

<b>Harassment and Discrimination Prevention Policy &amp; Procedure</b>	<b>Policy No. 6.7</b>
<b><u>Date of Policy:</u></b> April 28, 2014	<b><u>Revision:</u></b> April 23, 2019 February 22, 2021
<b><u>Motion Number:</u></b> 2019-248 2021-092	

**POLICY STATEMENT:**

The Town of Nipawin and its Senior Management Team are committed to maintaining a Workplace climate that embodies mutual respect for the dignity and worth of each person. The Town upholds a zero tolerance to Harassment, including Personal Harassment and Discrimination and as such, does not condone Harassment and/or Discrimination of or by any of its Employees or Elected Officials, in the Workplace, and at any work-related functions, or in any other work-related circumstances.

The Town of Nipawin and its Senior Management Team are committed to implementing this policy and procedure to ensure they are effective in preventing and stopping harassment, as well as creating a productive and respectful workplace.

In this diverse and equitable Workplace, all Employees will have the opportunity to contribute fully to the Town of Nipawin’s Mission, Vision and Values, and each Employee’s and Elected Official’s unique contribution will be respected.

The Town of Nipawin upholds a zero tolerance to harassment and discrimination. Employees of the Town of Nipawin are entitled to work in an environment free from Harassment and Discrimination, that is based on the prohibited grounds under the *Saskatchewan Human Rights Code*, which includes:

- religion
- creed
- marital status
- family status (parent-child relationship) marital status sex (including pregnancy)
- sex
- sexual orientation
- disability (mental and physical)
- age (18 or more)
- colour
- ancestry
- nationality
- place of origin
- race or perceived race

- receipt of public assistance; and
- gender identity.

The Town prohibits Harassment or Discrimination of or by any of its Employees, in the Workplace, or at any work-related and/or staff social functions, or in any work-related circumstances. The Town of Nipawin will not engage in any actions that contribute to Harassment and/or Discrimination in its Workplace. Discrimination and Harassment are violations of the *Saskatchewan Human Rights Code* upon which this policy is based.

**PURPOSE:**

The intention of this policy and procedure is to prevent Discrimination and Harassment, including Personal Harassment, from occurring in the workplace and where necessary, to act upon complaints of such behaviour promptly, fairly, judiciously and with due regard to confidentiality for everyone involved. An effective element in preventing Harassment and Discrimination is education. To this end, education programs and information sessions will be provided to promote awareness of the issues of Harassment and Discrimination and to foster an environment free of Harassment within the Town of Nipawin (*in progress*).

The Town will also implement a Workplace Violence Prevention Policy and Procedure that addresses concerns related to Workplace violence. Some employees may also have rights under collective agreements. Any individual has the right to pursue their complaint through the *Saskatchewan Human Rights Commission*.

This policy and procedure contains definitions related to harassment and discrimination and identifies the rights and responsibilities of all Employees, including Management.

**SCOPE:**

This policy and procedure apply to all Town of Nipawin Employees, including but not limited to permanent, temporary, term, contract, and probationary employees, and to contractors, consultants, volunteers, students, seasonal, as well as applicants for employment. This policy and procedure also apply to elected officials.

Members of the public, visitors to Town facilities, and individuals conducting business with the Town of Nipawin, are expected **not** to engage in Harassment and Discrimination against Employees. If such Harassment or Discrimination occurs, the Town will take reasonable and necessary steps to ensure a Workplace free from Harassment and Discrimination to the extent possible, which may include contacting Police and involvement of Legal Services, etc.

**DEFINITIONS:**

**Abuse of Authority** means an individual’s improper use of power or authority to intimidate, threaten or coerce an individual in a manner that is not consistent with Town policies.

**Allegation** means a statement or assertion that has not been proven

- Alleged** means suspected but not proven
- Best Practice** means wisest action to take based on current knowledge
- Bullying** the misuse of power or position to persistently criticize, condemn or openly humiliate a(n) individual(s), in a manner that undermines their ability. This involves the misuse of power or aggression to control or distress another. The power differential can take various forms, including the exercise of power in numbers, through one's position, etc. The behaviour is often repeated. Bullying can also take many different forms, including physical, verbal, non-verbal, unduly influencing a decision, social isolation, or overt exclusion, etc.
- Complainant** any person who makes a complaint.
- Complainant** means a person making a complaint of harassment or brings a discrimination issue to the attention of the employer.
- Disability** means any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness and, without limiting the generality of the foregoing, includes diabetes mellitus, epilepsy, a brain injury, any degree of paralysis, amputation, lack of physical co-ordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, or physical reliance on a guide dog or other animal or on a wheelchair or other remedial appliance or device; a condition of mental impairment or a developmental disability; a learning disability, or a dysfunction in one or more of the processes involved in understanding or using symbols or spoken language; or a mental disorder.
- “Disability” should be interpreted in broad terms. It includes both present and past conditions, as well as a subjective component, namely, one based on perception of disability.
- Discrimination** means differential treatment of an individual or group of individuals which is based, in whole or in part, on one or more of the prohibited grounds under the Saskatchewan Human Rights Code and which has an adverse impact on the individual or group of individuals. Discrimination may be intentional or unintentional, direct, or indirect.
- Discriminatory Harassment** includes:
- Unwanted physical contact (touching, grabbing, hitting, or pinching)
  - Written or verbal abuse or threats
  - Unwelcome remarks, jokes, slurs, or taunts about a person's ancestry, national or ethnic origin, sexual orientation, or any other prohibited ground
  - Insulting names or comments

- Jokes, cartoons, or pictures
- Practical jokes that embarrass or insult someone
- Ignoring, isolating, or segregating a person or group
- Negative treatment because of sex, ancestry, disability, or any other prohibited ground of discrimination.

**Employee** means all Employees of the Town of Nipawin, union and non-union including but not limited to, permanent, seasonal, students, temporary, term, volunteer, probationary and contract Employees.

**Employer** in accordance with the *Occupational Health & Safety Act/Regulations*, employer means a person who employs one or more workers or contracts for the services of one or more workers and includes a contractor or subcontractor who performs work or supplies services and a contractor or subcontractor who undertakes with an owner, constructor, contractor or subcontractor to perform work or supply services.

**Frivolous** is characterized by a lack of seriousness or sense; of little or no weight, worth or importance, not worthy of serious notice.

**Harassment** means any inappropriate conduct, comment, display, action or gesture by a person:

(i) that either:

(A) is based on race, creed, religion, colour, sex, sexual orientation, marital status, family status, disability, physical size or weight, age, nationality, ancestry, or place of origin; or

(B) subject to subsections (4) and (5), adversely affects the worker’s psychological or physical well-being and that the person knows or ought reasonably to know would cause a worker to be humiliated or intimidated; and

(ii) that constitutes a threat to the health or safety of the worker.

**Investigation** is a fair and impartial fact-finding process which leads to a decision and action by the employer.

**Mediation** is a collaborative process of communication and solution-seeking between the employer, employee, and the union where applicable, that leads to the resolution of a matter. This process can also be referred to as early resolution, settlement, conflict resolution, or alternative dispute resolution. Mediation is a consensual process and should only be undertaken if the parties agree to it.

**Management** is any individual responsible for directing the work of others, including but not limited to elected officials, the Chief Administrative Officer, Chief Financial Officer, Directors, Supervisors, and Forepersons. **These individuals are**

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considered a part of the “directing mind” of the organization and the Town of Nipawin could be held liable by a court or tribunal if these individuals violate the Code themselves or do nothing to prevent and stop Harassment or Discrimination in the Workplace.

**Personal Harassment** is any unwanted activity or behaviour directed at an individual that creates a negative, hostile, or unwelcoming environment for that individual. Personal harassment is not covered by *The Saskatchewan Human Rights Code* because it is not connected to one of the prohibited grounds of discrimination. However, this policy also prohibits the kind of personal harassment prohibited by *The Occupational Health and Safety Act, 1993*: “**forms of personal harassment with respect to any matter or circumstance arising out of the worker’s employment, which includes bullying and abuse of power.**”

Personal (Workplace) Harassment **does not** violate any of the prohibited grounds outlined in the *Saskatchewan Human Rights Code*. Personal harassment can make a person feel uncomfortable, distressed, offended, or intimidated. Types of behaviour that may constitute as Personal harassment include, but are not limited to:

- Ongoing condescending comments or name calling
- Repeated offensive gestures or comments
- Practical jokes
- False accusations
- Repeatedly excluding or ignoring the victim
- Spreading malicious rumors or gossip
- Abuse of power or authority which negatively disrupts or prevents the performance of workplace duties or unduly influence workplace decisions, or requests to perform duties outside the scope of job requirements such as requests for personal errands
- Persistent, excessive, or unjustified criticism and constant scrutiny beyond reasonable exercise of supervisory duties
- Intimidation
- Being coerced to engage in conduct that is not consistent with workplace expectations of the Town of Nipawin
- Bullying
- Actions which create a “Poisoned Work Environment” which is hostile, intimidating, or offensive.

**Prohibited Grounds** include:

- Religion
- Creed
- Marital Status
- Family Status
- Sex
- Sexual Orientation
- Disability

- Age
- Colour
- Ancestry
- Nationality
- Place of origin
- Race or perceived race
- Receipt of public assistance; and
- Gender Identity

**Poisoned Work Environment** is a work environment where inappropriate comments, behaviour or the display of offensive material has an adverse impact on an individual or a group. The offending behaviour does not need to be directed towards an individual but may have an adverse impact in the Workplace that goes beyond the original incident. The adverse impact can include psychological suffering. A Poisoned Work Environment may result from a pattern of events or a single, serious remark or action.

**Respondent** is any person who is the subject of a complaint (i.e. A complaint is made against them).

**Sexual Harassment** includes unwanted or unwelcome actions or comments of a sexual or gender-related nature. Sexual Harassment does not have to be sexual in nature. Stereotypical comments or actions about one gender or the other can be a form of Sexual Harassment. Sexual Harassment can happen to anyone regardless of their sex. Usually Sexual Harassment is a pattern of behaviour that occurs over a period of time; however single incident can be serious enough to be considered Sexual Harassment. Sexual Harassment is further defined under the Occupational Health and Safety Act to include:

- 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
- 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.

**Systemic discrimination** occurs when structural barriers or widespread stereotypes and assumptions bar certain groups of people from full participation in activities covered by *The Saskatchewan Human Rights Code*. These include employment, education, public services, housing, contracts, trade unions, the purchase of property, publications, and professional trades and associations.

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**The Duty to Accommodate** requires employers, service providers, and others covered by *The Saskatchewan Human Rights Code* to accommodate needs related to a prohibited ground of discrimination, up to the point of undue hardship. This duty extends to both employees and clients. The duty to accommodate is a requirement to integrate diversity into public services and the workplace and may entail changing office space, policies, practices, and/or behaviours.

**Trivial** of very little importance or value, insignificant.

**Undue Hardship** describes the limit on the duty to accommodate for employers, service providers, and others covered by *The Saskatchewan Human Rights Code*. Undue hardship can only be defined on a case-by-case basis as its determination relies on the specific facts of each case. The point of undue hardship is only reached when the employer or service provider has done everything possible to accommodate a need. Some factors which courts have considered in their determinations of what constitutes undue hardship include: a threat to health or safety, major economic impact, disruption to a collective bargaining agreement, diminished morale, interchangeability of workforce and facilities and size of workplace. This list is not exhaustive, rather demonstrative. Undue hardship cannot be established by personal preferences based on ancestry, gender or any other of the prohibited grounds under *The Saskatchewan Human Rights Code*.

**Vexatious** conduct that is inappropriate, unnecessary, and that a reasonable person would consider to be offensive, upsetting, distressing, demeaning or would make a person uncomfortable.

**Workplace** Any building or part of a building in which one or more employees work, including employee eating, changing and/or lounge areas, and any vehicle, or any area including outside worksites, where employees perform their duties (construction site, open field, parking lot, road, park). A workplace also includes any work-related function or circumstances. In some instances, harassing behaviour which occurs outside of the physical workplace and/or adversely affects relationships in the work environment may be covered under this policy (e.g., work-sanctioned social functions, conferences, etc.)

**In Good Faith** means a claim of harassment with good intentions

**In Bad Faith** means a claim of harassment when the complainant knows that the allegations are not true

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**TERMS & CONDITIONS**

The following terms and conditions apply to this Policy and Procedure:

**1. Discriminatory or Harassing Behaviours**

Discriminatory or harassing behaviour results from actions directed at specific individuals or groups, which are unwelcome or unwanted; or, may be actions which are not directed at a particular individual, but have created a “Poisoned Work Environment” which is hostile, intimidating or offensive.

**To be covered under this policy, the harassing or discriminatory behaviours must be linked to one or more of the prohibited grounds.** Examples of discriminatory or harassing behaviours include, but are not limited to:

- Racial or ethnic slurs
- Written or verbal abuse or threats based on a prohibited ground
- Unwelcome remarks, jokes, nicknames, taunts, suggestions related to a person’s body, attire, age, marital status, sex, or gender, ethnic or racial origin, religion, disabilities, sexual orientation, or any prohibited grounds
- Practical jokes related to a prohibited ground which result in embarrassment or insult or negatively affect work performance
- Abuse of Authority which undermines performance or threatens careers, based on a prohibited ground
- Vandalism of personal property (if the employee is targeted because he/she is identifiable on a prohibited ground)
- Displays of racist or other offensive or derogatory material
- Derogatory cartoons or graffiti based on a prohibited ground
- Patronizing or condescending behaviour or language which reinforces stereotypes and undermines self-respect
- Inappropriate references to racist organizations or individuals
- Accessing, displaying, transmitting or storing (including on the Town’s technology systems, including computer network etc.) material which violates any Canadian federal or provincial law or Town bylaw or directive, or is harassing, discriminatory, or obscene and conducive to a Poisoned Work Environment.

Examples of **sexual harassing behaviours** include but are not limited to:

- Unwanted touching or patting
- Sexually suggestive or obscene remarks or gestures
- Leering (suggestive staring) at a person’s body
- Display of sexually offensive material
- Making sexual requests or suggestions
- Unwelcome sexual flirtations, advances, propositions
- Sexual assault
- Sexist jokes causing embarrassment or offence, told, or carried out after the joker has been advised that they are embarrassing or offensive, or that is by their nature, clearly embarrassing or offensive

- Derogatory or degrading remarks directed toward members of one sex or sexual orientation
- Verbal abuse or threats of a sexual nature
- Offensive comments or conduct around someone's sexual orientation, gender identity or gender expression

## **2. Complaints**

Complainants and Respondents have the right to confidential, unbiased advice from their Direct Supervisor, the Finance & Human Resources Officer, Director, CAO and/or union representative (if applicable) for the Town of Nipawin.

The Procedures for Resolving Harassment and Discrimination Issues outline the steps for handling of complaints, including the following options:

- Complaint to the Town of Nipawin, through first, the Employee's Direct Supervisor, second, the Employee's respective department Director, and if needed the Chief Administrative Officer
- Complaint directly to the Finance & Human Resources Officer
- Complaint to the *Human Rights Tribunal of Saskatchewan*
- Filing of a grievance for those Employees covered under a collective agreement
- Complaint to Police if a criminal act has occurred

## **3. Confidentiality**

The Town of Nipawin will make every reasonable effort to maintain confidentiality for Employees involved in Harassment and Discrimination complaints or incidents. Confidentiality extends to all records relating to complaints, including but not limited to meetings, interviews, and investigation results. Breaches of confidentiality may be subject to appropriate disciplinary action. Complainants, Respondents, and witnesses will be advised to maintain confidentiality concerning complaints or incidents. Any record of discipline which occurs as a result of a complaint will be included in the disciplined Employee's file. However, all records are subject to the provisions of the *Freedom of Information and Protection of Privacy Act* and may be subject to disclosure under the Act or to a court of law.

## **4. Procedural Fairness**

The rules of procedural fairness govern all activities occurring under this policy.

## **5. Reprisal**

Any form of retaliation against parties involved in a complaint (including a Complainant, Respondent, witness, investigator etc.), will be considered a serious violation of this policy and will not be tolerated. Such retaliatory actions may be subject to disciplinary action up to and including termination of employment.

## **6. Trivial, Frivolous/Vexatious Complaints**

The Town of Nipawin prohibits complaints that are trivial, frivolous, vexatious, or made in bad faith. Any Employee found to have lodged such a complaint may be subject to appropriate disciplinary action, up to and including dismissal.

### **WHAT IS NOT HARASSMENT**

This Policy does not extend or apply to day-to-day management or supervisory decisions involving work assignments, job assessment and evaluation, workplace inspections, implementation of appropriate dress codes and disciplinary action. These actions are not harassment, even if they sometimes involve unpleasant consequences. Note that managerial actions must be carried out in a manner that is reasonable and not abusive.

This Policy does not extend to harassment that arises out of matters or circumstances unrelated to the worker's employment. For example, harassment that occurs during a social gathering of co-workers that is not sponsored by the employer is not covered. However, harassment that occurs while attending a conference or training session at the request of the employer is covered within this policy.

Other situations that do not constitute harassment include:

- Physical contact necessary for the performance of the work using accepted industry standards
- Conduct which all parties agree is inoffensive or welcome
- Conflict or disagreements in the workplace, where the conflict or disagreement is not based on one of the prohibited grounds

Harassment can exist even where there is no intention to harass or offend another. Every person must take care to ensure his or her conduct is not offensive to another.

### **RESPONSIBILITIES**

#### **Shared Responsibility (All Employees)**

All Employees have the right to work in an environment free from Harassment and Discrimination. All employees have the right to work in a healthy, respectful, and supportive work environment that is free from Personal Harassment and all employees share the responsibility to support harassment-free workplace, human rights and equality. The particular responsibilities of the Employer, Management and non-Management Employees are specified below:

Employees share in the responsibility to ensure that their work environment is free from Harassment and Discrimination. Employees must not engage in any behaviour or comments that are or may be perceived as Harassment or Discrimination. Employees are required to report incidents of Harassment, Discrimination, or Retaliation to their Direct Supervisor, Department Director, the CAO or to the Finance & Human Resources Officer.

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*It is the responsibility of every Employee to co-operate fully in any attempts to resolve a matter under these policies and to co-operate fully in the investigation of any complaint. Any Employee who refuses to participate in an investigation or the resolution of a matter under these policies, or who knowingly or recklessly makes a false statement or gives false or misleading information, will be subject to disciplinary action up to and including termination of employment.*

### **Employer Responsibility**

- Provide a Workplace free from Harassment and Discrimination that is based on the prohibited grounds under the *Saskatchewan Human Rights Code*.
- Promote a healthy, respectful, and supportive work environment.
- Ensure information and instruction on the content of harassment prevention is shared with all employees.
- Ensure corporate policies and procedures comply with the *Saskatchewan Human Rights Code*.
- Provide Human Rights awareness education to all Employees.
- Create an environment that encourages the reporting of all incidents of Harassment and Discrimination.
- Provide a process to handle and investigate Harassment and Discrimination complaints in the most effective, fair, and timely manner, given the circumstances.
- Inform the complainant of the results of the investigation and any corrective action that has been or will be taken by the Employer to address workplace harassment.

### **Management Responsibility**

Management are responsible for promoting a Workplace that is healthy, respectful, and supportive and for intervening if harassment or discrimination occurs. Management are also responsible for promoting a workplace that is free of Harassment and Discrimination and Management must ensure that Harassment and Discrimination are not tolerated, ignored, or condoned.

Management are responsible for not only their own actions, but also for dealing with the actions of staff under their supervision. In order to prevent Harassment and Discrimination, address perceived Harassment and Discrimination, and to address employee complaints with respect to Discrimination or Harassment on the basis of the prohibited grounds under the *Saskatchewan Human Rights Code* OR Personal Harassment, Management will undertake the following actions:

- Set a good example by never engaging in, tolerating or condoning Harassment or Discrimination.
- Make all reasonable efforts possible to protect Employees from Harassment and Discrimination.
- Consult with the CAO or designate on matters that may pertain to this policy.
- If Harassment or Discrimination is suspected, or if an Employee complains that they are being harassed or discriminated against, action must be taken in accordance with this policy and procedure. Accordingly, Management is encouraged to consult with the CAO or designate as soon as possible, upon learning or suspecting that Harassment or

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Discrimination may be occurring. In consultation with the CAO or designate, Management must approach an employee if Harassment or Discrimination is suspected because some Employees may be embarrassed and/or reluctant to complain.

- Respond immediately to any Harassment or Discrimination complaints by contacting the CAO. Only the CAO and/or the CAO's designate may formally investigate a Harassment or Discrimination Complaint (*see the associated procedures – Resolving Harassment and Discrimination Issues*). Management who are aware of Harassment or Discrimination and do not take corrective action, may be subject to disciplinary action, up to and including termination of employment.
- In consultation with the CAO or designate, take remedial action with Employees who violate this policy, including disciplinary action, training, education or any other action deemed appropriate given the circumstances.

### **Employee Responsibility (including Management)**

Employees share in the responsibility to maintain a work environment that is healthy, respectful, and supportive.

- Do not engage in any behaviour that is or may be perceived as harassment and/or discrimination.
- Report incidents of harassment and discrimination or retaliation (reprisal) to your Direct Supervisor, the CAO and/or designate.
- Co-operate fully in any attempts to resolve a matter under these policies and co-operate fully in the investigation of any complaint.

Any Employee who refuses to participate in an investigation or the resolution of a complaint/matter under these policies, or who knowingly or recklessly makes a false statement or gives false or misleading information, will be subject to disciplinary action, up to and including, termination.

### **PROCEDURE PURPOSE**

This procedure outlines steps to be taken to address issues of harassment and/r discrimination by employees of the Town of Nipawin.

### **PROCEDURE ROLES & RESPONSIBILITIES**

#### **Employee**

Any employee who has a complaint alleging violation of this policy is encouraged to attempt the following before a formal complaint is filed:

- if possible, make your disapproval known to the person who is causing the offence; and
- ask that all offensive behaviour stop (If an employee approaches another employee in this regard it is expected that the approached employee will make all reasonable efforts to resolve the matter); and/or
- discuss concerns with the employee's immediate supervisor or another member of Management; and/or
- seek advice from the Union Local President (where applicable); and/or
- contact the CAO or designate for advice/consultation even if there is no intent to file a complaint.

**Do not discuss** the alleged harassment or discrimination or intent to file a complaint with other co-workers, as this could be a potential breach of the Harassment and Discrimination Prevention Policy.

Where possible, employees who believe that they have been subjected to Harassment or Discrimination should maintain a written record of the nature of the alleged conduct, date(s), time(s), behaviour, impact and list of witness(es). If the Harassment or Discrimination continues, or the Complainant is uncomfortable speaking to the person who is causing offence, or to their Direct Supervisor or another member of Management, the Complainant may bring the matter to the attention of the CAO and/or the Finance & Human Resources Officer as a complaint (see Complaint Procedures for next steps).

### **Chief Administrative Officer and Finance & Human Resources Officer**

The CAO and Finance & Human Resources Officer act as an impartial advisor to any Town Employee (including Management representatives). The CAO and Finance & Human Resources Officer maintains a fair and unbiased attitude to all complaints, and to all those involved in complaints, at all times. The CAO and Finance & Human Resources Officer are responsible for providing education and information concerning **all forms** of Harassment and Discrimination, assisting with efforts to resolve complaints, including investigations.

### **Senior Management Team**

If the Chief Administrative Officer/Chief Financial Officer/Director/Supervisor receives a complaint, it is encouraged they consult the CAO and/or the Finance & Human Resources Officer. The CAO and/or the Finance & Human Resources Officer may suggest any of the following steps be taken by management:

- take immediate action in the event of a real or potential threat to personal safety; and/or
- provide a copy of the policies and procedure to the Complainant to ensure awareness of the options under the policies, including protection from reprisal.

### **COMPLAINT PROCEDURES**

The Town's complaint procedures are intended to be a timely forum to address harassment and discrimination complaints. Any costs incurred by the parties during an investigation (legal, travel, etc.) are their own responsibility.

In certain circumstances, the CAO and Finance & Human Resources Officer or other appropriate staff will work in coordination to resolve a matter.

#### **1. Complaint Assessment Phase**

Once a complaint has been received, the CAO and/or designate will assess the complaint to determine appropriate next steps. This may involve a preliminary fact-finding process to ascertain:

- Type of behaviour complained about and whether it is covered under the Harassment/Discrimination Prevention Policies or Procedure

- Severity of the situation
- Identification of parties to make initial inquiries with (i.e. Complainant, Respondent, Management, Witnesses)
- Whether other initial steps need to be taken (i.e. Police involvement, involvement of Occupational Health and Safety Committee, and/or Union President, etc.)
- Whether or not there is a need to intervene further on an informal basis or to investigate.

At any point during the Assessment Phase, it may be determined by the CAO that no intervention or investigation into the matter is required. The CAO has discretion to decide not to intervene or investigate or may discontinue an intervention or investigation, or may refuse to take action on any complaint in situations where:

- the complaint is made more than one year after the date of the last incident of harassment or discrimination
- the complaint is determined to be trivial, frivolous, vexatious, or made in bad faith
- the actions complained of have also been the subject of criminal charges
- the action(s) complained of do not fall within the definitions of Harassment and Discrimination or Personal (Workplace) Harassment as defined in the Harassment and Discrimination Prevention Policy and the Personal (Workplace) Harassment Prevention Policy
- an adequate remedy already exists
- the issue is most appropriately addressed by another area of the organization
- having regard to all the circumstances, further investigation of the matter is deemed unnecessary.

## **2. Complaint Informal Resolution Phase**

Where appropriate, the CAO may facilitate an informal resolution of complaints under this policy. Depending upon the circumstances or the Complainant's desired outcome, the CAO may pursue informal resolution without receiving a written complaint and/or without informing the Respondent.

For the purposes of the Personal (Workplace) Harassment fact-finding conducted during the Assessment Phase of these complaints may also satisfy the *Occupational Health and Safety Act* requirement that *"an investigation is conducted into incidents and complaints of workplace harassment that is confidential in the circumstances."*

The goal of many employees who seek assistance is to stop the offending behaviour. Informal resolution facilitated can often be effective in addressing unwanted comments or conduct. Each situation is unique, and creativity may be necessary in devising options for informal resolution. If the matter is addressed through the informal resolution phase, there will be no formal findings of fact. In most circumstances, informal resolution efforts should be completed within 5 days.

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Some examples of informal resolution include:

- *Education/Training* - for a group of employees, or one-on-one where appropriate. In some cases, education and training can be conducted without the Respondent being identified
- *Involving Director/Supervisor* - informing a Supervisor of concerns and developing a management plan to ensure a respectful and supportive workplace
- *Changing work responsibilities* - to minimize contact between the Complainant and Respondent where operationally feasible
- *Alternative Dispute Resolution* – It may be determined that some form of Alternative Dispute Resolution (ADR) or Mediation may be tried in order to settle the complaint. Any discussions concerning settlement will take place on a “without prejudice” basis. (This means that the rights of the parties involved will not be lost or waived by entering talks to resolve the complaint). A settlement may need to be approved by the Director(s) of the Department(s) involved and the CAO or designate. A written record of any settlement agreed to by the parties will be retained by the Chief Financial Officer and placed in corresponding personnel files. ADR can address multiple, complex issues and should generally conclude within 10 days. If the parties are not agreeable to ADR or a settlement is not successful, the CAO may decide to conduct an investigation.

If a resolution is not obtained in the Informal Resolution Phase, or if the nature of the complaint warrants, an investigation may begin, as determined by the Chief Administrative Officer.

### **3. Complaint Investigation Phase**

The CAO has discretion to require a signed written complaint from the person making the complaint before an investigation may begin. The written complaint should be submitted to the Chief Administrative Officer or designate setting out in detail the nature of the complaint, any information in support of the complaint including the specific incidents of Harassment and the names of possible witnesses.

The CAO will conduct investigations unless otherwise noted.

Investigations may also be undertaken by an external investigator engaged by the Town. Any investigation of a complaint, from a Town employee, made against a member of Council; the CAO will carry out the investigation. Any investigation of a complaint made against the Chief Administrative Officer; Council will be apprised and will carry out the investigation.

A Complainant cannot be compelled to proceed with a complaint. The Town of Nipawin may be obligated to proceed with an investigation in the absence of a formal written complaint if the allegation(s) constitute a violation of this policy. In these cases, the Town of Nipawin will proceed with either informal resolution or an investigation, with the intent of stopping the alleged behaviour and/or preventing further incidents from occurring if there has been a violation of the policies.

Complaints are investigated by interviewing the Complainant(s), the Respondent(s), any witnesses and reviewing any available documentation. An investigation report should normally be completed within 30 days after a written complaint has been filed. The length of an investigation depends on many variables including but not limited to, the number of witnesses, complexity of the investigation, workplace schedules etc. If a report cannot be completed within the established timelines of this procedure, the parties to a complaint will be advised of the delays and any reasons why. It is incumbent on all parties to a complaint to arrange schedules or support persons so as not to delay the process.

In some circumstances, special arrangements may be advisable (where possible) to separate the Complainant and the Respondent in the workplace, temporarily re-locate either party to a complaint, or re-assign alternate duties to either party to a complaint (depending on the circumstances), pending the results of an investigation. The Finance & Human Resources Officer may recommend and facilitate such arrangements on the request of the CAO.

Alternative Dispute Resolution or mediation is to remain available (subject to mutual consent) to the parties prior to or during an investigation. As above, any settlement discussions will be held 'without prejudice' and separate from the investigation process. Any Employee (including Chief Administrative Officer, Chief Financial Officer, Director(s), or Supervisor(s)) interviewed are entitled to be accompanied by one other person of their choice, as a support person. The interviewer will make every effort to determine the identity of the support person prior to the meeting, to ensure that the presence of that particular support person would not present a conflict of interest in regard to the ongoing investigation. Unionized Employees may be supported by their respective unions, as per the Collective Agreement. Employees are also encouraged to utilize the Town's Employee and Family Assistance Program (EFAP) for additional support.

Respondent(s) to any complaint being investigated are entitled to know the allegations against them and have the opportunity to respond in full. A written notice of the complaint will be provided to the Respondent, with the general allegations. If necessary, statements from the Respondent(s) are disclosed back to the Complainant(s).

Interviews will be arranged and completed with witnesses and any other individuals who may have information pertinent to the investigation, as deemed necessary. In certain circumstances, the CAO may determine that a witness(es) will not be interviewed. At the end of each interview, Complainant(s), Respondent(s) and witness(es) will be asked to review the notes describing the interview and initial them to indicate accuracy. The CAO and Chief Financial Officer have the authority to access documents relevant to the complaint.

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#### **4. Complaint Investigation Findings Phase**

The interviewer(s) will consider all the evidence gathered and decide whether there has been a violation of policy using the standard of proof called the “balance of probabilities”.

The Director of the affected department will forward to the CAO or designate within ten (10) working days, after receiving recommendations from the CAO, a letter stating the action taken or to be taken in response to the findings of the investigation.

The Complainant(s) and Respondent(s) will be given a written summary of the findings resulting from the investigation. Any Employee who is found to have violated the Town's policies prohibiting harassment and discrimination may be disciplined according to the severity of the actions, up to and including termination of employment. Such disciplinary action shall be determined in consultation with the Department Director, Finance & Human Resources Officer and Chief Administrative Officer.

#### **COMPLAINTS AGAINST ELECTED OFFICIALS**

In addition to the steps under “Complaint Procedures” the following applies to complaints from Employees, Consultants, Volunteers, Students and/or Contractors against Elected Officials of the Town of Nipawin:

- The Employee may bring the matter to the attention of their Direct Supervisor, who will immediately inform the CAO.
- Employees of the Town of Nipawin shall not conduct the investigation of any complaint against an Elected Official. The matter shall be referred to the CAO and the CAO will lead the investigation.
- Where it is determined that no third-party investigation is warranted, the CAO will carry out a similar procedure as used for Assessment and Informal Resolution, and the CAO shall report, as appropriate.

#### **COMPLAINTS AGAINST CHIEF ADMINISTRATIVE OFFICER**

In addition to the steps outlined under “Complaint Procedures”, the following applies to complaints from employees against the CAO:

- The Employee may bring the matter to the attention of their Direct Supervisor, who will immediately inform the Finance & Human Resources Officer.
- The Finance & Human Resources Officer will provide a confidential report advising of the complaint to the Chief Administrative Officer. If the complaint is of a major nature, then the complaint will be directed immediately to the Elected Officials of the Governance & HR Standing Committee.
- Employees of the Town of Nipawin shall not investigate any complaint against the CAO.
- The Elected Officials of the Governance & HR Standing Committee conduct the investigation, when warranted.
- If the Governance & HR Standing Committee Elected Officials decide an external investigator is appropriate, that external investigator shall report their findings and recommendations for action to the Elected Officials of the Governance & HR Standing Committee. The elected officials of the Governance & HR Standing Committee shall

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provide Town Council with a report summarizing the findings and recommendations for appropriate action.

- If the investigation substantiates in whole or in part that the CAO violated any Town policy on harassment and/or discrimination, Town Council shall determine an appropriate sanction.
- When Town Council has determined what action, if any, will be taken against the CAO, the Mayor or designate shall provide a written summary of the findings resulting from the investigation to the Complainant(s).

### **COMPLAINTS AGAINST DIRECTORS**

In addition to the steps outlined under “Complaint Procedures”, the following applies to complaints from Employees against a Director:

- The Employee may bring the matter to the attention of their direct supervisor, the Finance & Human Resources Officer, or the CAO. If the matter is brought to the attention of the Finance & Human Resources Officer or employees’ direct supervisor, the matter shall immediately be directed to the Chief Administrative Officer.
- Employees of the Town of Nipawin, other than the CAO, shall not investigate of any complaint against a Director. The CAO will lead the investigation.
- When the CAO has determined what action, if any, will be taken against the Director, the CAO shall provide a written summary of the findings resulting from the investigation to the Complainant(s).

### **HARASSMENT ALLEGATIONS INVOLVING MEMBERS OF THE PUBLIC**

If non-Town persons are deemed to have violated the Town's Harassment Prevention Policies, all reasonable efforts will be made to stop the Harassment/Discrimination which may involve, banning a person(s) from Town facilities, involvement of legal services or police involvement.

#### **External Investigator**

In complaints where an external investigator is retained, the external investigator shall have regard for this policy, procedure, and any relevant law. The external investigator may modify the investigation process as appropriate to the circumstances, subject to the review of any modifications with the CAO and/or elected officials of the Governance & HR Standing Committee (when applicable) and shall make determinations with regard to applicable policies, procedures and any relevant law.

#### **Confidentiality**

All information about complaints is confidential. Employees who are involved in any way in complaints or incidents of Harassment or Discrimination must not disclose to anyone in the workplace the details of the complaint or incident, except as required by this procedure and the Town’s policies on Harassment and Discrimination. Confidentiality extends to all records relating to complaints, including but not limited to, records of meetings, interviews, and investigation results. Breaches of confidentiality may be subject to appropriate disciplinary action up to and including termination of employment.

The Chief Financial Officer will retain documentation related to complaints in the respective personnel file for seven (7) years from the date of the complaint. All records are subject to the provisions of the *Freedom of Information and Protection of Privacy Act* and may be subject to disclosure under the Act, or to a court of law.

### **Requests for Review**

Either the Complainant(s) and/or the Respondent(s) may make a Request for Review of the findings of the investigation if they have new and relevant information that was not previously available or have substantive reasons why the findings were not reasonable. The intent to file a Request for Review must be made known to the Chief Administrative Officer or designate, in writing within ten (10) calendar days of the date the parties were notified of the findings. Thereafter, there will be a discussion between the person(s) making the Request for Review, and the CAO or designate as to when the request must be submitted (never to exceed more than 20 calendar days from the date of this discussion). The Request for Review must include a statement of the reasons why the findings of the investigation were not reasonable and should be re-considered. If the Request for Review does not include new and relevant information that was not previously available or does not provide substantive reasons why the investigation findings were not reasonable, the CAO shall deny the request.

If it appears that there are substantive grounds to reconsider the findings of the investigation, Complainant(s) or Respondent(s) will be informed that a Request for Review has been made and will be given an opportunity to reply.

The CAO will make a final decision on the final disposition of the review.

### **COMPLIANCE**

Any Employee who is found to have violated this Harassment and Discrimination Prevention Policy may be disciplined according to the severity of the actions, up to and including termination of employment with cause and without termination pay/severance. Such terminations will be decided by the Chief Administrative Officer and communicated to Town Council.

### **REFERENCE**

DRAFT Violence in the Workplace Prevention Policy & Procedure, 6.19  
DRAFT Work Refusals Policy & Procedure, 6.12  
Employee Code of Conduct Policy, 6.1  
Council Code of Conduct Policy, 1.2.2  
Acceptable Use Policy, 2.0  
Town of Nipawin Occupational Health & Safety Program  
*Saskatchewan Human Rights Code*  
*Saskatchewan Occupational Health & Safety Act/Regulations*  
*Saskatchewan Employment Standards*  
*Freedom of Information and Protection of Privacy Act*

**Occupational Health & Safety**

Regina  
400-1870 Albert Street  
REGINA SK  
S4P 4W1  
Phone: 306-787-4496  
Toll Free: 1-800-567-7233  
Fax: 306-787-2208

Saskatoon  
851-122 Third Avenue North  
SASKATOON SK  
S7K 2H6  
Phone: 306-933-5052  
Toll Free: 1-800-667-5023  
Fax: 306-933-7339

**Employer Formal Harassment & Discrimination Complaint Form**

**Complainant Information:**

Name:: \_\_\_\_\_ Phone Number: \_\_\_\_\_

Work Department: \_\_\_\_\_

Job Title: \_\_\_\_\_

Supervisor Name: \_\_\_\_\_ Phone Number: \_\_\_\_\_

**Witness Information**

List names of possible witnesses

Name	Position	Contact Phone Number

**Information about the individual(s) the complainant feels has/have harassed the**

**complainant:** Name of Person(s) against whom this complaint is made:

Date of incident (dd/mm/yyyy): \_\_\_\_\_

**In your opinion is the harassment/discrimination based on any of the following?** Please circle which, apply to your situation:

- |                        |               |                   |
|------------------------|---------------|-------------------|
| Sexual Orientation     | Religion      | Sex               |
| Nationality            | Disability    | Age               |
| Place of Origin        | Family Status | Creed             |
| Physical Weight/Height | Colour        | Race              |
| Marital Status         | Ancestry      | None of the Above |

**If not based on any of the above grounds, is the harassment/discrimination based on either of the following:**

a) Repeated incidents that have caused you to be humiliated or intimidated.      Yes      No

OR

b) A single serious incident that has had a lasting harmful effect on you.      Yes      No

**In your own words, describe the conduct, comments or display you found objectionable. Give details of date and location of the incident(s) that is/are the basis of this complaint.**

What type of resolution do you seek?

(e.g., supervisor to direct or counsel person to correct conduct; facilitated meeting with alleged harasser; apology; workshops or training sessions; mediations; or other)

**Declaration**

I hereby confirm that the statement(s) contained in this complaint are true to the best of my knowledge. I understand that a copy of this complaint will be provided to alleged harasser for the purpose of investigating this complaint.

\_\_\_\_\_  
Date (dd/mm/yyyy)

\_\_\_\_\_  
Signature of Complainant

I acknowledge receipt of this complaint:

\_\_\_\_\_  
Date (dd/mm/yyyy)

\_\_\_\_\_  
Signature of Supervisor