

Town of Truro – Policy & Procedure Manual

Subject: Anti-Harassment Policy
Policy Number: P100-007
Approval Date: January 2004
Departments: All Departments

1.1 POLICY STATEMENT

Our Commitment

The Town of Truro is committed to providing a safe and respectful work environment for all staff and customers. No one whether a manager, an employee, a contractor, or a member of the public, has to put up with harassment, 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.

Harassment is against the Law

The *Nova Scotia Human Rights Act* protects 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.

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.

Management's Responsibilities

Management and supervisors are responsible for fostering a safe working environment, free of harassment. Management 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 management, if they knew about the harassment, even if neither of them was actually involved in the harassment. Management that does nothing to prevent harassment or to mitigate its effects may find herself or himself facing financial and legal consequences.

Town of Truro's Responsibilities

As an employer, the Town of Truro also has a responsibility to be aware of what is happening in the workplace. As the Chief Administrative Officer (CAO) and Elected Officials, and Department Heads, we promise to treat all incidents of harassment seriously. We undertake to act on all complaints and to ensure that they are resolved quickly, confidentially, and fairly. We will discipline 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. We will also be accountable for our own actions and will continue to act in a fair and responsible manner. As part of the management staff for the Town of Truro employees, we will not put up with harassment.

1.2 INFORMATION FOR VICTIMS OF HARASSMENT

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, 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;
- Vandalism of personal property; and/or
- Physical or sexual assault.

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, is also covered by this Policy. While personal harassment also involves unwelcome behaviour such as derogatory remarks or actions about an individual's intelligence, competence, and physical appearance, which demeans or embarrasses an employee, the behaviour is not based on one of the protected grounds named above.

Harassment 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 between an employee and a job applicant.

What is Not Harassment?

Consensual banter or romantic relationships, where the people involved are comfortable and agree with what is happening, are not harassment.

Appropriate performance reviews, counselling, or discipline by management or a supervisor are not harassment.

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, employees (and clients) must be protected from harassment during delivery trips, 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. This includes social events that are connected to the workplace, such as a staff Christmas party.

1.3 COMPLAINT PROCEDURES

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 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 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.

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 person designated to receive complaints. For Town employees, the designated anti-harassment 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 to report harassment to someone at the town office, you may go directly to the Nova Scotia Human Rights Commission; in cases where you are a union employee, you might be able to go to your union representative, or the police for a case of sexual or physical assault.

Once a person reports harassment, the designated anti-harassment person will ask questions such as what happened, when, where, how often and who else was present and she or he 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 harasser 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, 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 shall be in written format (See Appendix A) and shall include name of alleged harasser, 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 alleged 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 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 will 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 place; and
- Recommending appropriate remedies, penalties, or other action

Rights of Individual Accused of Harassment

If you are the individual accused of harassment, 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 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 a person who has been harassed will include any of the following, depending on the nature and severity of the harassment:

- An oral or written apology from the harasser;
- Lost wages;
- 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, or will have a transfer reversed, unless he or she chooses to move.

Corrective Action for Harassers

Corrective action for harassers 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 an anti-harassment training session.

Unsubstantiated Complaints

If a person, in good faith, files a harassment complaint 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 harasser's 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 absolutely no basis, the complainant will be subject to the same penalties as the harasser. The person unjustly accused of harassment will have her or his reputation restored, and will be given the benefit of any necessary remedies that would be given in a case of harassment.

Retaliation

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

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 harassment ends as soon as they become aware of it. Complaints will be resolved as quickly as possible, ideally within one month of being made.

Union Grievances

Union grievance procedures may be available in certain cases of harassment. Please speak to your union representative for more information about filing a grievance.

Other Options

An employee of the Town of Truro who is not satisfied with the result of a harassment complaint can consult the Nova Scotia Human Rights Commission. Information on filing a complaint can be obtained by phoning the Commission's toll-free number 1-877-269-7699.

Note: If the harassment involves physical or sexual assault, which are criminal offences, the police is the appropriate avenue.

1.4 POLICY CHANGES

If you have questions or comments about the policy or its application, please speak to the designated person or to the CAO. We will make changes to the policy as necessary, and we will review as necessary.

APPENDIXES

Appendix A – Complaint Form

Appendix B – Investigation Guidelines

Appendix C – Competency Profile for Investigators

Appendix D – Written Terms for the Investigator

APPENDIX A

COMPLAINT FORM

Section A

DEPARTMENT	SURNAME	GIVEN NAMES
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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

HARASSMENT/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 harassment 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 harassment in the workplace, 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 HARASSMENT 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