliating someone
- sabotaging someone else's work
- displaying or circulating offensive pictures or materials
- Offensive or intimidating phone calls or emails
- impeding an individual's efforts at promotions or transfers for reasons that are not legitimate; and
- making false allegations about someone in memos or other work related documents

What Isn't Harassment

Workplace harassment should not be confused with legitimate, reasonable management actions that are part of the normal work function, including:

- Measures to correct performance deficiencies, such as placing someone on a performance improvement plan,
- imposing discipline for workplace infractions; or
- requesting medical documents in support of an absence from work

It also does not include normal workplace conflict that may occur between individuals or differences of opinion between co-workers.

The Test of Harassment

It does not matter whether you intended to offend someone. The test of harassment is whether you knew or should have known that the comments or conduct were unwelcome to the other person. For example, someone may make it clear through their conduct or body language that the behaviour is unwelcome, in which case you must immediately stop that behaviour.

Although it is commonly the case, the harasser does not necessarily have to have power or authority over the victim. Harassment can occur from co-worker to co-worker, supervisor to employee and employee to supervisor.

6. Workplace and Domestic Violence

Workplace and domestic violence that may occur in the workplace are health and safety issues, which are covered under the Occupational Health and Safety Act.

Workplace Violence

Workplace violence is defined under the Occupational Health and Safety Act 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 is reasonable for a worker to interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker.

It is defined broadly enough to include acts that may be considered criminal. Workplace violence includes:

- Physically threatening behaviour such as shaking a fist at someone, finger pointing, destroying property, throwing objects
- Verbal or written threats to physically attack a worker
- leaving threatening notes or sending threatening emails
- wielding a weapon at work
- stalking someone; and
- physically aggressive behaviours including hitting, shoving, standing excessively close to someone in an aggressive manner, pushing, kicking, throwing an object at someone, physically restraining someone or any other form of physical or sexual assault.

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.

Workplace violence may come from many different sources:

- Strangers or people with no ties to the workplace
- Clients, customers or patients
- Other employees
- Intimate relationships outside of work (such as intimate partners, family, and friends)

Domestic Violence

If you are experiencing domestic violence that would likely expose you, or other workers, to physical injury that may occur in the workplace, we will take every precaution reasonable to protect you and your co-workers in the circumstances. This may include some or all of the following:

- creating a safety plan
- contacting the police
- establishing enhanced security measures such as a panic button, code words, and door and access security measures
- screening calls and blocking certain email addresses
- Setting up priority parking or providing escorts to your vehicle or to public transportation
- adjusting your working hours and location so that they are not predictable; and
- facilitating your access to counselling through an Employee Assistance Program or other community programs.

We appreciate sensitivity of these issues and will do our best to assist you as discreetly as possible while maintaining your privacy.

Preventing Harassment and Violence:

It is our mutual responsibility to ensure that we create and maintain a harassment and violence-free workplace and address violence and/or the threat of violence from all possible sources (including customers, clients, employers, supervisors, workers, strangers and domestic/intimate partners).

Brockton's Commitment:

The municipality will do its part by not tolerating or condoning discrimination, harassment or violence in the workplace. This includes making everyone in our organization aware of what behaviour is and is not appropriate, assessing the risk of workplace violence, investigating complaints and imposing suitable corrective measures.

Duties of Department Heads:

Department Heads are expected to assist in creating a harassment-free workplace and to immediately contact an Advisor if they receive a complaint of workplace harassment or violence or witness or are aware of harassing or violent behaviour.

Department Heads must also take every reasonable precaution to protect employees from workplace violence, including evaluating a person's history of violent behaviour to determine whether and to whom this employee poses a risk. In making this evaluation Department Heads should consider:

- whether the person's history of violence was associated with the workplace or work;
- whether the history of violence was directed at a particular employee or employees in general; and
- How long ago the incidence of violence occurred.

In certain circumstances, Department Heads may have a duty to provide information about a risk of workplace violence from a person with a history of violent behaviour if an employee can be expected to encounter that person during the course of his or her work, and the risk of workplace violence is likely to expose the employee to physical injury. Department Heads will only release as much personal information about the person with a history of violent behaviour as is reasonably necessary to protect the employee from physical injury. Department Heads are required to consult with an Advisors prior to releasing information about a person with a history of violence.

Duties of All Employees:

You must do your part by ensuring that your behaviour does not violate this procedural document and by fostering a work environment that is based on respect and is free of harassment.

You are also required to report to your supervisor or an Advisor, the existence of any workplace violence, incident of workplace harassment or bullying or threat of workplace violence. See Appendix A – Workplace Respect Complaint Form. All employees are reminded of their legislated duty to report all health and safety hazards of which they are aware.

In the event a complaint is to be made against the employee's Manager/Supervisor, or the employee feels the employer or the manager/supervisor is the alleged harasser they can report the incident to an Advisor.

Duties of Advisors:

To assist you in understanding your rights and obligations under this Procedural document, Human Resources or the Alternate Acting CAO shall act as an advisor to all employees.

The role of the Advisors is to:

- Act as a resource and answer inquiries with respect to this procedure.
- Discuss complaints on a confidential basis, except where the Advisor is required to release information as required by law, during a workplace investigation or where there is a risk of harm to you or another individual
- Assist individuals who may be experiencing domestic violence that may expose them to a risk of physical injury in the workplace
- Assist in the informal resolution of complaints through counselling, as appropriate; and
- Engage in discussions with the respondent to see if the matter can be resolved informally

To avoid any potential conflicts of interest, the Advisors do not conduct formal investigations.

Advisors are impartial and may provide assistance in resolving issues of harassment and discrimination to any employee, contractor or consultant. That can include facilitating a solution between two or more affected parties or assisting a complainant, respondent or witness during an investigation.

Advisors are advocates for a respectful workplace –not an advocate for a particular individual, and shall maintain confidentiality to the extent practicable and appropriate under the circumstances. In carrying out their duties under this procedure, Advisors will be directly responsible to the CAO.

Duties of the General Public

The Municipality of Brockton is committed to fostering an environment where there is respect for all members of the public at Municipal facilities, properties, municipally sponsored events, programs or at any other location where municipal staff are present.

Members of the public shall refrain from any action or behavior that may be considered harassment, violence, bullying, or discrimination as defined in this policy. Members of the public shall also refrain from any action or behavior that is likely to cause damage to municipal property or that would otherwise be illegal, including the illegal consumption of drugs or alcohol.

Individuals who engage in any inappropriate behaviour, as defined in this procedure, may, depending on the severity, be removed immediately from the premises. A letter of warning may be sent to an individual advising them of that the person's behaviour was inappropriate and, if continued, would result in further enforcement. If necessary, an individual may be banned from Municipal premises for a period of time. Length of the ban will be determined by the appropriate Director and or the CAO, and will depend on the severity of the situation (Appendix B). Enforcement guidelines are referenced in Appendix B.

In addition to any other measures taken, where any damage to Municipal Property has occurred, the individual(s) responsible will be required to reimburse the Municipality for all costs associated with any repairs, an administration fee, as well as any lost revenues or where appropriate, be required to repair the damage. Staff may also call or consult a law enforcement agency for investigation or further enforcement if warranted by the circumstances.

If an individual wishes to appeal any action taken by the Municipality, the individual may present their case in writing to the Council of the Municipality of Brockton, within 14 days of the decision. The appeal will be reviewed by the Council of the Municipality of Brockton, and any decision made is final.

Furthermore, all municipal facilities shall adopt the "Rzone" program such that any members of the public attending the facility are aware of the Municipality of Brockton's standards for respect and responsibility in that facility.

Any individuals that have been banned from a municipal facility in accordance with Appendix "B" shall be permitted to attend the front counter of the municipal office to express their concerns. The Chief Administrative Officer, or a person acting as her delegate, shall have the authority to ban an individual from the municipal office and make other arrangements to allow the individual to express their concerns.

Duties of the External Investigator

The CAO, together with the External Investigator acts as the workplace coordinator with respect to harassment and violence in the workplace.

The External Investigator will investigate complaints, interview all relevant parties and make a finding if possible.

Procedure for Resolving and Investigating Harassment Complaints

Informal 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 don't 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 ...”

If the harassment continues after you have confronted the individual, you may want to provide him or her with a written statement of the situation. Include specific details of the behaviours you consider to be harassing, your request to the harasser to stop and your expectations that he or she will stop. Provide details of the next steps you plan to take if the harassment does not stop e.g., filing a formal complaint. Make sure you keep a copy of this statement for yourself.

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

If you believe that someone who is not a member of our organization, e.g., a customer, supplier, etc., has harassed or discriminated against you, report the harassment to your supervisor or an Advisor. Although Brockton has limited control over third parties, we will do our best to address the issue and prevent further problems from arising.

Formal Procedure

External Investigator

If the complaint cannot be resolved informally or if it is so serious in nature that the Advisors feel it is better investigated by an external investigator, they will refer the issue to the external investigator.

In the event a complaint is to be made against the employee’s Senior Manager an external investigator will be engaged immediately.

If you bring a formal complaint, as much written information as possible will be needed, including the name of the person you believe is harassing you, the place, date and time of the incident(s), and the names of any possible witnesses. A copy of the Workplace Respect Complaint form is attached as Appendix 'A' to this document.

It is important that we receive your complaint as soon as possible so that the problem doesn’t escalate or happen again. Once we receive your complaint, we will initiate a formal investigation, if it is necessary and appropriate to do so.

Discrimination and harassment are serious matters. Therefore, if you decide not to make a formal complaint, we may still need to investigate the matter and take steps to prevent further harassment. For example, we may need to continue with an investigation if the allegations are serious or if there have been previous complaints or incidents involving the respondent.

Please note that it is our policy not to investigate anonymous complaints unless there are extenuating circumstances.

Investigation Procedure

The External Investigator will commence an investigation as quickly as possible.

The investigation will include:

- interviewing the complainant and respondent to ascertain all of the facts and circumstances relevant to the complaint, including dates and locations
- interviewing witnesses, if any
- reviewing any related documentation; and
- making detailed notes of the investigation and maintaining them in a confidential file

Once the investigation is complete, the investigator(s) will prepare a detailed report of the findings to the CAO. A summary of the findings will also be provided to the complainant and respondent.

It is our goal to complete any investigation and communicate the results to the complainant and respondent within thirty (30) days after we receive a complaint, where possible.

Corrective Action

The CAO, in conjunction with applicable the Department Head will determine what action should be taken as a result of the investigation.

An Advisor, CAO, department head, or the External Investigator will inform the complainant and respondent of the results of the investigation and *whether corrective measures were taken, if any were necessary or if any will be taken.*

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

Corrective measures may include one or more of the following:

- Discipline, such as a verbal warning, written warning or suspension without pay
- Termination with or without cause
- Referral for counselling (sensitivity training), anger management training, supervisory skills training or attendance at educational programs on workplace respect
- A demotion or denial of a promotion
- Reassignment or transfer
- Financial penalties such as the denial of a bonus or performance related salary increase; and
- Any other disciplinary action deemed appropriate under the circumstances

If there is not enough evidence to substantiate the complaint, corrective measures will not be taken.

If you make a complaint in good faith and without malice, regardless of the outcome of the investigation, you will not be subject to any form of discipline. However, Brockton reserves the right to discipline including terminating anyone who brings a false and malicious complaint.

Procedure for Resolving and Investigating Workplace Violence

Workplace Violence

You have the right to refuse work if workplace violence is likely to endanger you. In that instance, please immediately contact your supervisor at which point appropriate measures will be taken to protect you and investigate the situation. You will be moved to a safe place as near as reasonably possible to your normal work station and you will need to be available for the purposes of investigating the incident. In some circumstances, subject to the provisions of applicable collective agreements, you may be provided with reasonable alternative work during normal working hours.

In appropriate circumstances, we may contact the police, or other emergency responders as appropriate, to assist, intervene or investigate workplace violence. Details about the measures and procedures for summoning immediate assistance will be provided and may include:

- Equipment to summon assistance such as fixed or personal alarms, locator or tracking systems, phones, cell phones, etc.
- Emergency telephone number and / or email addresses
- Emergency procedures

Provided the situation is dealt with quickly and the danger to workers is removed, the necessity of work refusal may be alleviated.

Investigation Procedure

You are required to report the existence of any workplace violence or threat of workplace violence to your supervisor or an Advisor. As much written information as possible will be needed and you will be encouraged to provide this information on the Workplace Respect Complaint form attached as Appendix "A" to this document. An Advisor will make a recommendation regarding the commencement of an investigation as quickly as possible. We may choose to use either an internal or external investigator, depending on the nature of the incident.

In the event a complaint is to be made against the employee's Senior Manager an external investigator will be engaged immediately.

The investigation will include:

- conducting interviews of relevant individuals to ascertain all of the facts and circumstances relevant to the complaint, including dates and locations
- reviewing any related documentation; and
- making detailed notes of the investigation and maintaining them in a confidential file

Once the investigation is complete, the investigator(s) will prepare a detailed report of the findings.

Corrective Action

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

The External Investigator will inform the complainant and respondent of the results of the investigation and what corrective measures *were taken, if any were necessary, or will be taken.*

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

Corrective measures may include one or more of the following:

- discipline, such as a verbal warning, written warning or suspension without pay
- termination with or without cause
- referral for counselling (sensitivity training), anger management training, supervisory
- skills training or attendance at educational programs on workplace respect
- a demotion or denial of a promotion
- reassignment or transfer
- financial penalties such as the denial of a bonus or performance related salary increase; and

- any other disciplinary action deemed appropriate under the circumstances

If you make a complaint in good faith and without malice, regardless of the outcome of the investigation, you will not be subject to any form of discipline. However, Brockton reserves the right to discipline including termination of anyone who brings a false and malicious complaint.

Procedures for Addressing Domestic Violence

If you are experiencing domestic violence that would expose you to physical injury in the workplace or you are experiencing workplace violence or believe that workplace violence is likely to occur, you may seek immediate assistance by contacting any of the Advisors or your supervisor/manager. An Advisor or your supervisor/manager will assist in preventing and responding to the situation.

Confidentiality of Complaints and Investigations

We recognize the sensitive nature of harassment and violence complaints and we will endeavour to keep all complaints confidential, to the extent that we are able to do so. We will only release as much information as is necessary to investigate and respond to the complaint or situation or if required to do so by law.

Out of respect for the relevant individuals, it is essential that the complainant, respondent, witnesses and anyone else involved in the formal investigation of a complaint maintain confidentiality throughout the investigation and afterwards.

Protection from Retaliation

The Corporation of the Municipality of Brockton will not tolerate retaliations, taunts or threats against anyone who complains about harassment or takes part in an investigation. Any person, who taunts, retaliates against or threatens anyone in relation to harassment or violence complaint may be disciplined or terminated.

Confidential



**Appendix "A" to Respect in the Workplace Procedure
Workplace Respect Complaint Form**

Employee Name: _____ **Position:** _____

Department: _____ **Date:** _____

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

Internal Individual(s) External Individual(s)

Description of Complaint:

Include as much information as possible, including dates, times, places and conduct you are complaining about. Attach additional sheets if necessary.

Potential Witnesses:

List any individuals who may have information about the conduct in question or who may have observed it:

Appendix “B”

Respect in the Workplace Policy - Enforcement Guidelines - Municipality of Brockton

The following chart represents guidelines, and outlines the consequences for acts of inappropriate behaviour at all Municipal facilities, properties, Municipal sponsored events, programs, in written or verbal communication (including email or phone), in Municipal vehicles, or any other location where Municipal staff are present.

It is understood that these guidelines do not include all types of behaviour, that each incident will be reviewed based on information available, and that consequences outlined below are guidelines that may be adjusted to reflect conduct/actions.

Consequences may be more severe or escalated depending on the circumstances of the inappropriate conduct.

Time banned is from all Municipal facilities (except for the front counter of the Main Office), properties, Municipal sponsored events, programs, in Municipal vehicles, or any other location where Municipal staff are present. Inappropriate written or verbal communication will not be tolerated. Action will be taken as necessary.

Any individuals that have been banned from a municipal facility shall be permitted to attend the front counter of the municipal office to express their concerns. The Chief Administrative Officer, or a person acting as her delegate, shall have the authority to ban an individual from the municipal office and make other arrangements to allow the individual to express their concerns.

Incident	1st Occurrence	2nd Occurrence	Any Subsequent Occurrence
<ul style="list-style-type: none"> • Aggressive or intimidating approaches to another individual (verbal assault) • Attempts to goad or incite anger in others 	Letter of warning	Minimum 3 month ban and review to determine if further consequences are warranted.	Minimum 1-year ban and review to determine if further consequences are warranted. Trespass Notice Issued.
<ul style="list-style-type: none"> • Threats • Harassment 	Minimum 3 month ban	Minimum 6 month ban and review to determine if further consequences are warranted.	Minimum 3-year ban and review to determine if further consequences are warranted. Trespass Notice Issued.
<ul style="list-style-type: none"> • Throwing of articles in a deliberate or aggressive manner • Physical striking of another individual • Illegal consumption of alcohol or drugs • Possession of weapons 	Minimum 6 month ban	Minimum 1-year ban and review to determine if further consequences are warranted.	Minimum 3-year ban and review to determine if further consequences are warranted. Trespass Notice Issued.

• Vandalism to building or property/theft	Minimum 1 month ban plus payment of repair costs and 20% administration fee.	Minimum 6 month ban plus payment of repair costs and 20% administration fee and review to determine if further consequences are warranted.	Minimum 3-year ban plus payment of repair costs and 20% administration fee and review to determine if further consequences are warranted. Trespass Notice Issued.
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