

Workplace Violence Policy and Procedure

1.0 Policy Statement

The City of Mount Pearl (the “City”) has zero tolerance for workplace violence and it is committed to providing a safe and violence-free work environment for its employees.

The City is dedicated to ensuring that employees are able to complete their duties in a respectful and safe environment, without fear of violence. As such, the City will not tolerate and is dedicated to preventing any instance of workplace violence.

All City employees have a shared responsibility to ensure that the workplace is a safe and welcoming place to work. In accordance with the City's Workplace Violence Policy, employees are responsible for reporting any instances of workplace violence, harassment or otherwise disrespectful behaviour whether or not they were directly or indirectly affected.

2.0 Scope

This Workplace Violence Policy (the “Policy”) applies to all employees, contractors, couriers, repairers, suppliers, customers and visitors or other third parties dealing with City employees or conducting business with the City. This Policy also covers workplace incidents occurring at, as well as, away from the workplace, during or outside normal working hours provided such acts are committed within the course of employment or which could reasonably be associated with employment related activities. These instances include but are not limited to social events, City functions, training sessions and seminars, provision of goods, services, facilities, accommodations and during work related travel.

3.0 Background

Every individual has a right to work, provide or access services free from actual, attempted or threatened violence. The City recognizes that workplace violence is a serious matter and takes every responsible precaution to prevent workplace violence. City employees are expected to uphold this policy and to work together to prevent workplace violence. Workplace violence in any form from anyone is unacceptable. Violent behaviour in the workplace perpetrated by any individual is not tolerated. Any City employee found to be engaged in violence is subject to discipline up to and including dismissal. Any individual from outside the City found to be engaged in violence is subject to being banned from City property, having the incident reported to police, or other corrective action as appropriate.

4.0 Purpose

To establish a City-wide policy for the City of Mount Pearl that outlines the guidelines to prevent violence towards its employees but at the same time implements corrective measures to deal rapidly and effectively with any violent incident that may occur. The purpose of this Policy is also to establish a clear account on how to report workplace violence, the rights of the complainant, the rights of the accused, and roles and responsibilities of all parties involved.

The Policy's purpose is to prevent and address workplace violence and to enforce a safe and violence-free workplace in compliance with the Newfoundland and Labrador *Occupational Health and Safety Act*.

5.0 Definitions

- A. **Violence**: attempted or actual exercise of physical force to cause injury to an employee and includes threatening statements or behaviour which gives an employee reason to believe the employee is at risk of injury.
- B. **Workplace Violence**: Violence in the workplace or occurring in the course of an employee performing their duties. It includes any act in which an employee is abused, threatened, intimidated, or assaulted in their employment by another City employee or another person, or otherwise believes they are at risk of injury.
- C. **Behaviors that constitute potential violence**: Including but are not limited to bullying, teasing, and threatening statements, abuse (physical or psychological), as well as other aggressive behaviours towards an individual and the personal property.
- D. **Family Violence**: has the same meaning as in section 3 of the Newfoundland and Labrador *Violence Prevention Act*.
- E. **Complainant**: An employee who believes that they have been subjected to conduct that constitutes an instance of workplace violence under the definitions of the City's Workplace Violence Policy and files a verbal and/or written accusation or brings a formal charge or complaint against City employees, outside contractors, suppliers, couriers, repairers, customers and visitors or other third parties dealing with City employees.
- F. **Accused Aggressor**: A person against whom an action or complaint is brought against for potentially violating the City's Workplace Violation Policy.
- G. **Mediation**: A method of resolving the perceived violation of City's Workplace Violence Policy between City employees, outside contractors, suppliers, couriers, repairers, customers and visitors or other third parties dealing with the City's employees. This process involves a third-party person who attempts to reconcile the matter between the Complainant and the Accused Aggressor in an informal, unbiased and expeditious manner.

6.0 Responsibilities

All employees, independent contractors, consultants and visitors are responsible for complying with this policy and for avoiding conduct that may constitute workplace violence of any nature. Non-compliance will result in remedial action by the City.

A. Employees are responsible to:

- Refrain from behaving in a manner that could be considered workplace violence.
- Report immediately any instances of workplace violence involving themselves other City employees or external individuals.
- Offer support to victims of workplace violence.
- Offer to be a witness for an employee at an instance where workplace violence occurred;
- Be knowledgeable about this policy and the types of behaviour that constitute workplace violence.

B. Managers/Supervisors are responsible to:

- Act immediately on observations or allegations of workplace violence.
- Create a working environment that is free of workplace violence.
- Address inappropriate behaviour immediately and effectively.
- Review the Investigator's report and decide on the appropriate action to be taken.
- Advise their employee of the outcome of the Complaint and Investigator's report.
- Managers and supervisors who fail to fulfill their obligations under this policy may be subject to disciplinary action.

C. Director of Corporate Services is responsible to:

- Give full consideration and attention to the Complaint of Workplace Violence.
- Ensure there is a climate of understanding, mutual respect and the recognition of the rights for the Claimant and the Accused Aggressor.
- Uphold the spirit or intent of human rights law, or other applicable legislation.
- Manage the entire process and ensure the timelines are met or exceeded.
- If agreed to and the situation was non-violent, hold a voluntary Mediation session.
- Assign an Investigator and provide written instructions as to the requirement to conduct the investigation within the required timeline.
- Brief and provide the Managers of Complainant and Accused Aggressor the Investigator's Report and Findings.
- Brief and provide the CAO with the Investigator's Report and Findings and the Director's decisions and actions/discipline.
- Maintain confidentiality throughout the process and ensure all material is secured.

The Director of Corporate Services' failure to fulfill the obligations under this provision may be subject to disciplinary action.

D. Chief Administrative Officer and/or designate are responsible to:

- Immediately investigate workplace violence complaints upon notification from Director of Corporate Services.
- Conduct a fair and unbiased investigation to determine, based upon evidence and findings, whether allegations of workplace violence are or are not proven on the balance of probabilities.

- Render the final decision on behalf of the City.
- Review and audit the Workplace Violence Policy to assess the policy's effectiveness and identify areas of improvement.
- Discourage and prevent workplace violence in the workplace.
- Impose strict disciplinary measures, regardless of the harasser's position with the City.
- Provide advice and support to victims of workplace violence.
- Support and assist an employee who suffered workplace violence by someone other than an employee of the City.
- The CAO's failure to fulfill their obligations under this policy may be subject to disciplinary action.

7.0 Reporting Workplace Violence

Employees are required to report potential or actual incidents or threats of workplace violence to Human Resources and/or their supervisor immediately, after going to a safe location and calling emergency services, if necessary. Any employee who reports an incident, or acts as a witness in good faith, will be protected from reprisal, the threat of reprisal, and/or further violence to the extent possible.

8.0 Workplace Violence Process and Procedures

This procedure provides guidelines to address complaints of workplace violence in a fair and equitable manner, respecting the rights, dignity and needs of Complainant and Accused Aggressor.

A summary of the steps to follow once the employee believes they have been subjected to Workplace Violence:

- A. Initial meeting with Director of Corporate Services and Human Resources Manager.
- B. No Resolution after initial meeting.
- C. Director of Corporate Services offers Mediation.
- D. Formal Investigation Commences.
- E. Complainant's and Accused Manager Informed of the Investigation.
- F. Complainant's and Accused Manager Informed of the Investigation's Findings.
- G. Chief Administrative Officer renders a decision on Appeal, if applicable.

5.1 Violent Incident Procedure

The first and foremost priority is to ensure the safety and health of the person receiving the violence. This may include local First Aid or treatment at a local hospital.

A. Well Being of Employee

i. Director of Corporate Services

1. Upon notification of the incident immediately notify the CAO and the respective Department Managers.
2. Commence the investigation.
3. Ensure the Accused Aggressor is immediately suspended with pay until the completion of the formal investigation.
4. Follow up on the condition of the Victim.

ii. Manager of Victim

1. Responsible for the safety of their employee and ensure they receive immediate medical attention, if required.
2. Keep the CAO and Director of Corporate Services up to date on the health status of the Victim.
3. Inform the CAO and Director of Corporate Services when the victim is medically cleared to return to work.

iii. Manager of Accused Aggressor

1. Immediately remove the Accused Aggressor from the workplace/scene of the violent attack.
2. Immediately inform the Accused Aggressor they are suspended with pay, pending the outcome of the investigation.
3. Provides the outcome of the Investigation to the Accused Aggressor.
4. Implement the necessary discipline.

iv. Chief Administrative Officer

1. Ensure the victim (employee) is safe and receiving medical treatment, if required.
2. Follow up with Director of Corporate Services on the condition of the victim (employee).
3. Rule on any appeals.

B. Formal Investigation Commences:

- i. Director of Corporate Services commences the investigation upon receiving notification of the workplace violence incident. The investigation is deemed to be a formal investigation.
- ii. Director of Corporate Services is responsible for the Investigation. They will immediately appoint an Investigator, be it him/herself, an internal senior manager or an external resource, upon receipt of the workplace violent incident.
- iii. The investigator(s) will interview the complainant, the Accused Aggressor, witnesses or any other person deemed necessary to conduct the investigation. The investigator(s) has the power to interview witnesses, take written statements and review documentation. The investigator(s) will submit a report to the designated Director of Corporate Services representative. The report shall summarize the investigation and the recommended disciplinary action to be taken. The investigator(s) is encouraged to complete the investigation as soon as possible but no later than 14 calendar days from being notified of the workplace violence incident.
- iv. The Investigator meets with the Complainant to obtain verbal or written statement of the incident(s); written format is preferred. In the event the Complainant is unable to file a report the Investigator will rely on the information available from the City.

- v. The Investigator meets with the Accused Aggressor to officially inform the Accused Aggressor that a workplace violence complaint has been received by Director of Corporate Services and he/she is the accused aggressor.
- vi. The Investigator provides a copy of the complaint to the Accused Aggressor and asks for the Accused Aggressor to review and provide their own written response, on the Appendix B form and recollection of the alleged workplace violence (Complaint).
- vii. The Complainant and the Accused Aggressor will have an opportunity to meet with the Investigator separately to provide details of the alleged incident(s). The Complainant and the Accused Aggressor will also have an opportunity to respond to particulars that are raised through the various interviews with witnesses, etc. throughout the investigative process. The Complainant and the Accused Aggressor will be kept informed of the progress of the investigation.
- viii. All information obtained from the interviews will remain as confidential as possible. Participants in the investigation will be encouraged to refrain from discussing the details of the investigation or their knowledge of the alleged incident(s) with anyone other than the Investigator
- ix. Individuals who were interviewed during the process of the investigation are entitled only to the documentation related to information they have provided, or information provided by others that refers specifically to them. Witnesses will be encouraged to refrain from discussing the details of the investigation or their knowledge of the alleged incident(s) with anyone other than the Investigator.
- x. Once the Complainant, Accused Aggressor and witnesses have been interviewed, an investigative report will be prepared by the Investigator and forwarded to the Director of Corporate Services department. The report will contain:
 - a. An Executive Summary consisting of:
 - Complainant's allegation(s)
 - Accused Aggressor response - defense(s)
 - Witnesses interviewed
 - Documents reviewed
 - Physical evidence reviewed (if applicable)
 - Medical Reports
 - b. An Overview of the Results consisting of:
 - Allegations
 - Evidence
 - Analysis
 - Conclusions
 - c. Summary of Findings

C. Complainant's and Accused Aggressor's Manager Informed of the Investigation

Upon receipt of the formal complaint, Director of Corporate Services will contact the Complainant and Accused Aggressor's Manager(s) and notify him or her that a formal complaint has been received and will discuss any accommodation that may be required for the employee(s) because of the complaint being filed.

D. Complainant's and Accused Aggressor's Manager Informed of the Investigation's Findings

The Manager of the Complainant and Accused Aggressor meet to review the findings/recommendations of the Investigator's report. Once the Manager's agree they meet separately with their own employee to advise the employee of the findings.

If the results of the investigation support the allegations in the complaint, the Accused Aggressor may be subject to disciplinary action. Taking into consideration the nature and impact of the violation, the range of disciplinary action may include but not be limited to, a verbal or written reprimand, suspension (with or without pay), or termination of employment (with or without notice) or termination of contract.

E. False Claim

If the results of the investigation do not support the allegations in the complaint, all records of the complaint investigation will be retained in a secure file with Director of Corporate Services and access will be restricted to those individuals who require the record to perform the necessary and proper duties and responsibilities of the Company or if required by law.

If the results of the investigation indicate that the Complainant knowingly and willfully made false allegations, the Complainant may be subject to disciplinary action up to and including termination of employment. However, malicious or frivolous complaints do not necessarily refer to complaints where an allegation is not proven.

F. Discipline

When a complaint of workplace violence is substantiated, disciplinary action will be taken against the accused aggressor. The penalty will be determined by the degree of the Policy/Procedure violation and guided by precedent.

The range of penalties includes: verbal reprimand or warning for less serious violations to suspension without pay or termination for serious violations. In addition, an apology, education, training, counseling, transfer and demotion are examples of the discipline, which could be imposed.

G. Appeal

Complainants and Accused Aggressor who are not satisfied with the outcome of the investigation process may address their concerns and request a review of the findings to the Chief Administrative Officer within ten (10) working days upon being notified of the report, its findings and the action/discipline being invoked.

H. Chief Administrative Officer renders a decision on Appeal

The CAO will review the matter and make a final determination, which will be binding on all the parties. The CAO shall have the power to consult with external experts in Workplace Violence, examine additional information and interview the complainant, accused aggressor and any witnesses deemed necessary to review the complaint. The CAO shall render a written decision within 21 days of the matter being referred.

Copies of the decision will be forwarded to the complainant, the accused aggressor, Director of Corporate Services and any other parties affected by the matter.

5.2 Specific Instances

A. Chief Administrative Officer is accused of violating Workplace Violence Procedure

If the Chief Administrative Officer is accused of violating the City's Workplace Violence Policy, the matter will be referred to the Mayor.

The Mayor will immediately commence an investigation by contracting the investigation to an outside source who specializes in Workplace Violence investigations. The Mayor will evaluate each case and determine if the CAO remains in the workplace during the investigation. City Council will review the report and recommendations from the external investigator and render a decision in a timely manner.

Council's decision is final. The CAO if wanting to appeal can use outside agencies such as Grievance and Arbitration Organizations.

B. Respondent (Accused) is External to City of Mount Pearl

There may be occasions where a City employee, Councillor files a violence complaint against a person outside of the organization; such as a visitor to the office. The investigation will be handled by the City in the best interest of the employee or Councillor.

C. Complainant is External to the City of Mount Pearl

In the event a City employee or Councillor has a charge of workplace violence filed against them by a person external to the City in regard to the event associated with the employee or Councillor's duties and responsibilities, the City will immediately commence an investigation by contracting the investigation to an outside source who specializes in Workplace Violence investigations.

D. Family Violence

Where the City becomes aware that family violence that would likely expose a City employee to physical injury may occur in the workplace, the City shall take every precaution reasonable in the circumstances for the protection of the City employee.