



POLICY No. 2001-18

Respect in the Workplace

Originating Department CS-HR-11-2001

SMT Approval: 2001-06-07

Council in Committee: 2001-06-18

Recommendation #: 7

Council Approval: 2001-06-25

Resolution #: 194-01

Revision History:

[Click here for revision history](#)

1. POLICY

Haldimand County is committed to provide and maintain a work environment that is based on respect for the dignity and rights of everyone in the organization. Haldimand County will take all reasonable steps and abide by all applicable legal requirements to ensure the workplace and its staff is free of any form of harassment.

The County recognizes that a positive work environment is built upon mutual respect, inclusion, and a work culture committed to physical and mental health and safety. Harassment, or sexual harassment by any worker will be viewed as a breach of the employment contract and will be subject to disciplinary action, up to and including dismissal.

Haldimand County is also committed to provide a work environment that is free of violence. Details are provided in relevant Haldimand County policies.

2. PURPOSE

To provide an internal process to ensure a healthy, safe, work environment that is free of any form of harassment. This policy is not intended to prevent an individual from pursuing their legitimate rights under the *Ontario Health & Safety Act*, as amended, the *Ontario Human Rights Code*, or applicable collective agreement.

3. SCOPE

This policy applies to all members of Council, Employees, Volunteer Firefighters and Library Board Employees, as well as citizens appointed as committee members and Board members who interact with Haldimand County employees in the workplace. Contractors are expected to have practices that meet or exceed the overall requirements of this Haldimand County policy.

It applies in any location where a person is engaged in work-related activities or employment-related interactions and interactions with citizens, including beyond the normal workplace, on social media or outside of working hours. Examples include, but are not limited to:

- the workplace
- during travel
- at restaurants, hotels or meeting facilities that are being used for business purposes
- in County owned or leased facilities and vehicles
- during telephone, email, social media interaction (for example: Facebook, Messenger, Twitter) or other communications;
- at any social event whether or not it is company sponsored, and
- interaction with members of the public including but not limited to: residents, clients, contractors, suppliers, volunteers, families / spouse / partners of County employees.

4. DEFINITIONS

I. Discrimination is defined as 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 breastfeeding)
- sexual orientation
- gender identity and gender expression
- family, marital or same-gender 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

II. 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 are:

- offensive comments, jokes or behaviour that disparage or ridicule a person's membership in one of the protected grounds, such as race, religion, disability or sexual orientation
- imitating a person's accent, speech or mannerisms
- persistent or inappropriate questions or comments 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 (whether they are under or overweight);
- discrimination or inappropriate comments based on physical and/or mental health restrictions.

III. Psychological Harassment is bullying or humiliating behaviour that has the following components:

- it is generally repetitive, although a single serious incident of such behaviour may constitute psychological 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; or
- it results in a poisoned work environment.

Psychological harassment should not be confused with legitimate management actions, including measures to correct performance deficiencies or to impose discipline for workplace infractions.

Some examples of psychological harassment are:

- verbally abusive behaviour such as yelling, insults and name calling
- persistent, excessive and unjustified criticism and constant scrutiny
- persistent, excessive and unwanted communication (such as emails of a personal nature)
- spreading malicious rumours
- excluding or ignoring someone
- undermining someone else's efforts by setting impossible goals and deadlines
- sabotaging someone else's work
- impeding an individual's efforts for promotions or transfers
- making false allegations about someone in memos or other work related documents.

IV. Poisoned Work Environment

Even if no one is being directly targeted, harassing comments or conduct can poison the work environment, making it a hostile or uncomfortable place in which to work. This is also a form of harassment.

Some examples of actions that can create a poisoned work environment include:

- displaying offensive materials such as pictures, screen savers, clothing, etc.;
- distributing offensive e-mail messages, or attachments such as pictures or video files;
- practical jokes that embarrass or insult someone;
- jokes or insults that are offensive, racist or discriminatory in nature; or
- Ignoring, excluding or shunning individuals or groups thereby creating cliques within the workplace.

V. The Test of Harassment

It does not matter whether the alleged harasser intended to offend the recipient. The test is whether the alleged harasser knew or ought reasonably to have known that the comments or conduct were unwelcome. The alleged harasser does not necessarily have to have power or authority over the victim.

VI. Workplace means any land, premises, location or thing at, upon, in or near which a worker works, including private property where work activities are being performed.

VII Workplace Harassment

- a. 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.
- b. Workplace harassment may include bullying, intimidating or offensive jokes or innuendos, displaying or circulating offensive pictures or materials, or offensive or intimidating phone calls.
- c. **What Workplace Harassment is Not:**
 - Managers evaluating employees' performance
 - Discipline due to misconduct
 - Employer request to provide medical documents to support absence from work
 - Difference of opinions between people at work, when expressed in a respectful manner

VIII. Workplace Sexual Harassment

- a. 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
- b. 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.

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
- displaying sexually offensive material such as posters, pictures, calendars, cartoons, screen savers, pornographic or erotic web sites, or other electronic material
- distributing sexually explicit email messages or attachments such as pictures or video files
- sexually suggestive or obscene comments, gestures or emails
- unwelcome remarks, jokes, innuendoes, propositions or taunting about a person's body, clothing or gender
- persistent, unwanted attention after a consensual relationship ends
- physical contact of a sexual nature, such as touching or caressing; or
- sexual assault

5. RESPONSIBILITY

5.1 All persons are responsible for:

- ensuring that their behaviour does not violate this policy
- fostering a work environment that is based on respect and is free of harassment
- making this policy known to those who appear to be contravening the policy, where appropriate;
- reporting incidents of discrimination and harassment, whether directly related to the individual or not, to their Non Union Supervisor, Manager or Manager/ Human Resources, with written details ((i.e. dates, time, location, persons involved, what occurred, etc.).
- cooperating with investigations
- attending training and educational sessions, when required

5.2 All Managers and Non Union Supervisors are responsible for:

- maintaining a harassment-free workplace;
- immediately contacting and providing related written records to the Manager, Human Resources if they receive a formal complaint of workplace harassment or witness harassing; and
- following up / investigating when they become aware of inappropriate behaviour in the workplace.

5.3 The Manager, Human Resources is responsible for the:

- development and interpretation of related policies and procedures
- delivery of Respect in the Workplace training
- investigation of formal complaints as deemed necessary
- monitoring of corrective actions
- review of the harassment program on an annual basis.

6. PROCEDURE

6.1 Consultation

To assist individuals in understanding their rights and obligations under this policy, Haldimand County has appointed the Employee Assistance Program provider to act as the Consultant.

The role of the Consultant is to:

- act as a resource and answer inquiries with respect to this policy
- discuss complaints on a confidential basis
- provide support to individuals and the employer, as necessary, in carrying out their duties and in maintaining a respectful workplace

To avoid any potential conflicts of interest, the Consultant is not involved in decision making or conducting formal investigations. The Consultant will not advocate on behalf of employees

or become involved with disciplinary actions or dispute resolution processes such as grievances or arbitration.

The Consultant shall maintain confidentiality and not share information with any other parties without the consent of the employee except:

- as required by search warrant, subpoena, court order or other legal statute;
- to ensure a treating physician and/or a legal guardian is notified of suicidal thought or intent;
- to report to relevant people involved and/or the police any clear danger of harm to others.

An employee may also seek advice from their Non Union Supervisor, Manager or Manager, Human Resources subject to the requirements of the Informal and Formal Procedure requirements outlined below.

6.2 Informal Complaint

If an individual believes they are being harassed, the individual is encouraged to first tell the person to stop as soon as any unwelcome comments or conduct is received. The union, where applicable, may act as a support during this conversation.

Some of the things that can be said 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 person does not stop (regardless of whether the individual has told the person to stop or not), the individual shall report the harassment to their Non Union Supervisor, Manager or Manager, Human Resources. It is highly encouraged that wherever possible, individuals first bring their informal complaint to their direct, Non-Union Supervisor. That discussion should address the nature of the complaint in order to identify the specific incidents leading to the complaint. The Non Union Supervisor or Manager may consult with Human Resources in order to determine an appropriate response to the concerns identified, including the decision as to whether the Formal Complaint Procedure should be followed. If the complaint of harassment is against the individual’s Supervisor, they should consult with their Manager, General Manager, or the Manager, Human Resources - whomever they feel more comfortable with. If the complaint is against the employer (General Manager or CAO) the individual should consult with the Manager, Human Resources.

If the complainant is not satisfied with the outcome of the Informal Complaint Procedure or if the inappropriate behaviour continues, the complainant shall meet with the Manager, Human Resources.

If an individual believes that someone who is not a member of the Corporation, (for example, a resident, customer or supplier) has harassed or discriminated them, the employee shall report the harassment to their Non Union Supervisor or Manager. Although Haldimand County

has limited control over third parties, the County will review and address the issue where necessary and practical to do so, in an effort to prevent further problems from arising.

6.3 Formal Complaint

If the complaint cannot be resolved informally or if it is too serious to handle on an informal basis, an individual may submit a written complaint to the Manager, Human Resources. The Respect in the Workplace Complaint Form (Attachment A) may be used for this purpose.

The written complaint and/or Respect in the Workplace Complaint Form must be received as soon as possible so that the problem does not escalate or happen again. Once the complaint is received in writing, the employee's union representative, if applicable, will be advised and an investigation will be initiated, if it is necessary and appropriate to do so.

6.4 Investigation

Discrimination and harassment are serious matters. Therefore, even if an individual decides not to make a formal complaint, the County may still need to investigate the matter and take steps to prevent further harassment. For example, the County 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 Haldimand County's policy not to investigate anonymous or non-specific complaints unless there are extenuating circumstances and sufficient details are provided to allow for a fair and objective evaluation and the Manager, Human Resources approves proceeding with an investigation.

In the case of a complaint, warranting investigation, the Manager, Human Resources, or CAO if the respondent is a General Manager or member of Council, will commence an investigation as quickly as possible. Either an internal investigation team or external investigator may be chosen depending on the nature of the complaint. The Manager/General Manager of the relevant area(s) will be kept informed throughout the investigation process, if not directly involved in the internal investigation team, and if not the respondent in a claim.

All investigations shall be conducted in a manner that is appropriate in the circumstances, however, generally, the investigation will include:

- Involvement in interviews of a union representative for the complainant and those interviewed, should each individual wish;
- interviewing the complainant and respondent and obtaining written statements, where applicable, to ascertain all of the facts and circumstances relevant to the complaint, including dates and locations;
- If the complainant or respondent is not a Haldimand County employee, the investigator may attempt to interview him or her depending on the circumstances surrounding the investigation
- interviewing witnesses, if any, and obtaining written statements, where applicable;
- reviewing any related documentation; and
- preparing a detailed record of the investigation and maintaining all documentation in a confidential file

Once the investigation is complete, the investigator(s) will prepare a written report setting out findings and concluding whether harassment has taken place. Such report will be provided to the Manager, Human Resources and/or CAO if the respondent is a General Manager or member of Council, with a copy to the applicable General Manager, if appropriate. A summary of the findings will also be reviewed verbally with the complainant and respondent.

An effort will be made to complete the investigation and communicate the results to the complainant and respondent within thirty (30) days after the written complaint has been received, where possible. If additional time is required, the complainant will be kept up to date on the status of the investigation.

Records of investigations will be kept in accordance with the County's records retention program.

Full Time and Part time employees and Members of Council affected by an incident will be encouraged to use the free counseling services provided by Haldimand County's EAP (Employee Assistance Program).

6.6 Corrective Action

The applicable Department's General Manager, in consultation with the Manager, Human Resources or CAO, will determine what action should be taken as a result of the investigation. If the respondent is a General Manager or member of Council, the Manager, Human Resources will respond in consultation with the CAO.

The applicable General Manager and Manager, Human Resources, or designate, (or CAO if the respondent is a General Manager or member of Council), will inform the complainant and respondent in writing within 10 days of the results of the investigation and whether corrective measures were taken. This information must be communicated to the complainant and respondent in writing, as soon as possible upon the completion of the investigation.

a. If the Evidence Supports the Complaint

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

Corrective actions/steps will depend on the nature/severity of the issue.

With consultation to the applicable collective agreement or policy, 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 counseling ("sensitivity training") or attendance at educational programs on workplace respect
- reassignment or transfer
- any other disciplinary action deemed appropriate under the circumstances

Where it is determined that corrective action is to be taken against an individual who is not an employee of the County, the County will take such corrective action as is reasonable in the circumstances and permitted by law to ensure that the harassment or discrimination stops.

Examples of such actions may be restricting or blocking email communication, limiting access to County facilities, dedicated contact(s) or communication channels, or other actions as deemed appropriate by the County. Other County policies and legal statutes may be considered as it relates to appropriate corrective action.

b. If There is Insufficient Evidence to Support the Complaint

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

If a complaint is submitted in good faith and without malice, regardless of the outcome of the investigation, the employee will not be subject to any form of discipline. The County will, however, discipline up to and including termination, anyone who brings a false and malicious complaint.

6.7 Appeal

If the complainant or respondent requests reconsideration of the findings of the investigation, an appeal must be made in writing within ten (10) working days of the date they were notified of the findings and must include a statement of just cause as to why the findings of the investigation should be re-examined.

The complainant and respondent will be notified that a request for reconsideration has been made and will be given the opportunity to reply. The CAO and appropriate members of the Senior Management Team as determined by the CAO will make the final decision on the disposition of the case in consultation with the Manager, Human Resources.

If a member of the public wishes to appeal any action taken towards them, by Haldimand County, the individual may present their case in writing to the CAO, or designate, within 14 days of the decision. The appeal will be reviewed by the CAO and any decision made is final.

6.8 Protection from Retaliation and Breach of Confidentiality

The sensitive nature of harassment complaints will be respected and all complaints will be kept confidential, to the extent the County is able to do so. The County will only release as much information as is necessary to investigate and respond to the complaint, to protect workers, for taking corrective action related to the investigation, or as otherwise required 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. This strictly prohibits the complainant, alleged respondent, and/or any witnesses from discussing the incident/complaint or the investigation with each other or other workers or witnesses unless necessary to obtain advice about their rights.

The person(s) conducting the investigation may discuss the investigation and disclose the incident or complaint-related information, only as necessary to conduct the investigation. All records of the investigation will be kept confidential, subject to the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA). It will be necessary to provide the person

accused of wrongdoing with sufficient details of the accusation in order to be able to respond to any allegations.

While it is reasonable to expect reactions from participant(s), particularly a person accused of wrongdoing, retaliation in any way against a co-worker for their involvement in a workplace investigation is completely unacceptable and will not be tolerated. Examples of retaliation include acts of punishment, discrimination, exclusion or negative behaviour towards an investigation participant, or any other adverse action taken against an employee for filing a complaint or supporting another employee's complaint under this, or any other policy.

The County will not tolerate breaches of confidentiality or retaliations, taunts or threats against anyone who complains about harassment or takes part in an investigation. Any employee who breaches confidentiality, taunts, retaliates against or threatens anyone in relation to a harassment complaint may be disciplined or terminated.

6.9 Conflict of Interest

Respondents to a complaint, regardless of level of authority within the organization, will be excluded from any decision making role related to the complaint.

7. REFERENCES

Ontario Human Rights Code

Occupational Health & Safety Act

Workplace Violence Policy H&S -02

Public Conduct on Haldimand County Property Policy 2014-02

Code of Conduct Policy 2001-19

8. ATTACHMENTS

Attachment A – Respect in the Workplace Complaint Form

REVISION HISTORY					
REPORT	CIC		COUNCIL		DETAILS
CS-HR-18-2007	17-Sep-07	Rec. #21	24-Sep-07	Resolution # 905-07	SMT Approval Date: September 13, 2007 2001 version rescinded and replaced
CS-HR-02-2011	17-Jan-11	Rec. #18	24/Jan-11	Resolution # 02-11	SMT Approval Date: November 2010 2007 version rescinded and replaced SMT granted authorization to revise policy as necessary to ensure continuing compliance with the Occupational Health and Safety Act and the County's Occupational Health and Safety Policy

No further reports required as requires SMT approval only			SMT Approval Date: November 2013 2011 version rescinded and replaced
No further reports required as requires SMT approval only			SMT Approval Date: February 20, 2020 SMT Approval - June 16, 2016 2013 version rescinded and replaced

Attachment A

Respect in the Workplace Complaint Form

To be completed by the complainant and forwarded to the Manager, Human Resources

Complainant

Name: _____

Job Title: _____

Department: _____

Respondent

Name: _____

Job Title: _____

Department: _____

The complainant alleges that on or about _____, the respondent (s) contravened a provision of the *Human Rights Code* and/or County Policy No. 2001-18 Respect in the Workplace.

Please identify which of the following best describes the category of your complaint:

- Discrimination** →
 - Race
 - Ancestry
 - Place of Origin
 - Colour
 - Ethnic Origin
 - Citizenship
 - Creed
 - Gender Identity/Orientation
 - Sexual Orientation
 - Age
 - Marital Status
 - Family Status
 - Handicap
 - Record of Offences
 - Sex
 - Religion

- Sexual Harassment** →
 - Sexual Solicitation/Advancement
 - Unwelcome remarks/jokes
 - Sexually Explicit Messages/Pictures/Materials
 - Unwanted Physical Contact
 - Leering
 - Sexual Assault

- Discriminatory Harassment** →
 - Race
 - Ancestry
 - Place of Origin
 - Colour
 - Ethnic Origin
 - Citizenship
 - Creed
 - Gender Identity/Orientation
 - Sexual Orientation
 - Age
 - Marital Status
 - Family Status
 - Handicap
 - Record of Offences
 - Sex
 - Religion

- Psychological Harassment**
- Poisoned Work Environment**

Note: For the definition of each of these categories refer to County Policy No.2001-18 Respect in the Workplace

Particulars (Please include the place, date and time of all incidents as well as the names of any witnesses. Attach additional sheet(s) of paper if required.)

Date: _____ **Signature:** _____