



WORKPLACE HARASSMENT. WORKPLACE SEXUAL HARASSMENT AND WORKPLACE VIOLENCE POLICY

The Downtown Orillia Business Improvement Area (DOBIA) is committed to providing a safe and secure workplace for its employees, members and volunteers that demonstrates mutual respect and consideration for one another as employees, professionals and individuals. The workplace shall be free from harassment and violence.

The DOBIA shall support and assist any employee, member, or volunteer subjected to workplace harassment, workplace sexual harassment and/or workplace violence by either other employees or by non-employees.

All employees, member and volunteers have the right to seek assistance from other processes available in addition to any steps taken under this policy, such as the Ontario Human Rights Commission, Ministry of Labour, employee Unions or Association, etc.

Purpose

The purpose of this policy is:

- To maintain a working environment that is free from harassment, sexual harassment and workplace violence;
- To alert all employees and volunteers that workplace harassment, workplace sexual harassment and workplace violence is unacceptable.
- To reduce the potential for workplace harassment and/or violence of any kind before an incident occurs.
- To establish a mechanism for receiving complaints of workplace harassment, and/or violence as well as a process for dealing with them.

Policy Application

This policy applies to all DOBIA members, employees and volunteers.

Employment-related incidents concerning harassment or violence that occur beyond the normal workplace, e.g. social media or outside working hours, may also be captured in this policy.

It should be noted that appropriate performance management, counseling, appraisals, or discipline are not considered harassment under this policy.

Section 1 of the *Occupational Health and Safety Act* (OHSA) states “A reasonable action taken by an employer or supervisor relating to the management and direction of workers or the workplace is not workplace harassment”.



Legislation

The *Ontario Human Rights Code* prohibits actions that discriminate against people based on the following:

- Protection grounds: age, ancestry, colour, race, citizenship, ethnic origin, place of origin, creed, disability, family status, marital status (including single status), gender identity, general expression, receipt of public assistance (in housing only), record of offences (in employment only), sex (including pregnancy and breastfeeding) and sexual orientation.
- Social areas: accommodation (housing), contracts, employment, goods, services and facilities, memberships in unions, trade or professional associations.

Occupational Health and Safety Act

Section 25 (2) (h) of the (OHSA) requires that every employer take all reasonable precautions in the circumstances for the protection of a worker.

Section 32.0.1 (1) (a) and (b) of the OHSA requires employers to prepare a policy with respect to workplace violence and workplace harassment.

Sections 32.0.6 (2) (a) and (b) of the OHSA the employer shall maintain a program which:

- Include measures and procedures for workers to report incidents of workplace harassment to the employer or supervisor.
- Include measures and procedures for workers reporting incidents of workplace harassment to a person other than the employer or supervisor, if the employer or supervisor is the alleged harasser.
- Set out how incidents or complaints of harassment will be investigated and dealt with.
- Set out how information obtained about an incident or complaint of harassment, including identifying information about any individual(s) involved, will not be disclosed unless the disclosure is necessary for the purpose of investigating or taking corrective action with respect to the incident or complaint, or is otherwise required by law.
- Set out how a worker, member or employee who has allegedly experienced harassment and the alleged harasser, will be informed of the results of the investigation and of any corrective action that has been taken or that will be taken as a result of the investigation.



Definitions

Domestic Violence: means a pattern of coercive tactics which can include physical, psychological, sexual, economic and emotional abuse perpetrated by one person against an adult partner, with the goal of establishing and maintaining power and control over the victim.

Harassment

Engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome. This includes any inappropriate conduct, comment, display, action or gesture by a person that:

A course: In almost all cases, harassment is a pattern of behaviour occurring over a period of time which has a negative effect on the target(s) and/or the environment. However, one single incident can constitute harassment when it is demonstrated that it has caused a significant effect on the target and/or the environment.

Vexatious: Means not having sufficient reason and/or seeking only to annoy or irritate.

Comment or Conduct: Behaviours can include conversations, newsletters jokes, posters, calendars, name calling, threats, emails, screen savers, graphics etc.

Known or Ought Reasonably to Be Known: Both subjective (i.e., the target feels the behaviour is inappropriate) and objective (i.e., a reasonable third party would feel that the behavior was inappropriate) are considered.

Unwelcomed: This is a key aspect of the definition. The behaviour must be unwelcomed to the target or within the environment.

- Adversely affects the worker's psychological or physical well-being and that the person knows or ought to reasonably know would cause a worker to be humiliated or intimidated;
- Constitutes a threat to the health and safety of the worker.
- Examples of workplace harassment include, but are not limited to:
 - creating a toxic work environment (e.g. tolerating hostile, insulting or degrading comments or conduct)
 - spreading rumours or gossip about an individual or group
 - making offensive jokes or remarks
 - cyber bullying- threatening, spreading misinformation, or talking negatively about an individual online (emails, newsletters or social media)
 - threats made in person, by phone, email, or through another medium to a worker
 - playing unwanted practical jokes



- stalking or inappropriately following a person
 - impeding a person's work in any deliberate way
 - persistently criticizing, undermining, belittling, demeaning or ridiculing a person
 - unwelcome physical contact
 - sexual innuendo or insinuation
 - displaying or sharing offensive posters, cartoons, images or other visuals
 - making aggressive, threatening or rude gestures
 - Singling out an individual for humiliating or demeaning "teasing" or jokes because they are a member of a protected group.
- **Intent is irrelevant in establishing a finding of harassment** -Canadian Human Rights Tribunal

Minor incident

An incident in which the complaint is resolved through mediation.

Serious incident

An incident in which someone was harmed (whether requiring medical attention or not), or which continues or escalates after mediation.

Workplace

Any place where business or work-related activities are conducted. It includes, but not limited to:

- The physical work premises;
- Work assignments outside DOBIA's work locations;
- Work-related travel or training sessions.

Workplace Harassment

Engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome.

Workplace Sexual Harassment

Engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome.

Making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.



Workplace Violence

The exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker.

An attempt to exercise physical force against a worker, in a workplace, that could cause physical injury to the worker.

A statement or behaviour that it is reasonable for a worker to interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker.

Responsibilities

Employee and Member Duties

Every employee, member and volunteer have the responsibility to ensure that all DOBIA work environments are free from workplace harassment, workplace sexual harassment and workplace violence.

Employees are responsible for reporting to the DOBIA Board any incidents of workplace harassment or violence according to the procedures set out in this policy.

Management Duty

All management staff of the DOBIA shall:

- Discourage workplace harassment, workplace sexual harassment, and workplace violence based on the following measures:
 - Set a good example.
 - Approach employees if there is a concern or issue related to workplace harassment or violence.
 - Seek advice from the Human Resources (HR) Department of the City of Orillia, if uncertain whether a problem involves harassment or violence where appropriate.
 - Investigate potential workplace harassment or violent incidents, even in the absence of a formal complaint.
- Complete Appendix A – Workplace Harassment and Violence Incident Form to assist in investigating incidents.
 - Train employees and board members on the content of this policy, which will include:
 - The means to recognize and appropriately respond to incidents of workplace harassment, workplace sexual harassment and workplace violence.
 - Review of procedures for reporting such incidents.
- Reinforce the importance of this policy with staff, volunteers and members.



- Ensure all new employees are aware of this policy through the orientation process conducted by Human Resources.

Procedures

Filing a Complaint

Employees, members or volunteers who believe that they have been subjected to harassment, workplace sexual harassment or workplace violence are encouraged to bring the matter to the attention of the Board as soon as possible. Promptness protects the rights of both the complainant and the person complained against. The employee, member or volunteer should keep a record describing the incident, when and where it happened, and any witnesses.

The Executive Director of the DOBIA or Chair of the Board will outline the complainant's options to:

- Lay a formal written complaint under this policy using Appendix A
- Be represented by legal counsel or other person of choice at any stage of the process;
- Withdraw from any further action in connection with the complaint at any stage (even though the DOBIA staff and Board of Directors may continue to investigate the matter).

If the employee, member or volunteer opts to complete the Workplace Harassment and Violence Incident Form, such report shall be submitted as soon as possible to the Executive Director of the DOBIA. If the complaint involves the Executive Director of the DOBIA, the written complaint shall be filed with the Chair of the Board.

The Executive Committee of the DOBIA Board will investigate and communicate its decision regarding the investigation to the Executive Director regarding action to deal with each complaint.

Once the Executive Committee has rendered a decision regarding the investigation, the decision may be appealed to the Ethics Commissioner.

The complainant and the respondent will receive written notification of the results of the investigation and of any corrective action that has been taken or that will be taken as a result of the investigation.

Good Faith Complaints

Victims of harassment are encouraged to come forward if they have experienced workplace harassment or violence; however, cautioned against making false accusations. False accusations can destroy a person's reputation and credibility and may be considered a form of harassment.

Confidentiality of Complaints

All harassment complaints and resulting investigations will to the greatest degree possible be treated in confidence. Information, including identifying information about individual(s) involved, will be undisclosed unless disclosure is necessary for investigating or taking corrective action with respect to the incident or complaint, or is otherwise required by law.



Risk Assessment

The risk of workplace violence and harassment is assessed as part of the DOBIA hazard identification and risk management process outlined in Health and Safety Policy 3.16. Recognizing, Assessing and Controlling Hazards. Risk assessments are completed for all positions and employees are provided with such assessments.

Disciplinary Action

Any member guilty of harassment and/or violence could face a series of disciplinary actions determined by the investigative team made up of a minimum of three (3) members of the executive of the board based on the severity of the incident, frequency and whether it is a repeat offence. Disciplinary action will follow the Levels of Harassment guidelines in line with the municipality. For Board Members found in violation, a recommendation for suspension or removal to City Council will be submitted.

LEVEL 1
<p>Examples of Behaviour:</p> <ol style="list-style-type: none"> 1. Inappropriate verbal or non-verbal harassment not covered in any other level. 2. Refusal to follow basic levels of professionalism that reasonably ought to be known. 3. Repetitive visual or verbal sign(s) of dissatisfaction with any member, volunteer or staff
<p>Consequences</p> <ol style="list-style-type: none"> 1. Phone call with a warning and/or written warning will be issued, outlining the incident and consequences should second offence occur. 2. For anyone committing a second level 1 offense within 3 months of the date of their first offense, the second offense will automatically be treated as a level 2 incident.
<p>Prohibitions</p> <ol style="list-style-type: none"> 1. Failure to immediately refrain from inappropriate behaviour may result in the immediate termination of the interaction. 2. The investigated team could move an incident to level 2 if the perpetrator is ejected from the operation space, or if the member, volunteer or staff must remove themselves from the incident.

LEVEL 2
<p>Examples of Behaviour:</p> <ol style="list-style-type: none"> 1. Openly disputing or arguing with the decision of the board or staff in a hostile manner. 2. Ongoing obscene or vulgar language. 3. Encouraging disrespectful or unprofessional behaviour in others.
<p>Consequences</p> <ol style="list-style-type: none"> 1. Phone call with a warning and/or written warning will be issued, outlining the incident and consequences should second offence occur. 2. For anyone committing a second level 2 offense within 3 months of the date of their first offense, the second offense will automatically be treated as a level 3 incident.
<p>Prohibitions</p> <ol style="list-style-type: none"> 1. All minimum prohibitions are specified; however, the investigative team, depending on the violation, will make the final determination. 2. The investigation team has the ability to move an incident to a level 3 if the perpetrator fails to cease the unacceptable behaviour.



LEVEL 3

Examples of Behaviour:

1. The use of any physical act, which is vulgar or obscene.
2. Intimidation of any kind, and/or ongoing taunting or ridiculing of members, staff or volunteers.
3. Not voluntarily leaving or ceasing the interaction once advised to do so.
4. Unwanted physical contact of any type.

Consequences

1. All level 3 incidents will have an investigative team review the case scheduled within 10 business days from when the department receives the completed incident form. The individual(s) will be suspended from contact pending review.
2. All examples of behaviour in level 3 will result in the individual's immediate ejection from the office space
 - a. The first violation will result in a minimum suspension of contact for 1 month.
 - b. A second violation within one (1) year of the date of the first incident will result in a minimum suspension of contact for 3 months, including the attendance of all meetings and information sessions held by the DOBIA.
 - c. Any additional violations within one (1) year of the date of the last incident will result in a minimum suspension of contact for 6 months, including the attendance of all meetings and information sessions held by the DOBIA.

Prohibitions

1. All minimum prohibitions are specified: however, the investigative team, depending on the violation, will make the final determination.
2. Failure to cease the unacceptable behavior and voluntarily leave the facility once requested will increase the incident to a level 4.
3. Any actions resulting in third party control or police involvement, automatically moves to a Level 4 and a three-month suspension.

LEVEL 4

Examples of Behaviour:

1. Any type of physical abuse, physical violence or fighting.
2. Returning to the office or interaction after being ejected.
3. Any action that requires the use of a third party to control the conduct or situation.

Consequences

1. All level 4 will have an incident investigative team review the case scheduled within 10 business days from when the department receives the completed Incident Report Form. The individual(s) will be suspended from any communication pending review.
2. A minimum three (3) month suspension from any of contact for 3 months, including the attendance of all meetings and information sessions held by the DOBIA.
3. Any additional violation of this type will result in an automatic minimum twelve (12) month suspension from any of contact for 3 months, including the attendance of all meetings and information sessions held by the DOBIA.

Police will be involved in all Level 4

Prohibitions

1. All minimum prohibitions are specified: however, the investigative team, depending on the violation, will make the final determination.
2. Any actions resulting in third party control or police involvement, automatically moves to a Level 4 and a three-month suspension.



Complaints Involving the Staff or Board Member

Any allegations of harassment made by or against a Staff or made by or against a Member of the DOBIA Board, shall be referred to the Executive Committee, whose findings shall be submitted to the Board in Closed Session.

Attachment

Appendix "A" - Workplace Harassment, Workplace Sexual Harassment and Workplace Violence Report and Investigation Form



APPENDIX "A"

WORKPLACE HARASSMENT OR VIOLENCE INCIDENT REPORT FORM

Please complete ALL sections of this form neatly and in detail and once completed, sign the form and submit it by email or deliver it to the DOBIA Office or the Chair of the DOBIA Board.

INDIVIDUAL REPORTING DETAILS

All parts of this form must be completed, or the report will not be received.

Name of Person Reporting: _____

Phone #: (Day) _____ (Evening) _____

Email Address: _____

Member Volunteer Staff Organization

Did you witness the incident? YES NO

If you did not witness the incident, please complete this section

Name of Person who reported this to you: _____

Phone #: (Day) _____ (Evening) _____

Email Address: _____

INCIDENT DETAILS

Date of Incident: _____ Time of Incident: _____

Location Incident took place: _____

Involved person(s), business or organization: _____

WITNESS DETAILS *(if you do not know the person's name, please provide a detailed description)*

Witness Name: _____ Phone: _____

Position/Organization: _____

Description: _____

Witness Name: _____ Phone: _____

Position/Organization: _____

Description: _____

Witness Name: _____ Phone: _____

Position/Organization: _____

Description: _____

NOTE: If there are additional witnesses please provide information on a separate page.



THIRD PARTY INVOLVEMENT

Was anyone else made aware of the incident? YES NO

If yes, who was contacted?

Police Ambulance Fire Dept. Other

Name: _____ Occurrence # _____ Position/Business/Organization: _____

Name: _____ Occurrence # _____ Position/Business/Organization: _____

Name: _____ Occurrence # _____ Position/Business/Organization: _____

Other: _____

CATEGORY

Please check all that apply to the incident:

<input type="checkbox"/> Obscene/Vulgar Language or Acts	<input type="checkbox"/> Intimidation	<input type="checkbox"/> Physical Contact
<input type="checkbox"/> Verbal Threats	<input type="checkbox"/> Verbal Assault	<input type="checkbox"/> Workplace Bullying
<input type="checkbox"/> Physical Violence	<input type="checkbox"/> Harassment	<input type="checkbox"/> Taunting/Ridiculing
<input type="checkbox"/> Persistent Criticism/Undermining	<input type="checkbox"/> Other: _____	

PERSONS INVOLVED

Individuals Name: _____ Position/Business/Organization: _____

Detailed Description: _____

Individuals Name: _____ Position/Business/Organization: _____

Detailed Description: _____

Individuals Name: _____ Position/Business/Organization: _____

Detailed Description: _____

DETAILED INCIDENT DESCRIPTION

Tone of Voice (yelling, threatening, etc.): _____

Were there any hand gestures? (pointing, waving, etc.): _____

Were there any facial gestures? (laughing, anger, etc.): _____

How long did the incident last? _____

How close was the person to you? (in your face, across the road, etc.): _____



Describe the exact conversation that took place with the person(s). Try to use the exact wording if possible and note the swear words were, if the person was swearing. Please ensure you note what you said back to him/her exactly. (Better to note it now than to try and remember later, even if you were upset and may have said something inappropriate.) It is better to be upfront about it than to try and hide it or deny it.

Describe any other details about the incident which has not already been covered: _____

Who did you speak with after the incident? (i.e. other staff, volunteer, member) Try not to tell everyone what happened until the matter is officially reported, investigated and concluded. _____

OTHER RELEVANT INFORMATION

SIGNATURE

Signature

Date

FOR OFFICE USE ONLY	
Date Received: _____	Received
By: Date Investigation Completed: _____	_____
Action Taken: _____	

Downtown Orillia Business
Improvement Area, 23 Mississauga St W 2nd Floor, Orillia, ON L3V 3A5



PROCEDURES FOR WORKPLACE ANTI-HARASSMENT AND ANTI-VIOLENCE POLICY

Duty to Report

The DOBIA's primary concern is the safety of its staff, volunteers and members. If at any time volunteers, members or staff feel personally threatened, they are to call the Police immediately. It is NOT the expectation that staff or users put themselves at risk or jeopardize their safety in dealing with any perceived or real situation.

Members, volunteers and staff are to report acts of unacceptable behaviour activities in writing, to a DOBIA staff member in a timely manner. Staff will review all reports regardless of when received. Staff is to report all such incidents to the board immediately, as well as complete and submit a written report. All incidents of violence, vandalism, threatening situations and/or illegal activities must be reported to the police.

Enforcement Steps

General All Incidents: If inappropriate behavior is observed or reported within the scope of the BIA, follow these steps:

1. Assess the situation to determine if the Workplace Anti-Harassment and Anti-Violence Policies need to be enforced.
2. If the situation warrants, without jeopardizing anyone's safety, advise the identified party to cease the unacceptable behaviour immediately or they will be asked to leave or remove themselves from the area. (NOTE: when requesting individuals vacate DOBIA office space you MUST adhere to the City's Eviction policy – Policy If the individual(s) refuse to leave; do not engage in arguments or physical confrontations, contact the police if necessary.
3. After the incident has been resolved, complete a written Incident form and submit to DOBIA Executive Director/or Board Member. If the incident involved DOBIA staff submit to the Chair of the DOBIA Board. Obtain as much detail as possible and document on the form, including names and phone numbers of all witnesses.
4. All incidents submitted in writing will be reviewed by an investigation team made up of at least three members of the Executive on the DOBIA Board, with no involvement in the situation.
5. The incident investigative team is permitted to request statements from any identified witnesses and/or perpetrator if deemed necessary.
6. Using the Harassment Levels, the investigation team will determine whether the situation warrants a Level 1-4 violation. The perpetrator will then receive a written letter of the outcome. Requirements of members, staff and volunteers:
 - To provide a completed incident form for any incidents that take place while they are present.



Consequences

Individuals who engage in any form of unacceptable behaviour will be subject to the identified prohibitions in the “Harassment Levels/Prohibition” chart. The investigative team will review all incidents reported in writing for additional prohibitions. However, response times may vary depending on the level of incident. Level III and higher incidents may be subject to a scheduled hearing if deemed necessary by the investigation team after initial review. For all level III and above incidents, the individual(s) involved must have no contact pending review.

Any prohibition imposed on an individual will be followed by a written letter to the member, volunteer or staff involved. The Executive Director of the BIA is expected to take the lead role in the incident. When the Executive Director is unavailable, the Chair of the Board or their designate will take the lead role.

The investigative team may, if deemed necessary, enforce no contact with the DOBIA Staff or office pending the completion of the incident review. The suspension of contact would take effect from the date that the written letter is issued by the Downtown Orillia Business Improvement Area Office.

When an employee or board member must meet with a member to discuss a possible contentious matter, a second Board Member/BIA member will attend to ensure the encounter remains respectful.

The Downtown Orillia Management Board will involve the police if a harasser stalks, assaults or verbally/ physically threatens an employee or board member. When harassers seem dangerous for example, if a harasser refuses to leave the premises and threatens physical violence, staff/board member are instructed to call the police immediately.