



The Corporation of the Town of Tecumseh

Corporate Services & Clerk

To: Policies and Priorities Committee

From: Laura Moy, Director Corporate Services & Clerk

Date to Council: October 9, 2018

Report Number: CS-2018-17

Subject: Violence and Harassment in the Workplace Policy No. 68
Annual Review

Recommendations

It is recommended:

That the Violence and Harassment in the Workplace Policy No. 68, as revised and appended to Report No. CS-2018-17, **be approved**;

And that the approved Violence and Harassment in the Workplace Policy No. 68, **be posted** in all Municipal Buildings.

Background

Section 32.0.1(1) of the *Occupational Health and Safety Act, R.S.O. 1990, c.0.1. (Act)* states an employer shall “prepare a policy with respect to workplace violence and review the policy as often as is necessary, but at least annually.”

Section 32.0.6(1) of the Act requires an employer, in consultation with the Joint Health & Safety Committee, to develop and maintain a written program to implement the policy with respect to workplace harassment required under Section 32.0.1(b).

Comments

Violence and Harassment in the Workplace Policy No. 68

The Violence and Harassment in the Workplace Policy (Policy) was adopted and developed in accordance with the Act. The Policy states The Corporation of the Town of Tecumseh

(Corporation) is committed to early identification and prevention of workplace violence and workplace harassment and to taking all reasonable precautions to protect workers from the same.

All allegations of workplace violence will be investigated immediately. Any form or manner of workplace violence and/or workplace harassment will not be tolerated. Employees who are found to have engaged in such conduct will be subject to disciplinary action up to and including termination of their employment.

In the event the Corporation becomes aware of a domestic violence situation that may or would likely expose a worker to physical injury in the workplace, every precaution reasonable in the circumstances for the protection of the worker shall be taken.

A worker has the right to refuse work where the worker has reason to believe that workplace violence is likely to endanger the worker.

Summary

In accordance with the Act, the Violence and Harassment in the Workplace Policy No. 68 is reviewed at least annually in consultation with the Joint Health & Safety Advisory Committee (JHSC) and the Corporation's Health & Safety Consultant, Dunk & Associates (Consultant).

The Policy was in the process of being reviewed when a visit by the Ministry of Labour (MOL) was initiated by an anonymous employee complaint. The MOL at the time of their visit issued an Order to amend the Policy for compliance with Section 32.0.6(2)(b) of the Act which requires the program to "include measures and procedures for workers to report incidents of workplace harassment to a person other than the employer or supervisor, if the employer or supervisor is the alleged harasser."

Representatives of the JHSC and the Consultant reviewed the Policy jointly on a line-by-line basis. The Town's Legal Counsel has also reviewed it.

As a result of these reviews, the following is summary of the changes recommended, in part, by the JHSC, Consultant and Legal Counsel:

1. Noting the definitions contained in the Policy are the definitions contained in OHSA and inserting the OHSA definition of what is not Workplace Harassment

"Workplace harassment" – a reasonable action taken by an employer or a supervisor relating to the management and direction of workers or the workplace is not workplace harassment.

2. Adding the following under Compliance and Reporting, in compliance with the MOL Order:

If the alleged harasser is a Member of Council, the Coordinator shall direct the complaint to the Integrity Commissioner for investigation, in accordance with the Code of Conduct Policy No. 63 for Members of Council.

If the CAO is identified as the alleged harasser, then the Coordinator shall engage a third party who is qualified because of knowledge training and experience to conduct the investigation.

If both the CAO and Coordinator are the alleged harassers, the employee shall report the incident to Dunk & Associates, who shall in turn on behalf of The Corporation of the Town of Tecumseh contract a third party who is qualified because of knowledge, training and experience to conduct the investigation.

In the event that the allegation is made against the CAO by the Co-ordinator, the Co-ordinator shall report the incident to Dunk & Associates who shall in turn on behalf of The Corporation of the Town of Tecumseh contract a third party who is qualified because of knowledge training and experience to conduct the investigation.

In the event the Co-ordinator alleges harassment by an employee, the Co-ordinator shall report the incident to the Chief Administrative Officer.

3. Providing greater clarity as to when it is determined that an unbiased investigation cannot be conducted internally, such as a Complaint against the CAO, the Coordinator will contract a third party who is qualified because of knowledge, training and experience, to conduct the investigation.
4. Including a paragraph to recognize the Employer will at all times comply with the no reprisal provision contained in Section 50(1) of the OHSA.
5. Incorporating the obligation to inform any Complainant and Respondent, if he or she is a worker of the employer, in writing, of the results of an investigation and of any corrective action that has been taken, or will be taken, as a result of the investigation within ten (10) days, if possible.
6. Removing the paragraphs relating to practices and drills, which are not practical in relation to this Policy.
7. Inserting recognition under the Evaluation paragraph that the Policy will be reviewed at least annually in consultation with the JHSC.
8. Other minor housekeeping amendments.

The MOL was given the recommended changes in relation to the Order, as set out in paragraph 2 above. The MOL has stated these changes meet the intent of OHSA and, subject to the approval of Council, comply with the Order.

The Consultant and Legal Counsel are accepting of the changes, which are shown on the draft amended Policy and Procedures, attached as **Appendix 1**.

The JHSC was consulted and provided input into the recommended changes to the Policy and Program. The members were not fully in favour of the amendments in relation to the reporting provisions to Dunk & Associates as recommended by Legal Counsel and the Consultant. The JHSC did not offer any other viable options.

It is recommended the revised Policy, as reviewed for the year 2018 in accordance with OHSA, be approved and posted in all Municipal Buildings.

Consultations

Joint Health & Safety Advisory Committee
Dunk & Associates, Health & Safety Consultant

Financial Implications

There are no direct cost implications associated with these Policies. Good health and safety practices/procedures, as well as employee training, all help to prevent workplace injuries. Workplace injuries can create financial implications as a result of loss of work and employee health care.

Link to Strategic Priorities

Applicable	2017-18 Strategic Priorities
<input checked="" type="checkbox"/>	Make the Town of Tecumseh an even better place to live, work and invest through a shared vision for our residents and newcomers.
<input checked="" type="checkbox"/>	Ensure that the Town of Tecumseh's current and future growth is built upon the principles of sustainability and strategic decision-making.
<input checked="" type="checkbox"/>	Integrate the principles of health and wellness into all of the Town of Tecumseh's plans and priorities.
<input checked="" type="checkbox"/>	Steward the Town's "continuous improvement" approach to municipal service delivery to residents and businesses.
<input checked="" type="checkbox"/>	Demonstrate the Town's leadership role in the community by promoting good governance and community engagement, by bringing together organizations serving the Town and the region to pursue common goals.

Communications

Not applicable

Website

Social Media

News Release

Local Newspaper

This report has been reviewed by Senior Administration as indicated below and recommended for submission by the Chief Administrative Officer.

Reviewed by

Laura Moy, Dipl. M.M., CMMIII HR Professional
Director Corporate Services & Clerk

Recommended by:

Tony Haddad, MSA, CMO, CPFA
Chief Administrative Officer

**Attachment
Number**

**Attachment
Name**

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Violence and Harassment in the Workplace Policy No. 68