


The Rural Municipality of Elton

REFERENCE:	Personnel	AUTHORITY:	Council
SUBJECT:	Harassment & Respectful Workplace Policy	EFFECTIVE DATE:	January 15, 2019
ADOPTED BY RESOLUTION NO. & DATE:	2019-010 January 15, 2019	NUMBER OF PAGES:	5
AMENDED BY RESOLUTION NO. & DATE:		REEVE'S SIGNATURE FOR APPROVAL	

POLICY DESCRIPTION:

Whereas *The Manitoba Workplace Safety and Health Act* provides for, and every employee, Councillor and ratepayer of the Rural Municipality of Elton (Elton) has a right to, a workplace that is free from harassment (including sexual harassment) and has the responsibility to refrain from participating in behavior which is or could be perceived to be harassment, and has an obligation to treat each employee and customer with respect.

And Whereas Elton is committed to providing a safe and respectful work environment for all of its staff, Councillors, volunteers and members of the public. No one may be harassed and no one has the right to harass anyone else, at work or in any situation related to employment with Elton.

And Whereas this Policy shall also be deemed part of the Code of Conduct for Councillors as required by *The Municipal Act*.

HARASSMENT OR DISRESPECTFUL BEHAVIOUR

Harassment can take many forms. It may be, but is not limited to, words, signs, jokes, pranks, intimidation, physical contact or violence. Harassment is not necessarily sexual in nature.

Harassment includes:

- A course of abusive remarks or behaviours based on a protected characteristic such as race, national or ethnic origin, age, religion, political belief, physical or mental disability, gender, sexual orientation, family status or social status;
- A series of objectionable solicitations or advances;
- A sexual solicitation or advance made by a person who is in a position to provide or deny employment benefits if the person making the advance knows, or ought to know, that their remarks or behaviours are unwelcome;
- A reprisal retaliation, or threat of reprisal, for rejecting a sexual solicitation or advance.

Disrespectful behavior includes:

- Bullying, verbal abuse, yelling, name calling, threats or intimidation intended to demean;
- Isolating, ignoring, excluding or freezing someone out of activities or information in the workplace;
- Spreading false rumours or attempting to discredit another employee by demeaning them and their qualifications.

Harassment and disrespectful behavior does not include the normal exercise of supervisory and management responsibility, including coaching, performance reviews, work evaluations and disciplinary action or voluntary or consensual sexual contact between employees. However, employees should consider that where a power imbalance exists between the employees, and in particular where supervisors or managers involve themselves with employees who report to them, in particular in the form of a personal or sexual relationship, they do so at their peril as employees may later indicate that they felt coerced into the relationship.

This Policy sets out a process for dealing with legitimate disputes between employees and between employees, Councillors, volunteers, ratepayers and members of the public. Malicious or vexatious complaints against fellow employees, Councillors, volunteers, ratepayers or members of the public may, in and of themselves, constitute harassment or disrespectful behavior.

RESPECTFUL BEHAVIOUR

It is not possible to itemize every example of appropriate respectful behavior. Nonetheless, the following behaviours support and create a respectful workplace free of harassment:

- Being polite, courteous and respectful of others;
- Treating other equitably and fairly;
- Avoiding the use of profanity or other language which offends or demeans others;
- Listening to what others have to say;
- Being open-minded to the opinions and ideas of others, and accepting of the rights of others to hold opinions and express ideas different from your own;
- Seeking input and the active participation of appropriate people in planning, decision making, and implementing initiatives;
- Taking into account relevant facts when making decisions, and ensuring that decisions are fair and are seen to have been made fairly;
- Recognizing and valuing the diversity amongst the employees, Councillors, volunteers, contractors, suppliers and ratepayers of Elton.

SCOPE OF THIS POLICY

Any employee, Councillor or volunteer of Elton who believes that they are being harassed or being subjected to disrespectful behavior, or who believe that someone else in the workplace is being harassed or subjected to disrespectful behavior, should immediately report the harassment to the Chief Administrative Officer (CAO), or where the CAO is the complainant or the perpetrator of the harassment, to the Reeve or Deputy-Reeve.

EMPLOYEE'S OBLIGATIONS

Based on the severity of the harassing or disrespectful behavior, the employee's personal comfort and safety, and the dynamics of their work environment, employees may choose to do one or more of the following:

- **Tell the harasser to stop.** Inform the harasser that his or her actions are not welcome.
- **Advise** their immediate supervisor, the CAO, the Reeve or the Deputy-Reeve as the case may be, and ask that they make it stop.
- **File a formal complaint**, in writing with the CAO, the Reeve or the Deputy-Reeve.
- **Contact the police** in cases where there has been an assault.

Any employee who becomes aware of an incident of harassment, whether by witnessing the incident or being told of it, must report it to the CAO, their immediate supervisor or the Reeve or Deputy-Reeve, with whom they feel comfortable.

ELTON'S OBLIGATIONS

Elton takes harassment and disrespectful behavior in the workplace very seriously and will take appropriate action to investigate, discipline or otherwise sanction individuals as required.

When management becomes aware that harassment might exist, it is obligated by law to take prompt and appropriate action, whether or not the victim wants Elton to do so.

In support of this Policy, Elton will:

- **Circulate** this Policy and educate all Elton employees, Councillors, volunteers and ratepayers with respect to its content;
- **Investigate and address** reports of harassment and disrespectful behavior expeditiously;
- **Provide** a respectful workplace environment that is free from harassment;
- **Model** respectful behavior at all times;
- **Involve** the CAO, other managers, Council or third party professionals as necessary to investigate and respond to reports of harassment or disrespectful behavior;
- **Determine** if harassment is based on a characteristic protected under *The Human Rights Code*;
- **Assess** the severity of the situation and safeguard against further harassment or disrespectful behavior;
- **Ensure** there are no reprisals against employees for making complaints or participating in investigations;
- **Refer** employees to Employee Assistance Program (EAP) or other counselling or the police as necessary; and
- **Apply** this Policy consistently.

Elton acknowledges that harassment and disrespectful behavior covers a broad continuum of behaviours including, but not limited to, comments, jokes, body language, texts, social media and emails. A range of responses and resolutions are available but must be fair and reasonably appropriate to the harassment with the focus being the prevention and termination of future harassment. Elton undertakes to be fair to both the complainant and alleged harasser, hereinafter referred to as the respondent, in all cases brought to its attention.

Elton accepts no liability for harassment of one employee by another employee, Councillor, volunteer or ratepayer. The individual who makes unwelcome advances, threatens or in any way harasses another employee is personally liable for such actions and their consequences. Elton will not provide legal, financial or any other assistance to an individual accused of harassment if a legal complaint is filed.

This Policy is not intended to constrain welcome social interaction in Elton.

INVESTIGATIONS

The CAO and/or Council will determine in each situation the nature and extent of the investigation required, based on the severity of the harassment or disrespectful behavior report and whether or not the alleged conduct is admitted to. In some cases, a third party investigator may be engaged. In other cases, supervisory employees and/or member(s) of Council will speak confidentially with the parties involved in regards to the issue.

Employees, Councillors and volunteers are expected to cooperate with the investigation and provide all relevant details or information.

The investigator must weigh the evidence and determine if it is more likely than not that the allegations are true.

The investigator will have the following responsibilities:

- Interview the person who is alleged to have been harassed.
- Interview the respondent(s) to present the complaint and obtain a response.
- Identify the witnesses and interview them on a confidential basis.
- Weigh the evidence gathered to determine whether the harassment or disrespectful behavior occurred.
- Recommend appropriate steps to terminate the harassment or disrespectful behavior that was substantiated (including discipline, training, mediation, etc.).
- Report findings of the investigation including further action to be taken to the person who is alleged to have been harassed or the victim of the disrespectful behavior, the respondent(s), and other management as appropriate.

The investigation may result in the following outcomes:

- Where the investigator concludes that the harassment or disrespectful behavior occurred, an appropriate course of action will be determined which may include discipline, training, mediation, and/or in the case of a Councillor being found to have breached this Policy, Council may censure the Councillor in accordance with s.84.1(3) of The Municipal Act or such other measure as may be deemed appropriate under future legislation.
- Where the evidence shows that harassment or disrespectful behavior did not occur, an appropriate course of action may be recommended including workplace mediation and/or education, or dismissal of the complaint.
- Where the evidence shows that the harassment or disrespectful behavior did not occur and the allegation arises from malicious intent, discipline against the complainant may occur.
- Where the evidence is insufficient to make a conclusion about harassment or disrespectful behavior, an appropriate course of action will be determined which may include recommending education, debriefing and letters of direction.

ADDITIONAL REMEDIES

Where an investigator concludes that a ratepayer, supplier, volunteer, contractor or other member of the public has breached this Policy, the CAO and/or Council may:

- Issue a written warning to the ratepayer, supplier/employer, volunteer, contractor or other member of the public that their behavior will not be tolerated;
- Determine that the ratepayer, supplier/employer, volunteer, contractor or other member of the public be issued a No Trespass Order under *The Petty Trespass Act*, banning them from attending at any Municipal buildings; and/or
- Make application for a Peace Bond under *The Criminal Code* to prevent contact between the parties.

CONFIDENTIALITY

Elton will keep the details of any report of harassment or disrespectful behavior confidential to the extent possible. Elton cannot offer anonymity to complainants or witnesses. Any report produced will be shared with the complainant and the respondent, and certain basic information will need to be shared with any witnesses. In addition, where the complaint results in legal proceedings or a complaint to The Manitoba Human Rights Commission (Commission), the report and any notes prepared by the investigator or transcripts of any interviews of witnesses may be shared with legal counsel, the parties to the proceeding, and/or the Commission.

Anyone who participates in the process, whether as a complainant, a respondent, a witness, or in a supervisory capacity to any of the above, must preserve the confidentiality of the process and not disclose it to anyone except on a need to know basis. Breach of confidentiality may result in disciplinary action.

No documentation will be placed in the complainant's file where the complaint is filed in good faith, whether the complaint is upheld or not. Documentation will be placed in a separate confidential file for Human Resources purposes. Appropriate documentation may be placed in the respondent's file if deemed appropriate.

RETALIATION

Anyone, whether as the complainant or the person who is the subject of the complaint, or any other employee, volunteer, witness or Councillor who retaliates against a person who makes a complaint, may be found to have committed harassment under this Policy and is subject to the disciplinary and remedial measures provided for in this Policy.

OUTSIDE RESOURCES

The following agencies may be contacted for more information on Harassment and Respectful Workplaces:

The Manitoba Human Rights Commission
341 – 340 Ninth Street, Brandon MB R7A 6C2
Phone: 204-726-6261
Fax: 204-726-6035

Workplace Safety and Health
328 – 340 Ninth Street, Brandon MB R7A 6C2
Phone: 204-726-6361
Toll Free: 1-855-957-SAFE (1-855-957-7233)