

	<b>DISCRIMINATION, BULLYING &amp; HARASSMENT POLICY</b>	
	<b>Policy Number: P-003</b>	
	<b>Section:</b> Personnel	<b>Resolution No.:</b> 3-3-16
	<b>Amended by:</b>	<b>Effective Date:</b> 2016 02 09

**Purpose:**

The purpose of this Policy is to state clearly that discrimination, bullying and harassment of any kind are unacceptable and will not be tolerated by the Village and to offer reassurance to all individuals covered by this Policy that claims of discrimination, bullying or harassment will be dealt with in accordance with the terms of this Policy.

**Policy:**

The Village of Salmo is committed to providing a workplace that is free from discrimination, bullying and harassment. This is in compliance with the *Occupational Health and Safety* (OHS) Policies under sections 115, 116, and 117 of the *Workers Compensation Act*, R.S.B.C. 1996, c. 492, as amended from time to time, and with the principles of the *Human Rights Code*, R.S.B.C. 1996, c. 210, as amended from time to time (the “Human Rights Code”).

The Village is committed to a safe and professional workplace environment where Council members, officers, employees, contractors and volunteers of the Village are treated with respect and dignity.

The Village encourages the prompt reporting of all allegations of discrimination, bullying or harassment, regardless of who the respondent may be.

**Application:**

This Policy applies to the resolution of all informal or formal complaints of discrimination, bullying or harassment made by Council members, officers, employees, contractors and volunteers of the Village. All employees and Council members are required to sign a copy of this Policy confirming they have received and understand its contents.

Discrimination, bullying or harassment can occur at, but are not limited to, the following:

- the workplace;
- work-related business functions, such as meetings, training sessions or workshops;
- business-related travel;
- telephone conversations, emails, texts, Facebook, Twitter or other social media messaging;
- work-related social functions.

**Definitions:**

**Bullying:** Bullying includes any inappropriate conduct or comment (whether verbal, physical or psychological) which a person knows or reasonably ought to know would cause another person to be humiliated or intimidated.

**Complainant:** Any individual who is making a complaint and seeking recourse pursuant to this Policy.

**Discrimination:** Discrimination is adverse differential treatment of an individual or group, whether intended or not, on the basis of “*race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sex, sexual orientation, age or a criminal conviction unrelated to employment or to the intended employment of that person.*” [Human Rights Code, Section 13]

Adverse treatment has the effect of imposing burdens, obligations or disadvantages on an individual or group that are not imposed on others; or, adverse treatment may withhold or limit access to opportunities, benefits and advantages available to other individuals or groups. It is important to note that discriminatory conduct is not only a breach of this Policy, it may also be a breach of the *Human Rights Code*.

**Harassment:** Harassment includes comments, conduct or gestures which are insulting, intimidating, humiliating, hurtful, malicious, degrading or otherwise offensive to an individual or group of individuals or which create an uncomfortable environment or which might reasonably be expected to cause embarrassment, insecurity, discomfort, offence or humiliation to a person or group.

Harassment includes but is not limited to:

- written or verbal abuse, intimidation or threats, including swearing or making derogatory gestures or comment to or about an individual;
- physical assault;
- unwelcome remarks, jokes, innuendoes, or taunting about a person's body, sexual orientation, attire, age, marital status, ethnic or racial origin, religion, or family members;
- practical jokes which cause or which should reasonably be known to cause awkwardness or embarrassment, endanger a person's safety or negatively affect performance;
- hazing or initiation rites;
- condescension, paternalism, or patronizing behavior which undermines self-respect or adversely affects performance or working conditions;
- spreading of malicious gossip;
- false accusations of harassment, motivated by malice or mischief, meant to cause others harm;
- sexual harassment, as further described below.

**Respondent:** An individual who is alleged to have violated this Policy.

**Sexual Harassment:** Sexual harassment includes the following:

- disrespectful or disruptive conduct of a sexual nature made by a person who knows or ought reasonably to know that such conduct or comment is unwanted or unwelcome;
- an expressed or implied promise of a reward for complying with a request of a sexual nature;
- an expressed or implied threat of reprisal for refusal to comply with a request of a sexual nature;
- disrespectful or disruptive conduct of a sexual nature which is intended or reasonably would be known to create an intimidating, hostile or offensive environment.

Conduct that constitutes sexual harassment includes but is not limited to: verbal abuse or threats of a sexual nature, unwelcome remarks, jokes or innuendoes of a sexual nature, displaying of pornographic or other offensive pictures, unwelcome and/or repeated sexual invitations or requests, leering or other inappropriate sexually oriented gestures, unnecessary physical contact such as touching, patting or pinching, sexual assault (this may also be a criminal matter) or negative comments that are gender-based.

The definitions of discrimination, bullying and harassment under this Policy do **not** include social banter in the workplace that is objectively viewed as acceptable in tone and content. The definitions also do not include actions occasioned through the good faith management of the employment relationship, including decisions related to hiring, selection, performance evaluations and discipline, suspension or termination, provided that such decisions are made in good faith and implemented in a manner that is respectful of those involved.

### **Fairness/Natural Justice:**

All parties, including complainants, respondents and witnesses, have a right to fair treatment in the adjudication of complaints made under this Policy. Fair treatment includes the following:

- the right to bring forward concerns and have them addressed in a timely manner;
- the right to be informed in a timely manner of complaints made against them and an opportunity to respond;
- the right to of the respondent to representation, if they so wish;

- an impartial and objective consideration and evaluation of each complaint, through formal or informal resolution processes;
- relevant information must be available to all parties;
- confidentiality to the extent possible in the circumstances;
- protection from retaliation;
- being informed of the outcome of any formal investigation or intervention.

## **Complaint Resolution Procedures**

Complainants are encouraged to resolve complaints and concerns about discrimination, bullying or harassment with others as soon as they arise, first using the informal processes unless it is clearly inappropriate in the circumstances.

Without limiting its application, the informal resolution process is commonly used in circumstances where the alleged conduct appears to be non-repetitive (such as a “one-off” interaction or discussion) and relatively minor in severity or seriousness, considering its content, potential impact on the individual and/or the health/safety of the organization overall.

Although a complainant may wish to proceed by way of the informal resolution process, the Village may at any time exercise its discretion to initiate a formal process based upon its overall review of the circumstances.

### **INFORMAL PROCESSES**

#### **Step 1: Individual Conversation**

Wherever reasonable, a complainant should first address the respondent in a direct and discreet (confidential) manner as soon as possible following the incident. If the complainant is not comfortable meeting with the respondent directly, or if the complainant has done so without success, then the complainant should proceed to the next step.

#### **Step 2: Conversation with Advisor**

The complainant should approach his or her direct supervisor (the “Advisor”) with his or her concerns, including particular examples of inappropriate statements or behaviour by the respondent. The complainant should provide as much detail as is possible, including dates, times, and witnesses to the alleged conduct. This should be done as soon as reasonably possible following the incident(s).

- If the respondent is the complainant’s direct supervisor, or the complainant is uncomfortable approaching this individual, the complainant should approach the CAO.
- If the respondent is a Council member, the complainant should approach the CAO;
- If the complainant is the CAO, the CAO should approach the Mayor or another member of Council that is not the respondent.
- If the respondent is the CAO, the complainant should approach the Mayor.

The Advisor will review the concern and must directly or indirectly facilitate a resolution of the complaint in a manner that he/she considers to be effective and reasonable considering all of the circumstances. Interventions by the Advisor may include one or more of the following:

- Meeting separately with each person involved in the alleged conduct to discuss and investigate the situation;
- Meeting together with the persons involved to facilitate a discussion aimed at understanding and resolving the issue in a practical, non-punitive manner or mediating a solution that works for all persons;
- Coaching one or more of the parties (verbally or in writing) on workplace expectations regarding appropriate workplace conduct;
- Recommending or applying progressive discipline where warranted (i.e. based on the findings and severity of the misconduct); or
- Engaging an external 3<sup>rd</sup> party facilitator or mediator to work with the parties involved to achieve a practical and mutually agreeable resolution to outstanding concerns without making findings against the parties.

The actions taken by the Advisor under this Step 2 should be completed within thirty (30) days of receiving a complaint from the complainant unless the circumstances reasonably require an extension of this timeline.

The Advisor must also prepare a written report to the CAO (or Mayor, if the CAO is the respondent) which should contain:

- the facts from the interviews with the complainant, respondent and any witnesses;
- any previous disciplinary record of harassment by the respondent;
- relevant statement and documents;
- steps the Advisor took to resolve the complaint;
- and any recommendations designed to ensure that further discrimination, bullying or harassment do not occur.

If at any time during the Step 2 process, the Advisor concludes that, given the severity of the alleged complaint, including the potential for physical or psychological harm on the complainant or other individuals covered by the Policy, a formal investigation is warranted, then the matter should be immediately referred to Step 3 of this Policy for investigation and resolution.

### **FORMAL PROCESSES**

#### **Step 3: Formal Investigation – Written Complaint**

The formal process involves an objective investigation of a written complaint that has been brought forward by the complainant or the Advisor.

Once a complaint has been made to the Advisor (whether the direct supervisor, CAO or Mayor, as the case may be), the complainant will be asked to complete a formal complaint form, as attached in Schedule A.

The Complainant must sign and date the complaint and send it to the Advisor in confidence.

The filing of a formal complaint under Step 3 does not automatically mean that a formal investigation will be conducted. The manner in which the complaint is resolved will be determined by the Village, following consultation with the parties and will depend on a number of factors, including the nature, extent and severity of the allegations brought forward by the complainant(s) and the history of circumstances leading up to the filing of the formal complaint.

Following this review, the Advisor may take one of the following steps:

- (1) refer the matter back to Step 2 to resolve the matter through informal processes; or
- (2) assign an internal or external investigator to conduct a formal investigation of the complaint.

#### **Appointment of Investigator:**

The Village will retain either an internal or external investigator depending on the overall complexity of the facts/law related to the complaint, the parties to the complaint, the anticipated length of time necessary to conduct the investigation, the potential severity of the outcome of the investigation to the respondent should the complaint be substantiated, and any other relevant circumstances.

Formal complaints brought under this Policy against the CAO or any members of Council will be turned over to an external (rather than internal) investigator with expertise regarding matters covered under this Policy.

- In cases involving the Mayor as respondent, the investigator will be retained by and will report directly to the CAO.
- In cases involving other Council members as respondents, the investigator will be retained by and will report directly to the Mayor and CAO.
- In cases involving the CAO as respondent, the external investigator will be retained by and report directly to Council.

### **Time Limits:**

The time limit for making a formal complaint is within six (6) months from the date of the last incident and in accordance with the time limits contained in the *Human Rights Code*.

### **Mediation:**

Where appropriate, mediation is available to parties to try to resolve the complaint at any point during the process. Any ongoing investigation will be suspended during mediation and will resume if mediation is unsuccessful. Unless the parties agree to it in writing, the investigator shall not act as the mediator and shall have no communication with the mediator regarding the complaint.

### **Withdrawal of a Formal Complaint:**

At any time during the course of an investigation of a formal complaint, the complainant may withdraw the complaint without penalty so long as the complaint was filed in good faith. In such circumstances, there should be no indication of the complaint in the personnel files of either the complainant or respondent.

### **Investigation Process and Role of the Investigator:**

The investigator is entitled to a reasonable amount of time to conduct the investigation to interview the parties and relevant witnesses and obtain and review relevant documents. The investigator will prepare a report outlining his or her findings and conclusions and will submit the report to the CAO (or Council, if the CAO is the respondent).

The investigator may include recommendations in the report where applicable and if requested by the Village. The Village will advise the complainant and respondent of the findings and conclusions of the investigations and any recommendations related to their conduct through a written summary of the report.

## **Complaint Outcome**

Upon receipt of the report from the investigator, the Village will develop an implementation plan. The implementation plan may include any of the processes set out in relation to Step 2 above in order to rebuild/repair relationships. The implementation plan may also include one or more of the following:

- Oral or written apologies;
- Adjustments to the workplace environment;
- Coaching of expectations, verbal and in writing;
- Medical assessment referrals;
- Training;
- Transfers to a different department, where appropriate; and/or
- Institution of formal discipline and disciplinary processes up to and including suspension/removal from premises for contractors, visitors and volunteers, and/or censure and limited access to the workplace for Council members.

The complainant and respondent will only receive information relevant to their role in the implementation plan; they will not be privy to recommendations implemented for other parties.

### **Misuse of the Policy:**

In circumstances where a complaint is found to have been made in bad faith or determined to be vexatious, frivolous or a general misuse of the policy, the complainant may face similar outcomes as a respondent would, as set out above in 'Outcomes'.

If an investigator finds that there is insufficient evidence to support a complainant's allegations but finds that there has been no misuse of the Policy or bad faith in filing the complaint, no action will be taken in relation to the complaint and there will be no record of the complaint on the respondent's file.

**Reprisal:**

Reprisals against any individual, whether the complainant, the respondent or a witnesses, will be considered serious and appropriate disciplinary action will be taken.

**BC Human Rights Tribunal:**

This Policy does not limit the rights of any individual who **faces** discrimination to pursue his or her rights under the *Human Rights Code*, RSBC 1996, c. 210, even when steps are also being taken under this Policy.

**Prevention:**

The Village is committed to the elimination of discrimination, bullying and harassment through the provision of awareness, education and training programs.

**Confidentiality:**

All individuals involved in a complaint or in the informal resolution of the complaint under this Policy, whether complainants, respondents or witnesses, are expected to keep matters related to a complaint confidential. An established breach of confidentiality regarding a complaint or the complaint resolution process will be considered an independent violation of the Policy and may result in disciplinary action being taken.

Any allegation or complaint under this Policy will be considered personal information supplied in confidence pursuant to section 22(2)(f) of the *Freedom of Information and Protection of Privacy Act* and the Village will comply with its obligations under that Act in respect of any allegations, complaints, investigations and the substance of any investigative reports.

*Initially approved at meeting #01-16 on January 12<sup>th</sup>, 2016.*

*Renumbered on February 9<sup>th</sup>, 2016 (Former Policy #CA-016 RES #7-1-16)*

**To be reviewed annually as per WorkSafeBC Workplace Bullying & Harassment Policy D3-115-2(g).**

### FORMAL COMPLAINT FORM – Step 3

<b>Complainant's Name:</b>	
<b>Complainant's Position:</b>	
<b>Respondent's Name:</b>	
<b>Respondent's Position:</b>	

Please provide as much detail as possible regarding your complaint(s). Include specific language, conversations, gestures and/or actions. If there is more than one incident, please record the details on additional copies of this complaint form.

<b>General Description of Complaint:</b>	
<b>Date of Incident(s):</b>	
<b>Time of Incident(s):</b>	
<b>Location of Incident(s):</b>	
<b>Name of Witness(es):</b>	
<b>Position of Witness(es):</b>	

Please describe the impact this behaviour had on you, the complainant:

<b>Impact Statement:</b>

**What steps have already been taken under either Step 1 or 2 to resolve the complaint? What has been the outcome?**

Steps Taken/Outcome:

**Please sign and date:**

<b>Complainant Signature:</b>	
<b>Date:</b>	

**Incident Reported to:**

<b>Advisor's Signature:</b>	
<b>Advisor's Title/Position:</b>	
<b>Date:</b>	