

VILLAGE OF HAINES JUNCTION

Policy Concerning Harassment in the Workplace

Adopted: January 13th, 2010

Reviewed:

Retired:

Purpose

To describe the Village of Haines Junction's policy and procedures concerning harassment in the workplace.

Policies

All individuals have a right to be treated with respect in the workplace.

The Village of Haines Junction, in exercising its responsibility as the employer and service provider, will endeavour at all times to provide a safe and healthy work environment which is supportive of both productivity and the dignity of every person, including employees, customers, volunteers, Mayor and Councillors.

The Village of Haines Junction will not tolerate, nor should employees allow discrimination, including harassment, that is illegal under the Yukon Human Rights Act, and likely to interfere with employees' ability to do their work and may harm or compromise their health and safety.

Who does the policy cover?

Harassment can occur at all levels of the organization, not just between manager and subordinate. This includes employees, customers, Mayor and Councillors, contractors, volunteers and anyone else who might have contact with the organization

How is the workplace defined?

Harassment can take place in the workplace itself or outside of the regular workplace, but in a situation that is connected to work. For example at conferences, meetings or while travelling on Village business.

The Law

NOTE: Certain forms of harassment are against the law. Listed below are the protections against harassment in Yukon Human Rights law.

Everyone has a right to live and work without being harassed, and if harassed, can do something about it.

The Yukon Human Rights Act protects us from harassment based on the personal characteristics protected under the Act. The Criminal Code protects everyone from physical and sexual assault and from criminal harassment such as stalking or phone threats.

Under section 14(1) of the Yukon Human Rights Act, "no person shall harass any individual or group by reference to a prohibited ground of discrimination".

Harassment is considered "... a course of 'vexatious' conduct or to make a demand or a sexual solicitation or advance that one knows or ought reasonably to know is unwelcome". (Yukon Human Rights Act, Section 14, (2).

Under section 7 of the Yukon Human Rights Act, it is discrimination to treat any individual or group unfavorably on any of the following grounds:

- a) ancestry, including colour and race;
- b) national origin;
- c) ethnic or linguistic background or origin;
- d) religion or creed, or religious belief, religious association, or religious activity;
- e) age;
- f) sex, including pregnancy, and pregnancy related conditions;
- g) sexual orientation;
- h) physical or mental disability;
- i) criminal charges or criminal record;
- j) political belief, political association, or political activity;
- k) marital or family status;
- l) source of income;
- m) actual or presumed association with other individuals or groups whose identity or membership is determined by any of the grounds listed in paragraphs (a) to (l).

What is Harassment? - Definitions

Discrimination

Discrimination is harassing or treating a person or a group of people unfavourably (unequally or unfairly) or not allowing a person access to services, housing or employment or other opportunities based on a personal characteristic such as sex, age, race, or disability as covered by the Yukon Human Rights Act.

Harassment

Harassment is a particular kind of discrimination and targets an individual or group because of their sex, race, disability, sexual orientation or any of the prohibited grounds of discrimination set out in the Human Rights Act. (See previous section).

Harassment refers to behaviour that demeans, humiliates or embarrasses a person and that a reasonable person ought to have known would be unwelcome. Harassment is as a "course of conduct" usually involves more than one incident over a period of time; however a single incident may be considered harassment if it is extremely serious.

Examples of harassment

- Includes written or verbal abuse or threats,
- Unwelcome remarks, jokes, slurs, taunting about a person's body, race, national or ethnic origin, sexual orientation or any of the other grounds of discrimination
- Practical jokes that embarrass or insult someone
- Ignoring, isolating or segregating a person or group because of their sex, race, etc.
- Materials that are racist, sexist, anti-gay or anti-lesbian, or insulting because of any of the grounds of discrimination and that are displayed publicly, circulated in the workplace, or put in someone's work space or belongings, or on a computer or fax machine.
- Unwanted physical contact ranging from touching, grabbing, and pinching to assault.

Sexual Harassment

Sexual harassment is unwanted sexual advances, unwanted requests for sexual favours and other unwanted verbal, physical or written conduct. It can also include comments, conduct or display of materials that create a "poisoned" or "unwelcoming" environment where the person(s) feels psychologically or emotionally harmed, offended or intimidated on the basis of his or her sex.

Sexual harassment may include one or more of the following behaviours:

NOTE: Abuse of authority unrelated to any of the grounds such as race and sex protected by the Yukon Human Rights Act, is not harassment as recognized in human rights law; however abuse of authority for any reason will not be tolerated, because it too can interfere with productivity, work performance, and health and safety.

Abuse of authority occurs when a person in a position of authority, but usually a supervisor or manager, uses his/her authority to interfere with an employee/member or his/her job or duties. It includes humiliation, intimidation, threats, and coercion, and is not part of normal management activities such as performance reviews or discipline.

Abuse of Authority

NOTE: 'Personal harassment' does not meet the criteria for a human rights complaint under human rights law because it is not based on one of the protected personal characteristics such as sex, age, sexual orientation, religion, etc.

Like harassment and sexual harassment, personal or general harassment degrades its victims, is generally abusive, insulting and degrading conduct for which there is no legitimate purpose. Personal or general harassment is covered under this policy.

Personal or General Harassment

Although sexual harassment most commonly occurs when a man harasses a woman, both men and women can be sexually harassed by members of the opposite sex or by members of the same sex.

Who is covered in the definition of Sexual Harassment?

- Unwelcome sexual flirtation, advances, propositions or gestures,
- Verbal harassment such as sexist jokes and innuendos,
- Graphic, verbal comments about an individual's body,
- Unwelcome display of sexual pictures or materials,
- Intentional, unwanted physical contact,
- Sexual assault (an offence under the Criminal Code),
- Retaliation (negative work consequence) or threat of retaliation for rejection of a sexual solicitation or advance.

Responsibilities and Rights of Employees, Members or Others in the organization:

- right to a harassment-free workplace
- right to be treated with respect by employees, members, customers and contractors
- right to be listened to and have concerns dealt with promptly
- right to file a harassment complaint at Yukon Human Rights Commission
- right to a complaint process that is as confidential as possible in keeping with the law and the requirements on any investigation
- responsibility to treat other employees, customers, and members with respect
- responsibility to speak up when harassment occurs
- responsibility to report harassment to the appropriate person
- responsibility to check for harassment policy and procedures

Responsibilities of Village of Haines Junction: Mayor, Councillors and Managers

- Set a good example by treating all employees, members, customers and contractors with respect
- Refuse to tolerate harassment and put a stop to it if it occurs
- Report or investigate all complaints – correct situations promptly
- Discipline appropriately anyone found guilty of harassment
- Post the harassment-free workplace policy and educate employees and members.
- Provide a clear procedure for reporting harassment, including the name and position of the person to whom complaints will be made and timelines for the steps in the procedure
- Maintain confidentiality of employee and member records concerning the investigation of complaints
- Monitor the workplace for signs of harassment and create a work environment where it is safe to come forward and discuss harassment

Complaint Procedure

Direct Action by the Person Experiencing Harassment

As someone who may be experiencing harassment, you may be able to stop the harasser by speaking up or writing to the harasser, indicating that the behaviour is unwelcome and offensive and needs to stop. You should keep a copy of the letter or record the date when you took action. Tell someone you trust what is going on. Also, record all unwelcome or harassing behaviours and include what happened, when, where, how often, who else was present, and how you felt about it.

If the harassing behaviour occurs again, or if you are unable to deal with the person who is harassing you, report it to the person designated to receive complaints. See the section on "Formal Complaints".

Informal complaint

You may want to ask the designated person to help you to communicate with the other person, or to speak to them on your behalf, without going through mediation or a formal complaint.

An individual who believes that he/she has been harassed should ask for help from the Chief Administrative Officer. If the Chief Administrative Officer is the subject of the complaint the complainant should seek help from the Mayor or a member of Council that he/she trusts.

The Chief Administrative Officer or the member of Council who is approached may seek advice from a person trained in dealing with harassment situations on how to proceed. It may be possible:

- To help the complainant write a letter or start a conversation with the alleged harasser, or
- To approach the person accused of harassment to communicate the concerns about the harassing behaviour.

In an informal complaint no investigation, report, or official decision is provided. **We encourage you to choose an informal approach first.**

The designated person will help you as soon as possible and within 5 working days of contacting that person for help. The designated person will follow up with the alleged harasser and you within 10 working days to determine if the matter has been resolved or if further action is required.

NOTE: During this stage, the person handling the informal complaint should retain the notes from their discussions with both parties in case the informal complaint procedure is not effective. These should be kept in a separate, confidential file.

Mediation

Mediation is a voluntary process in which the parties (the person making the complaint and the person accused of harassment) meet with a neutral third party (mediator) who is trained to help them find a solution that they can agree upon.

The investigator will interview the complainant, the alleged harasser, and any witnesses and gather relevant documents or other information. Everyone involved has a responsibility to cooperate in the investigation and to maintain the confidentiality of the information regarding the investigation.

The complaint will be investigated as soon as possible and normally within seven working days.

Investigating the Complaint

A formal complaint can be made in person or in writing to the Chief Administrative Officer or to a member of Council. An oral complaint should be documented in writing by the person taking the complaint.

Filing a Complaint

A consultant may be engaged to investigate the complaint.

If the informal or mediation route does not resolve the harassing situation or is not appropriate for the situation, the Village of Haines Junction supports its employees, members or customers to file a formal complaint.

Formal Complaints

- Mediation is not appropriate:
- If one party feels at an extreme disadvantage
 - When corrective action such as dismissal is likely to occur
 - When no trained mediator is available
- Both parties agree to the mediation;
- It is conducted by a trained mediator
 - The mediator is acceptable to both parties
 - Both parties have been informed of their right to bring someone with them to the mediation
 - The mediator should NOT be involved in investigating the complaint, and should not be asked to represent the organization at any stage of any proceedings related to the complaint.
- In order for mediation to occur, it must meet the following conditions:

Complainants who are unhappy with the results of a formal complaint can put forward their reasons and have them reviewed. Appeals should be made in writing to the Village of Haines Junction's Council within 30 working days of the decision.

The Appeal Process

Normally final decisions regarding a complaint will be made by the Chief Administrative Officer, or Mayor and Council as soon as possible and usually within 20 working days.

Decision Making

- The person who made the complain
- The person who the complaint is against
- The Chief Administrative Officer or a member of Council
- The police (where there is evidence of physical or sexual assault or criminal harassment)
- Any other parties to the complaint, as agreed to by the employer and the complainant.

Findings will be provided to:

Normally the findings of the investigation will be reported in writing within 10 working days of the completion of the investigation.

findings.
The complainant and the alleged harasser, have the right to review and comment on the findings.
NOTE: The investigator will report whether there is evidence that harassment occurred. The investigator will recommend resolutions to the situation. Both the person making the complaint and the alleged harasser, have the right to review and comment on the findings.

Reporting the Findings

- Gathering all relevant information from the complainant
- Informing the alleged harasser of the details of the complaint, and getting his/her response
- Interviewing any witnesses and review any documents such as emails, letters, pictures, etc.
- Deciding whether the harassment took place
- Recommending appropriate remedies, penalties or other action

An investigation will involve:

A complainant's or alleged harasser's name, or any circumstances related to the complaint will not be disclosed to anyone, except as necessary to investigate the complaint or take disciplinary action related to a complaint, or as required by law. Individuals involved in a complaint are reminded to keep all information confidential, except in the above circumstances.

Confidentiality

The Village of Haines Junction will not tolerate retaliation against employees who complain of harassment, or who provide information in an investigation.

Safeguards

- Oral or written reprimand
- Suspension, with or without pay
- Requirement to provide a written apology
- Requirement to take anti-harassment training, and any other training deemed necessary to correct the situation
- Loss of employment.

Corrective action may include, but not be limited to:

NOTE: Corrective action is meant to be corrective, not punitive. It should be progressive and consistent with the severity of the harassment.

If the investigation reveals evidence to support the complaint of harassment, appropriate action will be taken. Any corrective action will be determined and carried out by the Chief Administrative Officer or, if the Chief Administrative Officer is the subject of the complaint, by the Village of Haines Junction's Mayor and Council within 10 working days of the finding of responsibility for harassment, unless an appeal is filed.

Corrective Action

- Yukon Human Rights Commission within 6 months of the last incident (not for personal harassment)
- The R.C.M.P. (in cases of physical or sexual assault or criminal harassment.)

A formal complaint can be made to:

Remedies

Remedies will be provided to the victim by the Chief Administrative Officer or the Village of Haines Junction's Mayor and Council.

Such remedies might include, but not be limited to:

- Repayment of loss of wages including salary, and benefits
- Re-crediting of holidays, sick leave and any other leave entitlement
- A formal apology
- A job or promotion that was denied
- Counselling services if desired

No record of the complaint, investigation or decision will be placed on the personnel file of the employee that made the complaint, if the complaint was made in good faith. If the investigation fails to find evidence to support the complaint, there will be no documentation concerning the complaint kept or placed in the file of the alleged harasser. If harassment was found to occur, the incident and the discipline imposed on the harasser will be recorded in the harasser's file.

If the investigation finds that the complainant did not act in good faith and fabricated the complaint, this will result in disciplinary action against the complainant.

Communication of the Policy

The Village of Haines Junction's Harassment Policy will be provided to all current and new employees and Village of Haines Junction's Mayor and Council. It will be posted on the bulletin boards and brought to the attention of the Mayor and Council on a yearly basis.