

MUNICIPALITY OF THE COUNTY OF ANNAPOLIS POLICY AND ADMINISTRATION MANUAL		AM – 2.8.9
Section Employee Relations	Subject Respectful Workplace Policy	

1. APPLICATION

This policy applies to all employees of the Municipality of County of Annapolis, including all managers and bargaining unit employees. This policy does not apply to councillors, citizen appointees or contractors.

2. PURPOSE

The Municipality of the County of Annapolis is committed to a healthy, safe and supportive workplace and is committed to provide a work environment that values diversity and where all persons are treated with respect and dignity. Harassment, sexual harassment, and discrimination (referred to collectively as “offensive behaviour”) affect the workplace and the well-being of individuals in the workplace. Offensive behavior will not be tolerated in the workplace.

This policy seeks to:

- provide a work environment that is free from all forms of offensive behaviour;
- educate employees and create understanding as to what is considered offensive behaviour;
- provide a mechanism to have offensive behaviour addressed and eliminated from the workplace.

Whether the source of the offensive behaviour is from within or from outside, any allegation of offensive behaviour is serious and will be taken seriously. The County of Annapolis has an obligation to take appropriate action to protect their employees in the workplace and to put a stop to any offensive behaviour they are aware of, whether or not a complaint has been filed. Employees have an obligation to treat all persons with respect and dignity and are encouraged to take appropriate action to ensure offensive behaviour is not tolerated or condoned. Violations of the Respectful Workplace Policy will result in disciplinary action, up to and including termination of employment.

3. AUTHORITY

This policy is enacted pursuant to Sub-section 48 (3) of the *Municipal Government Act*, as amended.

4. DEFINITIONS

- (1) **COMPLAINT** - A written allegation of offensive behaviour.
- (2) **COMPLAINANT** - An employee who has brought forward or filed a complaint under this policy alleging that offensive behaviour has occurred.
- (3) **DISCRIMINATION** - Means discrimination as legislated under the *Nova Scotia Human Rights Act* (the “*Act*”). The *Act* defines discrimination as follows: a person discriminates where the person makes a distinction, whether intentional or not, based on age; race; colour; religion; creed; sex (gender, including pregnancy); sexual orientation; gender identity; gender expression; physical disability or mental disability; an irrational fear of contracting an illness or disease; ethnic, national or aboriginal origin; family status; marital status; source of income; political belief, affiliation or activity; association with another individual or class of individuals having characteristics named above, that has the effect of imposing burdens, obligations or disadvantages on an individual or a class of individuals not imposed upon others or which withholds or limits access to opportunities, benefits and advantages available to other individuals or classes of individuals in society.

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- (4) **EMPLOYEE** – Means any person directly employed by the County of Annapolis (excluding councillors, citizen appointees, volunteers and contractors).
- (5) **HARASSMENT** - Harassment refers to derogatory (e.g., condescending, insulting, belittling) or vexatious (e.g., aggressive, angry, antagonistic) conduct or comments that are known or ought reasonably to be known to be offensive or unwelcome. Harassment includes, but is not limited to, the following:
- (i) actions or comments that are directed at no person in particular but that create an intimidating, demeaning or offensive work environment;
 - (ii) any objectionable comment, act, or display that demeans, belittles, or causes personal humiliation or embarrassment, and any act of intimidation or threat;
 - (iii) conduct or comments that would amount to harassment involving any of the protected characteristics set out in the *Nova Scotia Human Rights Act*: age; race; colour; religion; creed; sex (gender, including pregnancy); sexual orientation; physical disability or mental disability; an irrational fear of contracting an illness or disease; ethnic, national or aboriginal origin; family status; marital status; source of income; political belief, affiliation or activity; association with another individual or class of individuals having characteristics named above.
- (6) **INVESTIGATOR** – A neutral individual(s) appointed by the Chief Administrative Officer to investigate, through fact finding, complaints of offensive behaviour.
- (7) **MEDIATION** - A voluntary process used to resolve conflict by having a neutral person help the parties to the dispute attempt to arrive at a mutually acceptable solution.
- (8) **OFFENSIVE BEHAVIOUR** - Means harassment, sexual harassment, or discrimination.
- (9) **“REASONABLY TO BE KNOWN”** - The “reasonably to be known” standard refers to an objective assessment of how a specific behaviour might generally be viewed by a reasonable person in roughly the same situation as the Complainant.
- (10) **RESPONDENT** - An employee against whom allegations of offensive behaviour are made.
- (11) **SEXUAL HARASSMENT** - Means sexual harassment as legislated under the *Nova Scotia Human Rights Act*. Sexual harassment includes comments, gestures or physical conduct of a sexual nature, or actions or comments with a sexual connotation or component that are directed at no person in particular but that create an intimidating, demeaning or offensive work environment, where an individual knows or ought to reasonably know that the behaviour is unwelcome and offensive. Examples of conduct that fall within the definition of sexual harassment are:
- inappropriate or derogatory comments, humour, insults or behaviour based on gender and/or sexual orientation;
 - inappropriate, lewd, or sexually offensive written, graphic or behavioural displays;
 - inappropriate conversation, physical touching, or leering that could be construed to be a sexual advance, particularly, but not limited to, where the individual making the sexual solicitation or advance is in a position to confer a benefit on, or deny a benefit to, the individual to whom the solicitation or advance is made;
 - any implied or expressed reward for complying with a sexually-oriented advance or request;
 - a reprisal or threat of reprisal against an individual for rejecting a sexual solicitation or advance.

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- (12) **THIRD PARTIES** - Persons who are engaged in work activities at a county workplace who are not direct employees of the county. They include, but are not limited to, volunteers, citizen appointees and contractors.
- (13) **WORKPLACE** - Any place occupied by an employee as part of their employment which includes, but is not limited to, county offices and sites, county-owned vehicles, work-related social gatherings, work-related functions or other locations where an employee is engaged in activity associated with their employment or conducting county business.
- (14) **WORKPLACE RESTORATION** - Promoting and/or restoring positive work environment and respectful workplace relationships.

5. POLICY PRINCIPLES

Creation of an environment that is free from offensive behaviour is achieved through awareness and training. Councillors, the Chief Administrative Officer, Directors and Managers shall lead by example and take reasonable measures to ensure a work environment that is free from offensive behaviour. If the Chief Administrative Officer is made aware of a violation of this policy, he / she is required to take action even in the absence of a complaint.

It is the intent of this policy to promote employee involvement in resolving situations as appropriate to the circumstance. The use of resolution options, including mediation, is encouraged at any stage of this policy. Resolution to a situation should be sought as soon as possible and must occur within 12 months of the offensive behaviour. In extenuating circumstances the Chief Administrative Officer may consider complaints beyond twelve (12) months. Nothing in this policy shall be deemed to restrict the authority of the Chief Administrative Officer, Directors, Managers or Supervisors in performance management, counselling, disciplinary action or other appropriate interactions between employees and their supervisors.

6. CONFIDENTIALITY

Subject to any limits or disclosure requirements imposed by law or required by this Policy, any and all information, oral and written, gathered, received or compiled through the course of a complaint is to be treated as confidential by the Employer, the Respondent and Complainant, their representatives, and witnesses. Where an Employee is named in a Complaint, the Complaint and the results of any investigation will only form part of the Employee’s personnel file if the complaint is substantiated.

7. ADVISORY SERVICES

Employment Assistance Program (EAP) Consultants shall be available to provide information and support to employees on a confidential basis. This service will be accessible to employees who need not identify themselves when requesting advice.

8. RESOLUTION OPTIONS

The following resolution options are available to all employees. Selection of any option does not supersede or eliminate the right of employees to:

- file a complaint with the Nova Scotia Human Rights Commission;
- report the incident to the Police where there is an indication that a criminal offence has been committed; and/or
- file a grievance, if the employee is a member of a bargaining unit.

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(1) Informal Resolution

Communicating concerns directly to the person

- Employees who believe they are experiencing offensive behaviour should keep a written record of the date, time, location, nature of the behaviour and names of any witnesses. This summary of events and circumstances should be prepared as soon as possible after the event so that accurate details are recorded for future reference.
- Employees who believe they are experiencing offensive behaviour may choose to speak directly with the person(s) and inform them that their behaviour is unwelcome and must stop.
- If done in person, the Employee may want to be accompanied by another person.
- The Employee should document any discussion with the person(s) concerned and keep a record of any written correspondence.
- A matter dealt with to the Employee's satisfaction is considered resolved.

Communicating concerns to Manager or Director

- Employees who believe they are experiencing offensive behaviour and who do not feel comfortable speaking directly with the person(s) regarding their behavior may choose to approach their Manager or Director, and ask for their assistance in resolving the situation.
- If the discussion is done in person, the Employee may find it helpful to be accompanied by another person.
- The Employee should document any discussion they have with the Manager or Director and keep a copy of any correspondence.
- Within ten (10) working days of being informed of the situation, the Manager or Director shall consider the Employee's concerns and take steps to resolve the situation in accordance with this policy. This may include requesting the Complainant to submit a written complaint to the Chief Administrative Officer.
- The Manager or Director may ask the Chief Administrative Officer for assistance in resolving the situation. This may include the Chief Administrative Officer intervening directly to mediate or investigate the matter, or the Chief Administrative Officer designating another employee to do so.
- An Employee has the option to submit a written complaint to the Chief Administrative Officer if the above resolution options are not effective in resolving the situation to the satisfaction of the Employee, or if the Employee prefers to file a written complaint immediately.

(2) Written Complaint

Filing a Complaint

- Employees who believe they are experiencing offensive behaviour may choose to submit a written complaint to the Chief Administrative Officer. Written complaints must be signed by the Complainant and delivered to the Chief Administrative Officer in an envelope marked "Personal & Confidential".

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- Upon receipt of the complaint, the Chief Administrative Officer will inform the Director of the service group(s) of the Complainant and the Respondent that a complaint has been filed and that the Chief Administrative Officer (or designate) will be conducting a preliminary investigation. The Director or Manager and the Respondent shall be provided with a copy of the complaint.
- Within ten (10) working days of the written complaint being received, the Chief Administrative Officer (or designate) shall review the complaint and if necessary, seeks additional information to determine whether the allegations, if proven, are offensive behaviour. At the discretion of the Chief Administrative Officer, this time period may be extended if required and reasonable according to the circumstances.
- If the Chief Administrative Officer determines that the allegations are well founded but do not constitute offensive behaviour, the Complainant, the Respondent, and the Director shall be so informed in writing by the Chief Administrative Officer. The Chief Administrative Officer may redirect the Complainant to other appropriate avenues of recourse or may suggest other means of resolving the situation.
- If the Chief Administrative Officer determines that the allegations are well founded and do constitute offensive behaviour, the option of mediation may be offered to the Complainant and the Respondent. Both parties must agree to the mediation in order for the process to begin.
- Within twenty (20) working days of initiating the mediation process, the Complainant and the Respondent will have resolved the situation or the mediation will be suspended. A report will be provided by the mediator to the Chief Administrative Officer indicating the results of the mediation.
- If mediation fails to resolve the situation, or the parties do not agree to mediation, or the Chief Administrative Officer determines that formal investigation is the more appropriate action to be taken, the Chief Administrative Officer will inform the Director, the Complainant, and the Respondent that an investigation will be conducted. The Chief Administrative Officer may carry out the investigation or assign an investigator(s).
- The Chief Administrative Officer will inform the Complainant and the Respondent that they have the option of being accompanied during the investigation interview by a union official (if a bargaining unit employee), a co-worker or other support person.

Formal Investigation

- The Investigator will interview the Complainant, the Respondent, and any witnesses, and will review all relevant documentation.
- The Investigator must complete the investigation and file a report of their findings to the Chief Administrative Officer within thirty (30) working days of being assigned the complaint for investigation.

Decision / Discipline

- Within ten (10) working days of receiving the Investigator's report, the Chief Administrative Officer on the basis of the Investigator's report will determine whether the Complaint is valid and what disciplinary action, if any, is to be taken up to and including termination.
- A letter shall be provided to the Complaint and the Respondent advising of the Chief Administrative Officer's decision in regard to resolving the Complaint.

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Withdrawal of Complaint

If at any time after filing a complaint, the Complainant wishes to abandon the complaint, he or she must communicate this in writing to the Chief Administrative Officer. However, depending on the circumstances, it may be necessary for the County to continue investigating the complaint. The Chief Administrative Officer will determine whether the investigation is to be continued.

9. RETALIATION

Retaliation against anyone who has reported offensive behaviour or participated in an investigation is prohibited. Retaliation shall result in disciplinary action, up to and including termination.

10. BAD FAITH COMPLAINTS

Complaints should be undertaken with great care because they may result in damage to the respondent's reputation and disruptions in the workplace. Complaints made which are frivolous, vexatious or in bad faith may result in disciplinary action, up to and including termination. No disciplinary action will be taken against a complainant who acts in good faith and exercises his or her rights under this Policy, even if the complaint cannot be verified or is not offensive behaviour pursuant to this Policy.

11. REPRESENTATION

During the interview process employees have the option of being accompanied by a union official (in the case of bargaining unit employees). Employees who are excluded from bargaining units may seek legal counsel. The cost of such legal representation will be borne by the employee.

12. TIME LINES

In most cases, the procedural steps will be completed within the time lines outlined above. However, at the request of any of the parties, the Chief Administrative Officer may agree to extend the time limits specified at any stage of the process. The Chief Administrative Officer will ensure that the appropriate parties are notified of any time limit extensions.

13. OFFENSIVE BEHAVIOUR BY EMPLOYEES TOWARD THIRD PARTIES OR CUSTOMERS

Though third parties and customers cannot access the complaint process described in the Policy, Managers are to ensure that their employees do not act offensively toward these parties. In addressing these situations Managers are expected to abide by the spirit of the Policy and ensure that where internal procedures exist to deal with the complaint they are followed.

14. ACCOUNTABILITY

Directors and Managers are responsible for:

- ensuring all employees are provided with an opportunity to attend respectful workplace training;
- being familiar with the requirements of this Policy and all other relevant policies and procedures;
- taking steps to create and maintain an environment free from offensive behaviour;
- setting a good example and maintaining a high standard of conduct in all dealings with others;

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- assisting the Chief Administrative Officer in determining appropriate disciplinary action;
- take action to address offensive behaviour, even if no complaint has been made;
- setting a positive example;
- taking action to protect employees and others from offensive behaviour;
- responding to allegations of offensive behaviour;
- maintaining confidentiality wherever possible.

Employees are responsible for:

- attending respectful workplace training;
- treating all persons with respect and dignity;
- intervening and/or reporting instances of offensive behaviour;
- co-operating fully with any and all investigations under this Policy.

The Director of Human Resources is responsible for:

- evaluating the effectiveness of this policy;
- educating employees about harassment and offensive behaviour;
- providing advice as required to the Chief Administrative Officer and Directors;
- providing policy advice to Municipal Council as authorized or requested by the Chief Administrative Officer;
- responding to employees and managers inquiries;
- providing referrals to EAP Advisory Services.

The Chief Administrative Officer is responsible for:

- reviewing and processing all written complaints;
- assigning mediators and / or investigators;
- providing advice or direction as required to Directors on workplace restoration actions.

Municipal Clerk’s Annotation for Official Policy Book	
I certify that this policy was adopted by Municipal Council as indicated below:	
<i>Seven (7) Day Notice</i>	<i>November 10, 2015</i>
<i>Council Approval</i>	<i>November 17, 2015</i>
 <u>Carolyn A. Young</u>	<u>November 17, 2011</u>
Municipal Clerk Date	
At <u>Annapolis Royal</u> Nova Scotia	