



CORPORATION OF THE TOWNSHIP OF ESQUIMALT
MANAGEMENT POLICY

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| TITLE: Respectful Workplace Policy | | NO. M-PER-20 | | |
| <p>1. <u>POLICY</u></p> <p>The Township is committed to a work environment in which all individuals are treated with respect and dignity. This includes ensuring a safe, inclusive, and respectful workplace environment for all employees regardless of Indigenous identity, race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sex, sexual orientation, gender identity, gender expression, age, or criminal record if unrelated to employment. To that end, the Township’s policy is that of zero tolerance for any form of bullying, harassment, and discrimination.</p> <p>This Policy promotes the prevention of all forms of bullying, harassment, and discrimination and focuses on the prompt resolution of complaints. Additionally, this policy sets out guidelines to: address the needs of Two-Spirit, trans, non-binary, and gender diverse employees; protect the legal rights and safety of all workers under occupational health and safety, labour, and human rights laws; and provide a framework for procedure when an employee is seeking gender affirming processes and medical care.</p> <p>This Policy does not prevent an employee from filing a complaint under Section 13 of the <i>Human Rights Code</i> or filing a claim with WorkSafeBC.</p> | | | | |
| <p>2. <u>SCOPE</u></p> <p>This Policy applies to all employees and managers, including interns (whether paid or unpaid), as well as Mayor and Council, and other stakeholders including other government employees, Union executives, vendors, contractors, volunteers, customers and other third parties.</p> <p>This Policy applies wherever the Township conducts business, including work assignments outside of the Township’s premises. This Policy also applies wherever work-related activities are conducted, and includes work-related social functions and training sessions. This Policy also applies to social exchanges, whether in person or</p> | | | | |
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electronically, in which employment-related matters are discussed. For the purpose of this Policy, all the locations mentioned can be collectively referred to as the “Workplace”.

Township employees are expected to read and understand this Policy and how it relates to them.

Township employees are expected to expediently request additional information from their supervisor if they are uncertain about any aspect of this Policy.

The Township is committed to creating a safe and welcoming work environment and does not tolerate bullying, harassment, and discrimination on the basis of sex, sexual orientation, gender identity, or gender expression. Township of Esquimalt respects individual identities and believes that a person’s identity, including their gender identity (eg. name, pronouns, gender marker), is for them alone to determine.

In addition, the Township will not tolerate discrimination on a prohibited ground as defined by the Human Right Code including, but not limited to, the Indigenous identity, race, colour, ancestry, place of origin, ethnic origin, citizenship, creed, political belief, religion, marital status, family status, physical or mental disability, sex, sexual orientation, gender identity or expression, age, or criminal record of a person.

Township employees will:

- Work to prevent stigmatization by fostering dialogue and understanding of gender diversity in the workplace.
- Foster an environment where people can be who they are without fear of unwanted consequences; and where employees, community partners, and clients of all diverse genders and gender identity or expression, races, ancestry, places of origin, creed, political belief, religion, sex and sexual orientation are treated with dignity and respect.

3. DEFINITIONS

For the sake of clarity, this Policy uses the term “gender diverse” as an umbrella term to refer to anyone who identifies as transgender or trans, non-binary, two-spirit, or any other diverse gender identity that is different than the gender they were assigned at birth.

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The term “2SLGBTQIA+” refers to Two-Spirit, Gay, Bisexual, Transgender, Queer and/or Questioning, Intersex, Asexual and the plus reflects the many ways in which people choose to self-identify.

This Policy refers to “deadnaming”. Deadnaming is the practice of calling a transgender or non-binary person by a name they used prior to transitioning, such as their birth name.

Harassment is defined as behaviour that is related to one’s position as an employee, occurs at or away from the Workplace, and falls into one of the categories outlined below. Harassment is prohibited conduct and includes discriminatory harassment, sexual harassment, personal harassment and bullying, and retaliation as defined herein.

“Outing” as it is referred to in this policy is the deliberate or accidental sharing of one’s gender identity and/or sexual orientation without their consent. Outing is considered harassing behaviour and can present danger to 2SLGBTQIA+ people.

(a) Discriminatory Harassment and Bullying

Discriminatory Harassment and Bullying relates to an employee’s rights under human rights law. For the purpose of this Policy, Discriminatory Harassment and Bullying is defined as conduct that involves a series of incidents or a single serious incident that:

1. is based on, or related to, a prohibited ground of discrimination as defined by statute or otherwise in the relevant jurisdiction, including, but not limited to, the Indigenous identity, race, colour, ancestry, place of origin, ethnic origin, citizenship, creed, political belief, religion, marital status, family status, physical or mental disability, sex, sexual orientation, gender identity or expression, age, or criminal record of a person; and
2. results in an adverse effect in the person’s employment.

Discriminatory Harassment and Bullying includes circumstances such as:

- when submission to such conduct is made either implicitly or explicitly a condition of employment;
- when submission to or rejection of such conduct is used as a basis for any employment decision, including, but not limited to, matters of promotion, work assignment, compensation, job security, or benefits affecting the employee; or

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- when such conduct has the purpose or the effect of interfering with a person's work performance or creating an intimidating, hostile, or offensive work environment.

Examples of unacceptable behaviours which may constitute Discriminatory Harassment and Bullying include but are not limited to:

- racial or ethnic slurs including racialized derogatory nicknames;
- unwelcome remarks, jokes, innuendos, or taunting about a person's body, age, marital status, gender, gender identity or expression, ethnic/racial origin, religion, accent, education, disabilities, or any other prohibited ground of discrimination;
- misgendering gender diverse employees, deadnaming non-binary, transgender, or other gender diverse employees or outing any gender diverse employee without their consent;
- physical assault (including sexual assault);
- misuse of authority towards another person which is based on a prohibited ground of discrimination;
- displaying of materials which are sexually explicit or degrading on the basis of a prohibited ground of discrimination; and
- patronizing behaviour, language, or terminology which reinforces stereotypes and undermines self-respect or adversely affects work performance or working conditions.

(b) Sexual Harassment

Sexual Harassment is a form of Discriminatory Harassment and Bullying that denies equality on the basis of sex. The persistence and prevalence of this unlawful conduct in workplaces necessitates an approach that better ensures employees understand the scope of such misconduct. For the purpose of this Policy, Sexual Harassment is defined as a form of Discriminatory Harassment and Bullying that involves:

- conduct, comment, gesture, or contact of a sexual nature;
- that is unwelcome or is of such a nature that it would be reasonable to assume that it is unwelcome; and

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- that detrimentally affects the work environment or leads to adverse job-related consequences for the target or gives rise to a hostile or offensive work environment for any employee.

Sexual Harassment includes circumstances such as:

- when such conduct might reasonably be expected to cause embarrassment, insecurity, discomfort, offence, or humiliation to another person or group;
- when submission to such conduct is made either implicitly or explicitly a condition of employment;
- when submission to or rejection of such conduct is used as a basis for any employment decision (including, but not limited to, matters of work assignment or promotion, raise in salary, job security, or benefits affecting the employee); or
- when such conduct has the purpose or the effect of interfering with a person's work performance or creating an intimidating, hostile, or offensive work environment.

Examples of unacceptable behaviour which may constitute Sexual Harassment include but are not limited to:

- sexist jokes causing embarrassment or offence, told or carried out after the joker has been advised that they are embarrassing or offensive, or that are by their nature clearly embarrassing or offensive;
- leering;
- the display of offensive material of a sexual nature;
- sexually degrading words used to describe a person;
- derogatory or degrading remarks regarding members of one sex, sexual orientation, gender identity, or in respect of gender expression;
- sexually suggestive or obscene comments or gestures;
- unwelcome sexual flirtations, advances, requests for sexual favours, or propositions;
- unwelcome inquiries or comments about a person's sex life;

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- persistent unwanted contact or attention after the end of a consensual relationship;
- unwanted touching;
- verbal abuse or threats; and
- sexual assault.

(c) Personal Harassment and Bullying

Personal Harassment and Bullying relates to rights and obligations under occupational health and safety laws. For the purposes of this Policy, Personal Harassment and Bullying is defined as conduct that:

- includes any inappropriate conduct or comment by a person towards an employee that the person knew or reasonably ought to have known would cause that employee to be humiliated or intimidated, but
- excludes any reasonable action taken by an employer or supervisor relating to the management and direction of workers or the place of employment.

Examples of unacceptable behaviour which may constitute Personal Harassment and Bullying include but are not limited to:

- insulting or derogatory remarks, gestures, or actions;
- malicious rumours, gossip, negative innuendos, or practical jokes that cause awkwardness or embarrassment, endanger an employee's safety, or negatively affect work performance;
- misuse of authority;
- verbal abuse such as shouting, yelling, or swearing at others;
- isolation and/or exclusion from work-related activities;
- name calling;
- threats; and
- targeting an individual through persistent, unwarranted criticism, or public ridicule.

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(d) Retaliation

Retaliation is a form of Harassment. For the purpose of this Policy it is defined as any action taken against an individual for:

- having invoked this Policy on behalf of oneself or another employee;
- having participated or cooperated in any investigation under this Policy; or
- having been associated with a person who has invoked this Policy or participated in these procedures.

(e) Conduct not considered Harassment or Bullying

The following behaviours, carried out reasonably, are not considered to be Harassment or Bullying:

- reasonable actions by managers/supervisors to manage, direct, or guide employees;
- appropriate staff performance reviews; and
- counseling or discipline by a supervisor or manager.

Not every instance of workplace conflict or differences of opinion is Harassment or Bullying. For clarity, making a complaint in good faith under this Policy is not Harassment or a form of Bullying.

4. PROCEDURE

There are various ways in which conduct that may be Harassment or Bullying can be brought forward and addressed under the Policy. Commonly, it involves a complaint by an individual who is the subject of the conduct (a “Complainant”) or who has observed conduct of concern (a “Bystander”) about the person who is responsible for the conduct (a “Respondent”). It can also arise from a manager becoming aware of conduct through observation or a report.

These procedures are intended to be applied in a manner that will best address the circumstances and may be adapted as deemed appropriate by the Township to address conduct of concern.

(a) Complaint Procedure

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If you believe you are being subjected to Harassment or Bullying, or you believe you have witnessed Harassment or Bullying, you should follow the following procedure:

- If comfortable doing so, speak to the individual. Tell the person the behaviour is unwelcome and ask the person to stop.
- If the behaviour continues or you are not comfortable speaking to the individual, you should report the unwelcome behaviour to Human Resources (HR) or your manager. You may request that HR or your manager speak informally and confidentially to the individual or request a formal investigation.
- You must provide details of the unwelcome behaviour in writing, including dates, times, and locations of the incident(s) (where possible), a description of the incident(s) including behaviours and/or words that led to the complaint, the names of the people involved, anyone who may have witnessed the incidents, and any supporting documents such as emails, handwritten notes, or photographs. Physical evidence such as vandalized personal belongings may also be submitted.
- Depending on the nature of the incident(s), HR or your manager may determine that a formal investigation is necessary.
- If your manager is the subject of the complaint, the complaint may be submitted to HR (and vice versa). If you are not comfortable submitting the complaint to your manager or HR, you may submit the complaint to the Chief Administrative Officer, who will follow the procedures as outlined in this Policy.

(b) Investigation

The Township may choose to investigate the complaint or appoint a qualified person who has appropriate training or experience to investigate a complaint. The investigation will be started and completed within a reasonable period following the receipt of a complaint.

The following will apply to any investigation that is conducted under this Policy:

- Once a complaint is received, it will be kept strictly confidential to the extent possible within the investigation process. Confidentiality, however, must be distinguished from anonymity. Anonymous complaints will not be accepted. In order to properly investigate the complaint, the Complainant must identify themselves and identify the Respondent. Details of the complaint and the names of potential witnesses must also be provided. It may be necessary to

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provide certain details to those interviewed or as required by law. Anyone spoken to, will be reminded to keep the matter confidential. Public discussion of the complaint or gossiping will not be tolerated and may lead to discipline.

- An investigation will be undertaken as soon as possible.
- Both the Complainant and the Respondent will be interviewed, as will any individuals who may be able to provide relevant information. All information will be kept in confidence to the extent possible as outlined above.
- If the complaint is substantiated as a result of the investigation, the Township will determine the appropriate remedial, corrective, or disciplinary measures required in accordance with this Policy.
- The complaint and investigation process must be kept confidential by those involved and there may be no discussion of the process with anyone not directly involved in the investigation. A breach of this confidentiality obligation may result in discipline.
- Anyone who participates in an investigation under this Policy is entitled to Union presence at any interview, if requested.

(c) Bad Faith Complaint

It is unacceptable to use this Policy falsely, frivolously, or maliciously in bad faith. In the event that the Township determines that a person has initiated a Harassment or Bullying complaint in bad faith, remedial, corrective, or disciplinary action may be taken against that person. Formal disciplinary actions may include, but are not limited to, those set out in section 6 of this Policy.

In determining whether a complaint is made in bad faith, consideration will be given to factors including whether the complaint arose as a result of mistakes, misunderstandings, or misinterpretations.

5. RESPONSIBILITIES

(a) Employee roles and responsibilities

Every employee has a responsibility to support this Policy and to ensure that the working environment is free from Harassment, Bullying, and Discrimination including by:

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- not engaging in Harassment, Bullying, or Discrimination of other employees;
- conducting themselves in a manner that demonstrates professional conduct, respect for others, and that honours diversity in the workplace;
- participating fully and in good faith in any resolution process or formal complaint and investigation process;
- reporting any incidents that may be in violation of this Policy including where an employee believes that another employee is experiencing Harassment, Bullying or Discrimination; and
- respecting the rights to personal dignity and privacy pertaining to this Policy and complying with obligations respecting confidentiality of matters under this Policy.

Gender diverse employees:

- should notify their direct supervisor, a Human Resources representative, or another relevant member of management, about any changes that need to be made to their employee record, such as updates to pronouns and/or name, or supports that may be required, such as time off for healthcare needs, if applicable.
- provide relevant information. For clarity, employees need only provide as much information as is relevant in enabling the Township to support and fulfil its legal obligations. Every person is unique in how they approach gender affirming processes and not all gender diverse employees will undergo the changes listed below. Examples of information a gender diverse employee may share include:
 - The date the employee wishes to update their name, pronouns, gender markers in the workplace, and whether the employee wishes this information to be communicated to coworkers;
 - The employee's desired communication plans and timeline for sharing this updated information, if any. The employee may wish to communicate this information themselves or can request that leadership communicate relevant updates;
 - Notification to management of requests for time off for gender affirming procedures, if applicable. The employee does not need to provide specific details to management about what kind of medical treatment

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or process they require. The employee may be asked to provide a doctor's note so that the Township can assess and provide accommodations such as medical leave, in accordance with the duty to accommodate

- In unpredictable, volatile, or uncomfortable situations, gender diverse employees are never required or expected to provide a response, either directly or indirectly, to offending language or behaviour. Instead, employees may bring their concerns to a relevant member of management, who will follow up to address any situation that may be considered harassing, bullying, or discriminatory in nature.

(b) Management roles and responsibilities

Members of management have additional responsibilities to create and maintain a workplace which is free from Harassment, Bullying, and Discrimination. This includes:

- demonstrating a high standard of professional and respectful conduct;
- ensuring that Harassment, Bullying, and Discrimination is not allowed, condoned, or ignored;
- understanding this Policy and providing training, information, and supervision relevant to this Policy;
- ensuring employees have full access to information regarding related employer policies and standards;
- taking action under the Policy and intervening promptly when inappropriate conduct is brought to their attention or has been observed. This includes taking action to resolve potential workplace conflict and reporting any concerns about occurrences of Harassment, Bullying, or Discrimination that come to the manager's attention;
- notifying police when there are reasonable grounds to believe that a violation of the Criminal Code or other applicable law has occurred;
- respecting the rights of all parties to a fair, equitable, and confidential process for responding to complaints;
- supporting all those who participate in a problem-solving process or procedures under this Policy; and

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- taking remedial, corrective, and/or disciplinary measures, where appropriate.
- Avoiding any “outing” of a gender diverse employee without their consent.
- Reassuring a gender diverse employee of their support and that they will work to create a climate of understanding and mutual respect among all employees. Because every gender diverse person has different needs, management will work with the individual employee and the union to determine what type of support will assist them in feeling comfortable and respected in their gender identity in the workplace and at any workplace events, job sites, and online environments associated with the Township
- Ensuring that the gender diverse employee knows about the organization’s policies and processes for supporting gender diverse employees, including this Policy
- With the gender diverse employee’s consent, notifying relevant management members who should be aware of any updates (e.g., pronouns, name) so that organizational leaders can voice support when these changes are made known to the work team.
- If any employee discloses that they are gender diverse, management will communicate with the employee to explain any available supports.
- Ensuring the employee understands any gender affirming health care benefits they may be eligible for and that if time off is needed for medical reasons, sick pay and leave policies will apply.
- With the consent of the gender diverse employee, determining how, and in what format, coworkers will be made aware of any gender identity-related updates such as new name and pronouns. For example:
 - If they would like to make any or all coworkers aware of any such updates on a one-on-one basis before management sends an update.
 - If they would like a written memo, email, or handout to be shared with staff, or an in-person staff meeting to share any gender identity-related updates.
- Determining updates that should be made to the gender diverse employee’s records, who is charge of making the changes, and when they will be made.

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- Records to be updated may include (with the consent of the employee): nametag, sign for desk, sign on office door, schedules, seniority list, trade certificates, security lists, meeting minutes, financial documentation, insurance records, pension documents, and more.
- If an employee's legal name is different from their chosen name, the Township will retain the legal name in the employee file but will keep this information as confidential as possible, and will refer to the employee by their chosen name on all other written and verbal communication such as email, phone or email directory, name tag, company identification card, etc.
- In consultation with the employee and the Union, considering gender diversity and inclusion training for employees and management to help create a supportive environment.

(c) Human Resources roles and responsibilities

Members of human resources have additional responsibilities to create and maintain a workplace which is free from Harassment, Bullying, and Discrimination. This includes:

- Asking all new employees what pronouns they use, which will also be asked on written new employee paperwork. This practice shall be applied to everyone regardless of whether they may be cisgender or gender diverse.
- Maintaining a straightforward process for employees to update their names and pronouns as needed. Names and pronouns are kept in employee personnel files including basic information such as address updates, emergency contact updates, and other relevant personal information. When names and pronouns are updated, Human Resources or the appropriate manager will take prompt steps to ensure that all other workplace documentation reflects this updated information, including business cards, email address, name tags, and any other places where names and pronouns may be displayed.
- Respecting and protect the privacy of gender diverse employees. This means:
 - HR will maintain a confidential process for keeping track of legal names and chosen names when these are different. This paperwork will be shared with as few people as possible to minimize the risk of outing someone in the workplace. If a new employee must provide

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documents that may have a different name than their chosen name (for example, a criminal record check), these documents will not be shared with anyone who does not need to see them.

- Updating names and pronouns as required, and ensuring that gender diverse employees feel safe accessing the washroom and changeroom that best aligns with their gender identity.
- Providing clear information on time off for gender affirming care (including but not limited to healthcare) which may be covered by the employee's benefits plan. HR understands that some gender diverse people may require gender affirming healthcare, and such procedures are not considered "elective". HR will work collaboratively with employees and the appropriate union to provide accommodations as needed, and clear information about what kinds of gender affirming care are covered under the Township of Esquimalt's health benefits plan.

The Township may discipline any managers who fail to follow this Policy in accordance with section 6.

6. CONSEQUENCES/DISCIPLINE

Complaints that the Township finds to be substantiated will be addressed by attempting to remedy the harm caused and to prevent further harm. This may involve corrective and remedial action, including the provision of training, coaching, counseling, or other appropriate workplace intervention.

Where disciplinary action is warranted as a result of a substantiated or bad faith complaint, appropriate disciplinary action, up to and including termination of employment, will be taken by the Township.

If the alleged harassment, sexual harassment, bullying, or discrimination is from a vendor, contractor, citizen or other third party, the Township will take appropriate action in response.

If you have made a complaint but feel that the action taken in response has not remedied the situation, you may make an additional complaint following the complaint procedure outlined in this Policy.

7. RECORDS

All documentation and other evidence respecting any complaint or investigation under this Policy will only be disclosed in keeping with this Policy and to the extent

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necessary to carry out these procedures, and further subject to the *Freedom of Information and Protection of Privacy Act* (FIPPA) administered by the Head of Freedom of Information for the Township.

Where the investigation results in a finding that a complaint is substantiated, the outcome of the investigation and any applicable remedial, corrective, or disciplinary action will be recorded in the Township's records relating to the Respondent. The Township will inform the Complainant of the outcome of the investigation but not any remedial, corrective, or disciplinary action taken against the Respondent, if any is taken.

Where legal counsel for the Township conducts the investigation and is retained for the purpose of providing legal advice in respect of the investigation, the investigation report will be privileged and will be disclosed only to the Township.

For clarity, neither the Complainant nor the Respondent (nor any Bystander/witness in an investigation) will be entitled to a copy of an investigation report produced after a complaint investigation, regardless of who conducts the investigation.

The gender identity of an employee is considered confidential and should only be disclosed with the consent of the employee.

8. Training

Training for supervisors and workers will include the following:

- How to recognize bullying and harassment;
- How staff who experience or witness bullying and harassment should respond; and
- Procedures for reporting, and how the employer follows up with incidents or complaints of bullying and harassment.

Training will occur as required and will be included in new employee orientation.

9. OTHER REMEDIES

Although the Township will strive to resolve any respectful workplace issues using the processes outlined in this Policy, this Policy is in addition to and not in substitution of such rights as an individual may have under provincial human rights or workers compensation legislation.

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10. **REVIEW OF POLICY**

This Policy will be reviewed by the Township as required to ensure that the procedures meet the policy objectives.

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