



***POLICY ON PHYSICAL
AND PSYCHOLOGICAL
WELL-BEING
AND HARASSMENT***

Adopted December 7, 2015



TABLE OF CONTENTS

	<u>PAGE</u>
CHAPTER I PRELIMINARY PROVISION	1
ARTICLE 1 Objective.....	1
ARTICLE 2 Definitions	1
CHAPTER II GENERAL ARTICLES	2
SECTION 1 POLICY STATEMENT	2
ARTICLE 3 General.....	2
ARTICLE 4 Scope.....	2
SECTION 2 RIGHTS AND OBLIGATIONS	2
ARTICLE 5 Rights and obligations of employees and elected officials.....	2
ARTICLE 6 Obligations of department managers.....	3
CHAPTER III ROLES, RESPONSIBILITIES AND PROCEDURES	4
SECTION 1 GENERAL.....	4
ARTICLE 7 Person responsible for receiving complaints and investigating	4
ARTICLE 8 Obstruction of an investigator or member of the Review Committee.....	4
ARTICLE 9 Assistance	5
ARTICLE 10 Oath.....	5
ARTICLE 11 Immunity	5
ARTICLE 12 Preparing, archiving and accessing case files	5
SECTION 2 FILING A COMPLAINT	5
ARTICLE 13 Preliminary process	5
ARTICLE 14 Informal complaint	5
ARTICLE 15 Formal complaint.....	6
ARTICLE 16 Admissibility.....	6
ARTICLE 17 Unfounded complaint	7
ARTICLE 18 Complaint made in bad faith	7
ARTICLE 19 Privacy	7
ARTICLE 20 Reprisals.....	7
SECTION 3 INVESTIGATION	8
ARTICLE 21 Information required.....	8
ARTICLE 22 Rights of the complainant (employee or elected official).....	8
ARTICLE 23 Rights of the accused	8
ARTICLE 24 Investigation report	8
ARTICLE 25 Restorative measures, disciplinary measures and sanctions	9
ARTICLE 26 Implementation of recommendations	10
ARTICLE 27 Time period.....	10
SECTION 4 REVIEW	10
ARTICLE 28 Review Committee	10
ARTICLE 29 Composition	11
ARTICLE 30 Deadline for requesting a review	11
ARTICLE 31 Deadline for filing the Review Committee report	11
ARTICLE 32 Review Committee report	11
ARTICLE 33 Implementation of recommendations	11
CHAPTER IV FINAL PROVISIONS.....	12
ARTICLE 34 Repeal.....	12
ARTICLE 35 Distribution of the Policy	12
ARTICLE 36 Revision	12
SCHEDULE 1 Oath of Office and Secrecy	13
SCHEDULE 2 Acknowledgement of Receipt Form	14

CHAPTER I PRELIMINARY PROVISION

ARTICLE 1 OBJECTIVE

The objective of the Town of Sutton in adopting this Policy is to achieve the following:

- Maintain a healthy atmosphere in the workplace and protect the physical and psychological well-being and dignity of the Town's employees and elected officials.
- Help build awareness and inform and educate the community in order to prevent any kind of harassing behaviour.
- Provide the support needed to victims of harassment by establishing assistance and recourse mechanisms.

The Town of Sutton will not tolerate any kind of harassment or abuse of power in relation to its employees and elected officials while they are performing their duties and functions, whether such harassment is by Town employees, the Town Council, counsellors, citizens, contractors or suppliers. The Town shall take every reasonable step to achieve this goal. In particular, the Town will strive to make all its employees aware of the need to prevent harassment, and if harassment occurs, to address it promptly.

ARTICLE 2 DEFINITIONS

Harassment

Any type of conduct, notably behaviours, words, actions, gestures, writing or posted materials that is considered abusive by an employee or elected official and could adversely affect the personality, dignity, physical or psychological well-being, employment, or work atmosphere of the employee or the elected official. A single serious incident may also constitute harassment if it has an adverse impact and an ongoing negative effect on the employee or elected official.

Abuse of power

Improper use of a position's authority or power in an effort to compromise the ability of an employee or elected official to perform the duties of their position. Includes intimidation, hindering of performance, interference in any way in a person's career, threats, blackmail, humiliation and coercion.

This definition of the abuse of power does not restrict the authority of persons who have managerial responsibilities in areas such as labour relations, performance evaluations, work management and the application of disciplinary rules.

CHAPTER II GENERAL ARTICLES

SECTION 1 POLICY STATEMENT

ARTICLE 3 GENERAL

The Town wants to ensure that its employees and elected officials enjoy a safe and secure work environment where everyone is respected. No one in the Town, whether employee or elected official, shall fail to adhere to or tolerate any failure to adhere to this Policy, whether at work or in any other situation related to employment or an elected position.

The Town shall treat all complaints under this Policy seriously, whether submitted informally or formally. The Town shall take steps to ensure that all complaints are settled in a prompt and confidential manner.

Anyone who contravenes this Policy will be subject to disciplinary action.

ARTICLE 4 SCOPE

This Policy covers:

- Women and men
- Relations among employees
- Relations among elected officials
- Relations between elected officials and employees
- Relations between employees or elected officials and persons outside the workplace, namely suppliers, contractors, sub-contractors and citizens.

SECTION 2 RIGHTS AND OBLIGATIONS

ARTICLE 5 RIGHTS AND OBLIGATIONS OF EMPLOYEES AND ELECTED OFFICIALS

This section explains how employees can expect to be treated at work and sets out the employer's obligations to co-workers, supervisors, elected officials and the public.

This section also explains how elected officials can expect to be treated in their positions and sets out the Town's obligations towards employees, colleagues and the public.

Respect for others

Every employee is entitled to be treated in a fair and respectful manner in the workplace. Every employee is also required to treat co-workers and elected officials in a manner that respects their individual differences. No matter what type of position the employee holds, workplace harmony should be promoted by demonstrating respect and mutual consideration.

Every elected official is entitled to be treated in a fair and respectful manner while performing their duties. Every elected official is also required to treat colleagues and Town employees in a manner that respects their individual differences. Respect and mutual consideration make it easier to carry out duties in a harmonious atmosphere.

An employee or elected official who feels harassed

If someone behaves in an offensive, hurtful, humiliating way or seeks to undermine an employee or elected official, that employee or elected official shall react:

- By respectfully making it clear that the behaviour is inappropriate;
- By bringing the incident to the attention of the person responsible for the application of this Policy by filing a complaint as set out in articles 13 and following.

An employee or elected official who witnesses harassment

If an employee or elected official notices a behaviour that is making another member of the workplace feel uncomfortable, or believes that a certain type of behaviour constitutes harassment, the employee or elected official shall react:

- By respectfully making it clear that the behaviour is inappropriate;
- By saying, if he or she thinks the employee or elected official has been a victim of harassment, that he or she is prepared to provide support if the person wishes to address the problem;
- By reacting verbally, depending on the circumstances, when the behaviour occurs. The witness may speak with the employee or elected official who has been harassed in private or speak with the person who appears to have contravened this Policy;
- By speaking with a department manager or the person responsible for receiving complaints. However, it is best to speak first with the person who was harassed, since that person may not wish to file a complaint;
- By collaborating with any investigation into a complaint under this Policy when required to do so.

ARTICLE 6 OBLIGATIONS OF DEPARTMENT MANAGERS

This article outlines how department managers and the Town of Sutton should behave and respond when harassment occurs.

Stop the harassment

It is the Town's responsibility to ensure that its work environment is free of harassment. All of the Town's department managers are also required to stop harassment. If a department manager becomes aware of a situation of harassment, the manager must refer the case to the person responsible for receiving complaints. Ignorance of the situation is not always an excuse. To the extent that one may conclude that a reasonable person would have known that an employee was being harassed, the department manager may be held liable if the situation is allowed to continue.

Furthermore, the department manager will be liable if an employee or elected official confides that he or she is being harassed and the department manager lets the situation continue. In all cases, a department manager who does not pay attention to cases of harassment may be subject to disciplinary measures.

Be alert

By being alert, the department managers can detect problems:

- Inexplicable change in an employee's performance
- Employee who, all of a sudden, starts taking more sick days
- Employee who becomes isolated, seems distressed, no longer socializes with co-workers
- Rumours
- Embarrassment or awkwardness between two or more employees

Listen to employees

If a department manager has a sense that something odd is going on, the manager should talk to the employee concerned or with the person responsible for receiving complaints. Often, an employee who is being harassed is more willing to talk about it if someone shows a willingness to listen. Naturally, department managers must respect the rights and dignity of employees and elected officials. They must keep such conversations private, only disclosing information when it is absolutely necessary for effective investigation of the complaint.

CHAPTER III ROLES, RESPONSIBILITIES AND PROCEDURES

SECTION 1 GENERAL

ARTICLE 7 PERSON RESPONSIBLE FOR RECEIVING COMPLAINTS AND INVESTIGATING

For the purpose of applying this Policy, the person responsible for receiving complaints and acting as investigator is the Town's general manager. If the general manager is absent or in a conflict of interest, a substitute must be appointed by resolution of the Town Council. For the purpose of this chapter, the person responsible for receiving complaints and conducting the investigation is also called the "investigator."

ARTICLE 8 OBSTRUCTION OF AN INVESTIGATOR OR MEMBER OF THE REVIEW COMMITTEE

The obstruction, in any way, of an investigator or a member of the Review Committee as provided under Section 4 of this chapter is prohibited while the investigator or committee member is performing the tasks set out under this Policy, whether such obstruction involves

misleading through silence, making false declarations, refusing to provide information or refusing to provide a document related to a verification or an investigation being conducted under this Policy or refusing to allow the investigator or committee member to make a copy of such document. The investigator shall, upon receiving information that a person has been accused of contravening this Policy, investigate the matter and require that any information or document required for the investigation be provided to the investigator.

ARTICLE 9 ASSISTANCE

At any stage in the investigation, the employee or elected official who has filed a complaint of harassment and the accused may request the assistance of another person.

ARTICLE 10 OATH

The investigator and the members of the Review Committee must take the oath contained in Schedule I.

ARTICLE 11 IMMUNITY

No legal action may be taken against the investigator or members of the Review Committee for actions committed in good faith in the performance of their duties.

ARTICLE 12 PREPARING, ARCHIVING AND ACCESSING CASE FILES

The investigator and the Review Committee shall oversee the preparation and archiving of case files. When a case is closed, it must be kept by the Town in accordance with the provisions of the archive schedule then in effect.

SECTION 2 FILING A COMPLAINT

ARTICLE 13 PRELIMINARY PROCESS

An employee or elected official who has been subject to harassment shall first ask the person contravening the Policy to stop the behaviour, if possible. The employee or elected official should make the person aware that his or her actions or words are embarrassing, humiliating, disrespectful, belittling or are creating discomfort and that the behaviour is harassment under the terms of this Policy. Often, people do not know that their behaviour is creating discomfort, but are prepared to change it when they are made aware of it.

The employee or elected official who has been harassed should write down information that will be useful to an investigation, such as words, actions, dates, times, locations and witnesses.

ARTICLE 14 INFORMAL COMPLAINT

The informal procedure is optional.

Considerations for the employee or elected official who has been harassed

An employee or elected official who has been harassed (the harassee) may talk to the person responsible for complaints or, if that person is absent or in a conflict of interest, to one of the Town's department managers, about the matter and the person being accused of contravening this Policy.

The person to whom the harassee speaks must ask for details about what happened and make sure the harassee understands the Policy as well as the other options available (union grievance or complaint to the *Commission des normes du travail*) and ask how the employee or elected official would like to proceed.

The employee or elected official who has been harassed may request:

- help writing a letter or speaking on his or her behalf to the person accused of contravening the Policy;
- help to file a formal complaint.

Considerations for the person accused of contravening the Policy

If a person is informally accused of contravening this Policy, then that person must seriously question him or herself about the complaint. It may be that without intending to, the accused has said things or acted in such a way as to offend, humiliate or belittle an employee or elected official. If the accused has behaved in an offensive or harassing manner, then the accused should stop that behaviour. The accused could also consider apologizing.

The accused should write down notes about the nature, and date, of any conversation in which someone says the accused is not complying with this Policy. The accused should also write down what he or she felt and did, if anything.

ARTICLE 15 FORMAL COMPLAINT

An employee or elected official who has been harassed may file a formal complaint with the person responsible for receiving complaints. Any complaint must be submitted in writing within 90 days of the most recent manifestation of the harassing behaviour.

In a case of psychological harassment, an employee who has been harassed may at any time contact the *Commission des normes du travail*. However, for cases of psychological harassment, an employee who has been harassed and comes under a collective agreement must at all times exercise the recourse provided in the collective agreement, rather than going to the *Commission des normes du travail*.

ARTICLE 16 ADMISSIBILITY

A formal complaint to the Town will be reviewed to determine its admissibility.

- If the complaint is deemed inadmissible, the person responsible for complaints shall notify the employee or elected official who filed the complaint of the reasons for the refusal and shall direct that person, if necessary, to the appropriate bodies.
- If the complaint is deemed admissible, it shall be investigated.

ARTICLE 17 UNFOUNDED COMPLAINT

If, in good faith, an employee or elected official who has been harassed files a complaint under this Policy and the grounds for the complaint are not confirmed by the investigation, the complaint will be rejected and it will not be entered in the employee file of the person accused, if that person is a Town employee. Given that the complaint was filed in good faith, the complainant will not be subject to any sanction or disciplinary measure and the incident will not be entered in the complainant's file.

ARTICLE 18 COMPLAINT MADE IN BAD FAITH

When a complaint is made in bad faith (in other words, if the employee or elected official files a complaint that he or she knows is not founded and is doing it to cause harm), the complainant will be subject to sanctions or disciplinary measures and the incident will be entered in the complainant's file.

A complaint made in bad faith is subject to the same sanctions and restorative measures as those provided under Article 25 of this Policy. The measures shall be based on the seriousness of the situation. Restorative measures in favour of the person who is wrongly accused could include measures to restore that person's reputation.

ARTICLE 19 PRIVACY

The name of the complainant and the name of the accused will not be disclosed. Furthermore, no details about the complaint will be released. Anyone who has been involved in reviewing the complaint must protect the confidential nature of any information about the complaint, except where disclosure is required to investigate the complaint or implement sanctions or disciplinary measures.

ARTICLE 20 REPRISALS

Reprisals are considered a serious disciplinary offence. Anyone who institutes reprisals of any nature whatsoever against an employee or elected official who has filed a complaint under this Policy, or against any individual who has given testimony to an investigation under this Policy, or against any individual who has testified against an accused found guilty of contravening this Policy, will also be considered guilty of contravening this Policy and will be disciplined. The possible sanctions and disciplinary measures are those which may be imposed on the accused as set out in Article 25.

SECTION 3 INVESTIGATION

ARTICLE 21 INFORMATION REQUIRED

For the investigation, the complainant (employee or elected official) must be prepared to provide certain information, since the investigator needs to know the following:

- Name and position of the accused
- Details about what happened
- Date, time and frequency of the incidents, if possible
- The location where the incidents occurred
- The names of any witnesses

ARTICLE 22 RIGHTS OF THE COMPLAINANT

The rights of the complainant (employee or elected official) are as follows:

- To file a complaint and have it be reviewed quickly, without have to fear being put on the spot or experience reprisals
- To be accompanied during the process by an individual chosen by the complainant
- To be assured that no record of the complaint will appear in the complainant's employee file, unless the complaint is made in bad faith (Article 18)
- To be kept informed of progress in the handling of the complaint

ARTICLE 23 RIGHTS OF THE ACCUSED

The rights of the accused are as follows:

- To be informed of the complaint
- To receive a summary of the formal allegations and to be able to respond to them
- To be accompanied during the process by an individual chosen by the accused
- To be kept informed of progress in the handling of the complaint

ARTICLE 24 INVESTIGATION REPORT

Upon completion of the investigation, the Town's investigator shall inform the complainant (employee or elected official) and the accused of the report findings. The report shall state whether or not, on the whole, the evidence shows failure to comply with this Policy. The investigator shall outline the report recommendations, conclusions and the facts of the case.

- If the investigator concludes that there was a failure to comply with this Policy, the investigator must outline and recommend possible solutions.
- If the investigator concludes that there was no failure to comply with this Policy, the reasons for that decision must be submitted in writing and the complainant (employee or elected official) must be notified that the Review Committee can be asked for an opinion within 30 days of the date the report was submitted, in accordance with Article 30.

If the investigation does not obtain sufficient evidence to support the complaint, no document about the complaint will be placed in the file of the person accused of the alleged harassment. If the investigation obtains evidence to show that there was harassment, the incident and the disciplinary measure applied will be noted in the employee's file.

ARTICLE 25 RESTORATIVE MEASURES, DISCIPLINARY MEASURES AND SANCTIONS

Restorative measures with respect to an employee or elected official who has been harassed

The Town will take every reasonable measure to correct a situation that contravenes this Policy. To that end, various restorative measures may be implemented for an employee or elected official who has been harassed, depending on the seriousness of the incident and the damage caused. These measures are:

- Verbal or written apologies by the accused
- Reimbursement of lost wages
- Promotion or move to position that had been refused
- Compensation for the possible loss of employment benefits
- Compensation for suffering
- An undertaking that the complainant will not be transferred, or the cancellation of a transfer, unless the harassee consents to it

Disciplinary measures with respect to the accused, if the accused is an employee

If the accused is an employee of the Town, the following disciplinary measures may be taken, depending on the seriousness of the case:

- Written reprimand
- Suspension, with or without treatment
- Transfer, in a situation where it would not be reasonable for the parties (harassee (employee or elected official) and accused to continue working together
- Dismissal

Sanctions with respect to the accused when the accused is not an employee

If the accused is not a Town employee, the following disciplinary measures may be taken, depending on the seriousness of the case:

- Administrative warning sent in the form of a letter from management
- Formal letter sent by the Town attorneys ordering the person to stop the harassing behaviour
- Cancellation of contract if the accused is a contractor for the Town
- Loss of access to the Town services in the premises where the events occurred (Town Hall, library, community centre, park, municipal garage, fire station)

- If the accused is a member of the Town Council, a letter of reprimand addressed to the elected official with a certified copy to all other members of the Town Council.

ARTICLE 26 IMPLEMENTATION OF RECOMMENDATIONS

If the investigator concludes that harassment occurred, the investigator's report and recommendations shall be submitted to the Town Council, which will decide which restorative measures, disciplinary measures or sanctions will be implemented. The Council may, under certain circumstances, adopt a resolution to that end.

The general manager is responsible for overseeing the application of the restorative or disciplinary measures or sanctions imposed by the Town Council.

ARTICLE 27 TIME PERIOD

If the investigator has not completed the investigation within 60 days of receiving the request for an investigation, the investigator shall so inform the complainant (employee or elected official) and accused and provide an update on the status of the investigation. The investigator may then extend the period of the investigation for a maximum of 30 days. If the investigation continues past the 30-day period, the case shall be immediately transferred to the Review Committee.

SECTION 4 REVIEW

ARTICLE 28 REVIEW COMMITTEE

As necessary, a resolution shall be passed setting up a Review Committee.

The function of the committee is to become familiar with the case being investigated and the investigator's conclusion and to determine if harassment has occurred.

It is also the duty of the committee to give the complainant (employee or elected official) and the accused a progress report on the investigation when the investigator has not submitted a report by the deadline set out in Article 27. The committee is thus tasked with completing the investigator's investigation report within the time periods prescribed in Article 31.

ARTICLE 29 COMPOSITION

The Review Committee is formed of three members:

- 1 employee appointed by Town Council to chair the committee
- 1 management employee appointed by a majority of the other Town managers
- 1 employee who is a member of the Canadian Union of Public Employees (CUPE) Local 3246 appointed by a majority of other members of CUPE Local 3246.

ARTICLE 30 DEADLINE FOR REQUESTING A REVIEW

The complainant (employee or elected official) may, within 30 days of receiving the investigator's report concluding that there has been no failure to adhere to this Policy, request the opinion of the Review Committee.

ARTICLE 31 DEADLINE FOR FILING THE REVIEW COMMITTEE REPORT

Within 60 days of receiving the request for a review, the Review Committee shall submit its report in writing after reviewing all the case files and documentation provided by the investigator and after interviewing, if the committee deems it necessary, the investigator, the accused, the complainant (employee or elected official) and any witnesses.

ARTICLE 32 REVIEW COMMITTEE REPORT

After reviewing the case and analyzing the evidence, the Review Committee shall inform the complainant (employee or elected official) and the accused of the report findings. The report shall state whether or not, on the whole, the evidence shows failure to comply with this Policy. The committee shall outline the report recommendations, conclusions and the facts of the case.

- If the Review Committee concludes that there was a failure to comply with this Policy, it must outline and recommend possible solutions.
- If the Review Committee concludes that there was no failure to comply with this Policy, the reasons for that decision must be stated in writing.

ARTICLE 33 IMPLEMENTATION OF RECOMMENDATIONS

If the Review Committee concludes that harassment occurred, the committee's report and recommendations shall be submitted to the Town Council, which will decide which restorative measures, disciplinary measures or sanctions will be implemented and which will adopt a resolution to that effect.

The general manager is responsible for overseeing the application of the restorative or disciplinary measures or sanctions imposed by the Town Council.

CHAPTER IV FINAL PROVISIONS

ARTICLE 34 REPEAL

This Policy repeals and replaces the *Policy on Physical and Psychological Well-Being and Harassment* adopted on July 4, 2011.

ARTICLE 35 DISTRIBUTION OF THE POLICY

A copy of this Policy shall be issued to all municipal counsellors and all employees so that they can familiarize themselves with it. To confirm they have received the Policy, each municipal counsellor and employee shall sign the Acknowledgement of Receipt form in Schedule II.

ARTICLE 36 REVISION

This Policy shall be revised periodically or when necessary.



SCHEDULE I

OATH OF OFFICE AND SECRECY

I, (*name of person*), declare under oath that I will discharge all the duties and exercise all the powers of my position faithfully, impartially, and honestly, to the best of my ability and knowledge.

I also declare under oath that I will not reveal or disclose, unless duly authorized to do so, any information or document that may come to my knowledge in the discharge of my duties.

Name

Signature

Date



SCHEDULE II

ACKNOWLEDGEMENT OF RECEIPT FORM

I have received a copy of the *Policy on Physical and Psychological Well-Being and Harassment*, and have read and understand it. Management has satisfactorily answered any questions I had. I understand that I am required to adhere to this Policy.

I understand also that this Policy will necessarily be revised and updated. It is therefore understood that any changes may result in the replacement, amendment or elimination of elements of this Policy. Management will announce any such changes to me in an official notice. I accept responsibility for staying informed of such changes.

Name

Signature

Date

Please sign and return the original to us and keep a copy for your records.