

# Town of Truro – Policy & Procedure Manual

**Subject:** Respectful Workplace Policy  
**Policy Number:** P100-021  
**Approval Date:** June 10, 2013  
**Departments:** All Departments

## **POLICY STATEMENT**

The Town of Truro is committed to creating an inclusive, healthy, safe and supportive workplace where employees are valued and treated with dignity and respect. The Town of Truro is committed to building and maintaining a diverse respectful workplace where all employees enjoy an environment in which the dignity and self-respect of every person is valued and free of negative, aggressive, and inappropriate behaviours and materials. It is the right of all employees to work in an environment free from harassment, sexual harassment, and/or discrimination.

## **PURPOSE**

Every Town employee can expect to be treated respectfully in the workplace and that the workplace is free of harassment and discrimination. Every employee has the responsibility to refrain from participating in behaviour that is or could reasonably be perceived to be disrespectful in nature.

In this policy, “unacceptable behavior” shall mean any conduct which is disrespectful, harassing or discriminatory of others.

## **DEFINITIONS**

**Complainant** – an employee(s) who have made a complaint under this policy, whether formal or informal, alleging that unacceptable behaviour has occurred.

**Discrimination** – making a distinction, whether intentional or not, based on characteristic, or perceived characteristic, referring to age, race, colour, religion, creed, sex, sexual orientation, physical or mental disability, irrational fear of contracting an illness or disease, ethnic, national or aboriginal origin, family or marital status, source of income, political believe, affiliation or activity which imposes burdens, obligations or disadvantages on an individual or a group of individuals sharing the same characteristics which are not imposed on others; or withholding or limiting access to opportunities, benefits, or advantages from an individual or a group of individuals which are available to others.

**Harassment** – is any behavior that demeans, humiliates or embarrasses a person, and that a reasonable person should have known would be unwelcome. It includes actions such as touching, pushing, comments, jokes, name- calling and offensive displays.

*The Nova Scotia Human Rights Act* protects employees and customers from harassment that is related to their age, race, colour, religion, creed, sex, sexual orientation, physical disability, mental disability, ethnic, national or aboriginal origin, family status, marital status, source of income, or political belief.

Disrespectful behaviour, known as "personal" harassment also involves unwelcome behaviour. It is broader in scope and covers all derogatory remarks or actions about an individual's intelligence, competence, aptitudes, preferences and physical appearance, which are demeaning or embarrassing an employee; the behaviour is not based on one of the protected grounds named above.

Unacceptable behaviour can take place between co-workers, between a supervisor and an employee, between people of the opposite sex or of the same sex, between an employee and a client or citizen, or between an employee and a job applicant.

**What is not unacceptable behaviour** - consensual banter or romantic relationships, where the people involved are comfortable and agree with what is happening, are not unacceptable behaviour. Appropriate performance reviews, counselling, or discipline by management or a supervisor are not harassment.

**Sexual Harassment** – means irritating sexual conduct or a course of unacceptable behaviour, actions or comments that is known or ought reasonably to be known as unwelcome; a sexual solicitation or advance made to an individual where the other individual is in a position to confer a benefit on, or deny a benefit to, the individual to whom the solicitation or advance is made, where the individual who makes the solicitation or advance knows or ought reasonably to know that it is unwelcome; or a retaliation or threat of retaliation against an individual for rejecting a sexual solicitation advance.

## **RESPONSIBILITIES**

Employee:

- Treat others with respect;
- Set an example by respecting the dignity and human rights of all employees and members of the public;
- Recognize and refrain from actions that offend, embarrass or humiliate others whether it is intentionally or unintentionally, and from actions that are harassing or discriminatory of others;
- Report what is observed in the workplace as it relates to unacceptable behaviours;
- Cooperate with our Respectful Workplaces programme including preventative measures introduced by management.

Employer:

- Behave respectfully and act as a model for all employees;
- Create an environment that supports the resolution of respectful workplace issues;
- Respond properly to allegations of unacceptable behaviour;
- Take steps to prevent inappropriate incidents from escalating;
- Ensure that no employee suffers retaliations as a result of responding to or reporting unacceptable behaviour;
- Maintain a high level of confidentiality in all circumstances respecting complaints of unacceptable behaviour.

## **COMPLAINT PROCEDURES**

### **Speak up**

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

### **Keep notes**

Record all unacceptable 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 such behaviour.

### **Report it**

If the unacceptable behaviour occurs again, or if you are unable to deal directly with the wrongdoer, report it to the person designated to receive complaints. For town employees, the designated unacceptable behaviour contact is the Diversity Management Coordinator. If that person is involved in the complaint, please see the CAO, personally. If for some reason you are unable or unwilling to report unacceptable behaviour to someone at the town office, you may be able to go directly to the Nova Scotia Human Rights Commission. If you are a union employee, you might be able to go to your union representative, or you may choose to report this matter to the police for a case of sexual or physical assault.

Once a person reports unacceptable behaviour to the Diversity Management Coordinator or CAO, the designated unacceptable behaviour person will ask questions such as what happened, when, where, how often and who else was present and will keep notes of this conversation.

### **Informal procedures – Self Help**

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.

### **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 the alleged wrongdoer agree, that person will attempt to help the parties settle the complaint. If no one is available, the CAO may request assistance when obtaining a qualified mediator through the Nova Scotia Human Rights Commission.

The mediator should not be involved in investigating the complaint, and should not be asked to represent the Town of Truro at any stage of any proceedings related to the complaint.

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, employment position or for any other reason. If someone suggests mediation, but you are uncomfortable with it, you can say so, and it will 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.

### **Formal Procedures - The investigation**

If you want to go ahead with a formal complaint, the complaint must be in writing (See Appendix A) and shall include the name of the person alleged to have behaved unacceptably, the approximate time and date, location of the conflict and names of witness, (if applicable). The complaint will be investigated, either by a specially trained person from within the organization or a consultant (See Appendix B). This person will investigate the complaint thoroughly. He or she will interview the complainant, the wrongdoer harasser, and any witnesses in a private area. The investigation is of a fact-finding nature, and no blame will be assigned during the fact-finding process. All employees have a responsibility to cooperate in the investigation.

Both the complainant and the wrongdoer have the right to be accompanied by someone with whom they feel comfortable during any interviews or meetings.

An investigation will involve:

- Getting all pertinent information from the complainant;
- Informing the alleged wrongdoer of the details of the complaint and getting her or his response;
- Interviewing any witnesses;
- Deciding whether, on a balance of probabilities, wrongdoing did take place; and
- Recommending appropriate remedies, penalties, or other action

### **Rights of Individual Accused of Harassment**

If you are the individual accused of wrongdoing, you have the right:

- To be informed of the complaint;
- To be given a written statement of the official allegations, and to respond to them;
- To have a person of your choice accompany you during the process;
- To be informed of the progress of the complaint;
- To receive fair treatment.

### **Substantiated complaints**

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

### **Remedies for the victim**

Remedies for the complainant will include any of the following, depending on the nature and severity of the harassment:

- An oral or written apology from the wrongdoer;
- A portion of wages lost as a result of unacceptable behaviour;
- A job or promotion that was denied;
- Compensation for any lost employment benefits, such as sick leave;
- Compensation for hurt feelings;
- A commitment that he or she will not be transferred during a period of time, or will have a transfer reversed, unless he or she chooses to move.

### **Corrective action for harassers**

Corrective action for wrongdoers will 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 dismissal;

Harassers may also be obliged to attend a Respectful training session.

### **Unsubstantiated complaints**

If a person, in good faith, files a complaint of unacceptable behaviour that is not supported by evidence gathered during the investigation, that complaint will be dismissed, and no record of it will be put in the accused file. As long as the complaint was made in good faith, there will be no penalty to the person who complained, and no record in her or his file.

**Complaints made in bad faith**

In the event that a complaint is made in bad faith, that is, deliberately and maliciously filed knowing it has no reasonable basis, the complainant will be subject to the same penalties as the accused wrongdoer. The person unjustly accused will have her or his reputation restored, and will be given the benefit of any appropriate remedies that could be given to a complainant.

**Retaliation**

Anyone who retaliates in any way against a person who has been involved in a complaint unacceptable behaviour will be subject to the same penalties as a wrongdoer.

**Confidentiality**

The Town of Truro will not disclose any information about a complaint except as necessary to investigate the complaint or to take disciplinary action, or as required by law. The Town of Truro encourages employees and managers to respect confidentiality in the same way.

**Timelines**

Management have a responsibility to make sure unacceptable behaviour ends as soon as they become aware of it. Complaints will be resolved as quickly as possible, ideally within one month of being made.

## APPENDIX A

### COMPLAINT FORM

#### Section A

DEPARTMENT	SURNAME	GIVEN NAMES

#### Section B

##### DETAILS OF COMPLAINT

1. Full name, and department of person against whom the complaint is being made.
  
2. Detailed description of the comment, gesture, display, physical contact or other conduct believed to constitute harassment. Include information as to date, time, and location (if you need more space add a sheet to this form).
  
3. Full name of any witnesses to the incident.
  
4. Full name of your immediate supervisor.

Signature of Complainant: \_\_\_\_\_ Date: \_\_\_\_\_

## **APPENDIX B**

### **INVESTIGATION GUIDELINES**

#### **COMPLAINT INVESTIGATORS**

##### **Selection**

The Investigator appointed by the CAO should be impartial and unbiased. The Investigator must be capable of conducting an independent investigation in a thorough, discreet, and sensitive manner, in the language of the parties' choice, and should be trained in investigation techniques.

Where possible and practical, the investigator should be outside line management of the complainant and respondent.

At times, it may be necessary to obtain an investigator from outside the organization. If such matters such as gender, disability, race, national origin, or colour are factors, these should be taken into consideration with appointing an investigator.

An Investigator must meet the Investigator Competency Profile (See Appendix C).

##### **Roles and Responsibilities**

The Investigator is responsible for all matters associated with the handling and conduct of the investigation as described in the terms written by the CAO and is accountable for (See Appendix D):

- a. Gathering, examining and recording of all relevant facts from available documentation;
- b. Identifying gaps in information, potential sources of additional information and persons who may be able to corroborate information obtained, whether this be through additional documentation, or first-hand knowledge;
- c. Preparing a written report covering all significant points and an analysis of the facts and circumstances of the case; and
- d. Ensuring that witnesses are advised that any information provided during the course of the investigation, and during subsequent actions related to administrative decision resulting from the findings, can be made available under the Privacy Act and the Access to Information Act.

##### **Stages of an Investigation**

The stages of an investigation are:

- a. The research and planning stage;
- b. The interview stage;
- c. The analysis stage;
- d. The Investigator's report;
- e. The Chief Administrative Officer's (CAO) decision.



**Investigator's Report**

The Investigator shall prepare a Report. The Report should be clear and concise.

The Report shall contain a detailed and chronological description of the significant facts, a description of the evidence gathered, an analysis and assessment of the facts and the findings as to whether or not harassment has occurred. All evidence gathered shall also be included with the Report.

The Report shall be signed and dated by the Investigator, and submitted to the CAO for decision.

**CAO's Decision**

The CAO shall forward a copy of the Report to the Complainant and Respondent, after completion of any severance required by the Access of Information and Privacy Acts. The Complainant and Respondent will have fourteen (14) days to respond to the CAO.

The CAO will assess the Report and once satisfied as to the completeness of the Report, the CAO may, in whole or in part, accept, reject or vary the findings as to whether or not harassment has occurred. In any case where the CAO does not fully accept the Investigator's findings, the CAO must provide the written rationale as to whether or not harassment has occurred. The CAO will further decide the corrective action to be taken.

**Closure**

The CAO will inform the Complainant and Respondent of his/her decision on the complaint, the appropriate corrective actions to be taken and the rationale for these decisions.

**Grieving the Decision**

Any person who is not satisfied with the results can consult the Nova Scotia Human Rights Commission. Toll-free number 1-877-269-7699.

## APPENDIX C

### COMPETENCY PROFILE FOR INVESTIGATORS

#### **Investigator's Personal Profile**

- Impartiality/Fairness
- Thoroughness
- Tact/Discretion/Judgement
- Respect and Professionalism
- Tolerance for stress

#### **Investigator's Knowledge**

The Investigator has knowledge of:

- Investigation and interviewing techniques;
- Departmental policies on Respectful Workplaces, Access to Information Act, Privacy Act, Canadian Human Rights Act, and other pertinent legislation, if required;
- Organizational structures, and cultures.

#### **Investigator's Skill and Abilities**

The Investigator is able to:

- Collect and analyze information obtained through research, including the review of pertinent documentation and interviews with the parties and witnesses;
- Identify key issues and facts relating to the allegations;
- Develop logical and substantiated conclusions;
- Communicate effectively orally;
- Write clear and concise reports;
- Listen actively;
- Handle difficult situations and sensitive subject matter with tact and diplomacy.

## APPENDIX D

### WRITTEN TERMS FOR THE INVESTIGATOR

Date:

To: Name of Investigator

#### WRITTEN TERMS

RESPECTFUL WORKPLACE INVESTIGATION INTO

ALLEGATIONS BY (FULL NAME)

References: A. Complaint dated \_\_\_\_\_ (attached)

B. Canadian Human Rights Act

C. Access to Information Act, Privacy Act

D. Personnel Policy

E. Collective Agreement (if applicable)

1. The Investigator shall conduct an investigation in the following stages:

**a. Research and Planning Stage:**

- I. Review all applicable legislation, regulations and workplace policy;
- II. Ensure that the specific allegations referred to in the complaint are clear and have been provided in writing to the respondent with the opportunity to respond;
- III. Confirm whether the Complainant and Respondent understand their responsibilities, as outlined in the Anti-Harassment Policy, and that they understand confidentiality and have access to Assistants prior to the commencement of the investigation; and
- IV. Obtain and review all documents relevant to the matters under investigation.

**b. Interview Stage:**

Interview the Complainant and Respondent cited in the complaint, and other witnesses as required with respect to each allegation, to ascertain all relevant facts relating to the complaint. In particular, respond to the following:

- I. Is there information to support the allegations? If yes, what?

- II. Does the conduct satisfy the definition of harassment? Quote references;
- III. What was the period of time over which the conduct took place?
- IV. What motive for the conduct has become evident? Explain.
- V. Is there information available to suggest that the conduct was intentional? Explain.
- VI. Does it appear that the conduct was persistent, pervasive? Explain.
- VII. Has the Complainant and/or Respondent had to seek assistance to cope with the situation? Explain.
- VIII. Has the situation had career implications for the Complainant and/or the Respondent? Explain.

**c. Analysis Stage:**

- I. Assess and report on the general situation in the workplace under questions, to identify underlying factors which may have contributed to the complaint and have a negative effect on the work environment;
- II. Determine and identify the substance of each allegation;
- III. Should additional allegations be made during the course of the investigation, such allegations are to be submitted to the CAO to determine whether they should be considered as part of the mandate for your investigation; and
- IV. If other allegations become subject to this investigation, they are to be presented in writing to the Respondent.

**d. Investigator's Report Stage:**

Prepare the Report in accordance with the following format:

- I. A summary of the harassment complaint;
  - II. A description of the allegation;
  - III. A description of the background and evidence that supports, and does not support, each allegation;
  - IV. An analysis of the evidence in respect to each allegation;
  - V. A statement as to whether each allegation is supported or not, and
  - VI. A determination as to whether or not the behaviour described in each allegation constitutes harassment.
2. The Report is due by (date) to the Chief Administrative Officer (CAO). If an extension is deemed necessary, a request in writing shall be submitted.

CAO'S SIGNATURE

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