

# HARASSMENT POLICY BYLAW

R.M. OF COLONSAY NO. 342

BYLAW NO. 03-2018

## Short Title

1. This Bylaw may be cited as the Harassment Policy Bylaw.

## Legal Requirement

2. This bylaw has been created to comply with section 36 of *The Occupation Health and Safety Regulations, 1996*.

## PART I

### Statement of Commitment

Every worker is entitled to employment free of harassment. Rural Municipality of Colonsay No 342 is committed to a harassment-free workplace where everyone is treated with dignity and respect.

Or

Every worker is entitled to employment free of harassment. Rural Municipality of Colonsay No 342 is committed to ensuring a productive work environment where the dignity and worth of every person is respected. Workplace harassment will not be tolerated and Rural Municipality of Colonsay No 342 will take all reasonable steps to prevent harassment and stop it if it occurs.

### Definition of Harassment

This harassment policy found in Schedule A, covers the following:

#### Harassment Based on Prohibited Grounds

1. This includes any inappropriate conduct, comment, display, action or gesture by a person that is made on the basis of race, creed, religion, colour, sex, sexual orientation, marital status, family status, disability, physical size or weight, age, nationality, ancestry or place of origin; and constitutes a threat to the health or safety of the worker.

This type of harassment is prohibited in *The Saskatchewan Employment Act* (the Act) and *The Saskatchewan Human Rights Code*.

It also extends to sexual harassment, which is conduct, comment, gesture or contact of a sexual nature that is offensive, unsolicited or welcome.

Sexual harassment may include:

a direct or implied threat of reprisal for refusing to comply with a sexually-oriented request; unwelcome remarks, jokes, innuendos, propositions or taunting about a person's body, attire, sex or sexual orientation; displaying pornographic or sexually explicit pictures or materials; unwelcome physical contact; unwelcome invitations or requests, direct or indirect, to engage in behavior of a sexual nature; or refusing to work with or have contact with workers because of their sex, gender or sexual orientation.

#### Personal Harassment

2. This includes any inappropriate conduct, comment, display, action or gesture by a person that adversely affects a worker's psychological or physical well-being; and the perpetrator knows or ought to reasonably know would cause the worker to be humiliated or intimidated.

Personal harassment must involve repeated conduct or a single, serious incident that causes a lasting harmful effect on the worker. All incidents of inappropriate conduct should be appropriately addressed to ensure that the workplace remains respectful and free of harassment.

Personal harassment may include:

verbal or written abuse or threats; insulting, derogatory or degrading comments, jokes or gestures; personal ridicule or malicious gossip; unjustifiable interference with another's work or work sabotage; refusing to work or co-operate with others; or interference with or vandalizing personal property.

## **What is Not Harassment**

3. This harassment 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. Managerial actions must be carried out in a manner that is reasonable and not abusive.

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

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; or 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.

## **PART II**

### **Employer's Commitment**

4. Rural Municipality of Colonsay No 342 and its managers and supervisors will take all complaints of harassment seriously. We are committed to implementing this policy and to ensuring it is effective in preventing and stopping harassment, as well as creating a productive and respectful workplace.

This commitment includes:

#### **Informing all persons in the workplace of their rights and obligations**

- a) A copy of the harassment policy will be provided to all workers.
- b) A copy of the harassment policy will be posted on the company bulletin board.
- c) The company's policy statement on harassment will be posted in each work area in a location that is visible to all staff and the public.

#### **Training all persons in implementing the harassment policy**

- d) An information meeting will be held with all staff to answer questions about the new policy.
- e) Supervisors will review the policy with new workers as part of their orientation.
- f) People designated to receive, investigate or resolve complaints will be trained in their roles and responsibilities.
- g) All Rural Municipality of Colonsay No 342, managers, directors, officers, and supervisors will be asked to set a good example and help foster a respectful workplace.
- h) A list of people designated to receive complaints shall be posted on the company bulletin board.

#### **Assigning responsibility for implementing this policy**

- i) Rural Municipality of Colonsay No 342 will designate 4 people who may receive harassment complaints and assist in facilitating their resolution.
- j) Rural Municipality of Colonsay No 342 shall designate 4 people who will investigate harassment complaints.
- k) Rural Municipality of Colonsay No 342 will designate all unit managers authorized to take corrective action in accordance with this policy.

#### **Protecting workers trying to prevent or stop harassment**

- l) Harassment complaints and investigations will be held in the strictest of confidence except where disclosure is necessary to investigate the complaint, take corrective action or required by law.
  - Action will be taken to prevent reprisal against people who make a harassment complaint in good faith, which may mean informing complainants and alleged harassers of this commitment.

#### **Promptly taking action necessary to stop and prevent harassment**

- m) Appropriate action, sufficient to ensure the harassment stops and does not happen again, will be taken against people who are or were engaged in, or participated, in harassment.

When necessary, customers, contractors or other visitors will be informed certain conduct will not be tolerated.

### **Ensuring the policy remains current**

n) The effectiveness of the policy will be reviewed in consultation with the Occupational Health Committee every year.

## **PART III**

### **Employee's Duty**

5. In accordance with Part III of *The Saskatchewan Employment Act*, all workers, including managers and supervisors employed by Rural Municipality of Colonsay No 342 shall refrain from causing or participating in the harassment of another worker, and co-operate with any person investigating harassment complaints.

### **Complaint Procedure**

6. This policy sets out three types of complaint procedures that may be used following instances of harassment.

#### **A) No Alleged Harasser Named and Informal Resolution Sought**

*Step 1:* An individual reports an incident or concern.

*Step 2:* The person receiving the complaint reviews the procedures with the complainant and informs the unit manager.

*Step 3:* The unit manager takes action to address the complaint.

Such action may include:

- . having staff meetings to discuss and review the policy; or
- . providing workshops or resource materials on the prevention of harassment such as videos, brochures and guides.

The unit manager informs the complainant of the action that will be taken to address the concern.

*Confidentiality:* Rural Municipality of Colonsay No 342, or anyone acting on behalf of the company, should not disclose the complainant's name or other identifying information to any person. However, in certain circumstances, the complainant may agree to release identifying information to implement the harassment policy, the resolution process or the resolution itself.

#### **B) Alleged Harasser Named - Informal Resolution or Mediation Sought**

*Step 1:* An individual reports an incident or concern. The complaint should be in writing in a form consistent with the harassment complaint form attached to this policy.

Where an informal resolution is sought, the complainant should indicate the type of resolution sought such as an apology, supervisory counselling, a facilitated meeting with the alleged harasser, workshops or training sessions and mediation.

*Step 2:* The person receiving the complaint reviews the procedures with the complainant and informs the unit manager. Where it is alleged the unit manager is involved in the harassment, the person receiving the complaint refers the matter to another manager. The person receiving the complaint will also meet privately with the alleged harasser to review the complaint and determine whether there is agreement on a resolution or resolution process.

*Step 3:* Where there is agreement on the resolution or resolution process, the person receiving the complaint informs the unit manager of the agreement and facilitates the agreed upon resolution or process.

*Step 4:* The complainant is informed a formal complaint procedure is possible if the complainant, the alleged harasser or the unit manager do not agree or if the process does not resolve the matter to the complainant's satisfaction.

*Step 5:* Where the complainant and alleged harasser agree to a resolution, the unit manager follows up with the complainant to ensure the resolution was effective in stopping and preventing further harassment. Where the complainant indicates the harassment has not ended, the unit manager counsels the complainant to pursue an alternate resolution process, including a formal investigation.

*Confidentiality: Employer's Name,* or anyone acting on behalf of the company, should not disclose the complainant's or alleged harasser's name or other identifying information. In certain circumstances, the complainant and alleged harasser may agree to release identifying information to implement the harassment policy, the resolution process, or the resolution itself.

### C) Alleged Harasser Named - Investigation Required

Step 1: An individual reports an incident or concern. The complaint should be in writing and contain:

- . the name, job title and contact information of the complainant;
- . the name of the alleged harasser;
- . description of the conduct considered objectionable, including dates and locations of events;
- . the names and contact information of any possible witnesses;
- . description of the basis of the alleged harassment, such as the prohibited grounds;
- . the remedy sought;
- . any other information or material the complainant considered relevant; and
- . the signature of the complainant and the date.

Step 2: The person receiving the complaint reviews the procedures with the complainant and provides a written copy to the unit manager. Where it is alleged that the unit manager is involved in the harassment, the complaint is referred to another manager. The person receiving the complaint also provides a copy of the written complaint to the alleged harasser and reviews the procedures with the alleged harasser.

Step 3: The person receiving the complaint, the unit manager and other relevant parties such as human resource managers, review the complaint and determine whether conduct falls within the harassment policy. The group will decide whether there are appropriate resolution options, other than an investigation, acceptable to the complainant and the alleged harasser. This group will conduct the investigation if one is required.

Step 4: When an investigation is required, the unit manager appoints an investigator or investigation team. Investigators will be trained in conducting an investigation in accordance with this policy and will have no apparent bias or interest in the outcome. Alternatively, the investigator will be chosen from a list of investigators approved by *Rural Municipality of Colonsay No 342*, the union, the OHC co-chair or the workplace representative.

Where the complainant and the alleged harasser objects to the appointment of an investigator, on the basis of bias or conflict of interest, the unit manager will appoint another investigator.

Step 5: Investigators must act in accordance with the following guidelines:

- . The investigation commences and concludes as soon as reasonably possible.
- . Witnesses are interviewed separately and written witness statements are prepared.
- . Witnesses are asked to review and sign their written statements.
- . Witnesses are advised to keep the investigation and the identity of the complainant and alleged harasser in confidence, unless required by law to disclose them.
- . The complainant and alleged harasser are entitled to legal or union counsel.
- . During the investigation, both the complainant and the alleged harasser are entitled to be informed of all the allegations and allowed to respond.

This does not mean either party is entitled to see or receive copies of the complete statements. However, both are entitled to see or receive an adequate summary of the evidence to make a full response.

Step 6: Once the investigation is complete, investigators will prepare a written report setting out a summary of the evidence, a description of any conflict in the evidence, conclusions and reasons for reaching those conclusions, as well as the recommended corrective action if harassment has occurred. The report will be delivered to the unit manager, the complainant and the alleged harasser. The report is marked confidential and delivered with the notation that it should be kept in confidence unless disclosure is required by law or is necessary to implement corrective action.

Step 7: The unit manager will then:

- . Take appropriate corrective action.
- . Inform the complainant and harasser of the corrective action.
- . Inform the complainant of the rights to file a complaint with the Saskatchewan Occupational Health and Safety Division or The Saskatchewan Human Rights Commission.

. Note: Where the corrective action is different from the action recommended in the report, the unit manager should provide reasons for not taking the investigators' recommended action.

Step 8: After corrective action has been taken, the unit manager follows up with the complainant to ensure that the corrective action was effective. If the complainant indicates harassment has not ended, or suffers reprisal, the unit manager should take additional or alternative corrective action. Further investigation may be necessary.

Confidentiality: *Rural Municipality of Colonsay No 342*, or anyone acting on behalf of the company, should not disclose the name of the complainant or the alleged harasser, nor any information that may identify them. The disclosure of such information may be necessary to conduct the investigation, implement corrective action or pursue other legal remedies.

All documents and statements obtained during the course of the investigation, including the names and copies of witness statements, should not be disclosed to any person unless required by law.

## PART IV

### Taking Action to Stop and Prevent Harassment

7. In taking action to stop harassment and prevent its reoccurrence, Rural Municipality of Colonsay No 342 will be guided by the following:

#### Individual Awareness and Counselling

a) People may not be aware of the effects of their behavior. In many cases, speaking to the person in private about the inappropriate behavior will help resolve a situation. In certain instances, it may be more effective for a supervisor to speak with the offending person or to arrange and facilitate a meeting between the complainant and alleged harasser. Complainants should not be encouraged to confront the alleged harasser if they are reluctant, if the alleged harassment is of a serious nature or if the alleged harasser denies the alleged conduct.

#### Staff Awareness and Counselling

b) Standards of behavior change over the years. Some individuals or groups may not be aware behavior that was acceptable in the past, is not acceptable anymore. A staff awareness session may be helpful to correct problems based on lack of awareness. Relevant videos, lectures and facilitated group discussions may increase awareness of behaviors that are unacceptable and the reasons for the changes.

#### Interim Action

c) A unit manager may have grounds to believe a complainant will be exposed to continued harassment or reprisal while waiting for the investigation or resolution process to occur. The unit manager must take immediate action to protect the worker from continued harassment or reprisal. Any interim action should respect the alleged harasser's rights based on the employment contract or collective bargaining agreement.

Considering the above-mentioned rights, the unit manager's action may include:

- . cautioning the alleged harasser about the types of behavior that will not be tolerated;
- . moving the alleged harasser to another work unit;
- . moving the complainant to another work unit at the complainant's request; and
- . suspending the alleged harasser with pay while waiting for a final determination.

#### Mediation

d) Mediation offers both parties the opportunity to develop an understanding of the problem and resolve the complaint before or during the formal investigation process. The mediator facilitates separate discussions or joint meetings between the complainant and the alleged harasser.

Mediation may take place at any point in the resolution process as long as both parties agree to participate. Where the complainant and alleged harasser agree to participate in mediation, Rural Municipality of Colonsay No 342 shall arrange for a mediator, who is trained and independent.

#### Disciplinary Action

e) An employee who has knowingly engaged or participated in the harassment of a co-worker will be disciplined. The discipline will be subject to the employee's rights under the employment contract or collective bargaining agreement.

Discipline may include reprimand, relocation, demotion, suspension or termination of employment.

The severity of discipline will depend on:

##### Seriousness of the Alleged Conduct

- . whether the conduct is an offence under the criminal code;
- . whether the conduct is an offence under the Act or *The Saskatchewan Human Rights Code*;
- . the extent of the mental or physical injury caused to the complainant;
- . whether the harasser persisted in behavior that was known to be offensive to the complainant; or
- . whether the harasser abused a position of authority.

##### Risk of the Harasser Continuing with Similar Harassment of the Complainant or Others

- . whether the harasser acknowledges that conduct was unacceptable and makes a commitment to refrain from future harassment;
- . whether the harasser has apologized to the complainant or taken action to repair any harm; or
- . whether the harasser has agreed to participate in awareness sessions, training or other recommended counselling or treatment.

**Third-party Harassers**

8. This policy covers harassment connected to any matter or circumstance arising out of the worker’s employment. Customers, clients, patients, contractors or their workers and others invited to the workplace could harass an employee. *Rural Municipality of Colonsay No 342* may have limited ability to investigate or control their conduct. However, *Rural Municipality of Colonsay No 342* shall take reasonably practicable action to stop or reduce the risk to its workers of being harassed by third parties.

This action may include:

- . posting the harassment policy in a location visible to third parties; and
- . requiring certain contractors and their workers to accept and meet the terms of the harassment policy; and
- . removing workers who participate in harassment.

Where a client or customer has been asked to stop abusing or harassing a worker and does not, workers are authorized to:

- . end telephone conversations;
- . politely decline service; and
- . ask the customer or client to leave the workplace.
- .

**Malicious Complaints**

9. Where an investigation finds a complainant has knowingly made a false allegation, the complainant will be subject to appropriate discipline.

**Other Options for Complainants**

10. Nothing in this policy prevents or discourages a worker from referring a harassment complaint to the Saskatchewan Occupational Health and Safety Division under *The Saskatchewan Employment Act* and regulations.

A worker may also file a complaint with the Saskatchewan Human Rights Commission under *The Saskatchewan Human Rights Code*.

A worker also retains the right to exercise any other legal avenues available.

11. This bylaw shall come into effect on December 12, 2018

\_\_\_\_\_  
Reeve

( S E A L )

\_\_\_\_\_  
Administrator

Read a third time and adopted  
this \_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
Administrator

## **Schedule A**

### **Harassment Policy**

**Date: December 12, 2018**

#### **Complaint Procedure**

An employee who believes that he or she has been subjected to harassment is encouraged to first clearly and firmly make known to the alleged harasser that the harassment is objectionable and must stop.

Where this cannot be done, or is unsuccessful, the employee should report the alleged harassment to the employer, or to one of the persons designated by the employer to receive complaints of harassment, namely:

Randi Wood, Administrator RM of Colonsay No 342  
Gerald Yausie, Reeve  
Pat Mulhall, Councillor  
Maureen Moen, Administrator Town of Colonsay

Once a person designated by the employer receives a complaint, that person shall immediately bring the complaint to the attention of the employer.

The employer will discuss options to resolve the complaint with the complainant. Where the conflict cannot be promptly resolved in a matter satisfactory to the complainant, the employer will notify the alleged harasser, provide the alleged harasser with information concerning the circumstances of the complaint and undertake a confidential investigation.

Following the conclusion of the investigation, the employer will inform the complainant and the alleged harasser of the results.

Where harassment has been substantiated, the employer will take appropriate corrective action.

#### **Confidentiality**

Rural Municipality of Colonsay No 342, will not disclose the identity of the complainant or alleged harasser, except where disclosure is necessary to investigate or take disciplinary action, or where such disclosure is required by law.

#### **Other Options for Complaints**

Nothing in this policy prevents or discourages an employee from referring a harassment to the Occupational Health and Safety Division or the Saskatchewan Human Rights Commission. An employee also retains the right to exercise any other legal avenues available.