

Bullying, Harassment and Discrimination Policy

Department:	<u>CAO</u>	Policy No.:	<u>PER-006</u>
Sub-department:	<u></u>	Created By:	<u>Original Unknown</u>
Approved By:	<u>Council</u>	Amended By:	<u>Emily White</u>
Approved Date:	<u>2001</u>	Amendment:	<u>3</u>
Amendment			
Approved Date:	<u>July 12, 2022</u>		

POLICY PURPOSE

The Village of Pemberton (the Village) is committed to maintaining a healthy work environment that respects and supports the dignity, safety and wellbeing of all employees. The purpose of this Policy is to outline the procedures for preventing, reporting, investigating and resolving complaints of Bullying, Harassment and Discrimination.

Employees maintain, at any time, the right to seek legal advice and to pursue any other available remedy to address an incident, such as filing a complaint with the police or the Human Rights Commission.

Council and Management will review this policy on an annual basis and reserve the right to make amendments from time to time.

SCOPE

This Policy applies to anyone an employee may come into contact with over course of, or as a result of, their employment, including other employees, council members, members of the public, contractors, subcontractors, consultants and volunteers. This Policy applies to all Village worksites and communication channels. It also applies at all employment-related functions which occur during or outside working hours.

REFERENCES

- BC Human Rights Code
- Workers Compensation Act (the Act)
- Work Safe BC
- Village of Pemberton Code of Conduct (as amended from time to time)

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- Village of Pemberton Social Media Policy (as amended from time to time)

DEFINITIONS

Bullying and Harassment includes any inappropriate conduct or comment, be it verbal or written (including via social media or other electronic means), that a person knew or reasonably ought to have known would cause humiliation or intimidation, or any other form of unwelcome verbal or physical behaviour which by a reasonable standard would be expected to cause insecurity, discomfort, offence or humiliation, and/or has the purpose or effect of interfering with an employee's work performance or creating an intimidating, hostile or offensive work environment.

Bullying and Harassment includes, but is not limited to:

- Physical assault;
- Verbal aggression, yelling, insults, threatening behaviour or intimidation;
- Humiliating or degrading actions, gestures, practical jokes or practices designed to ridicule, insult or deplete;
- Using derogatory names towards someone;
- Targeted social isolation;
- Hazing or initiation practices;
- Vandalizing personal belongings;
- Sabotaging someone's work;
- Social undermining;
- Spreading malicious gossip or rumours or other conduct which adversely affects working conditions or work performance;
- Persistent rudeness, taunting and patronizing behaviour.

Bullying and Harassment **does not include** any reasonable action taken by or on behalf of the Village relating to the operational management and direction of Employees or the place of employment, this includes:

- Expressing differences of opinion;
- Normal workplace conflict;

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- Unintentional incivility or plain rudeness;
- Offering constructive feedback, guidance or advice about work-related behaviour and performance;
- Normal exercise of managerial or supervisory responsibilities, including performance reviews, direction, coaching and disciplinary action where necessary, provided they are conducted in a respectful, professional manner in accordance with Village policies;
- Welcomed social interactions, jokes and bantering which are mutually acceptable and workplace-appropriate, provided that the interactions are respectful and there is no negative impact for others in the workplace;
- Disagreement, misunderstanding, miscommunication and/or conflict situations, provided that the behaviour of the individuals involved remains professional and respectful;
- Making a legitimate complaint about someone’s behaviour through established procedures

Discrimination refers to negative treatment based upon a personal characteristic including; age, ancestry, colour, family status, gender identity or expression, indigenous identity, marital status, mental disability, physical disability, place of origin, political belief, race, religion, sex, sexual orientation or a criminal conviction unrelated to the person’s employment.

POLICY

Bullying, Harassment or Discrimination of any kind is unacceptable and will not be tolerated by the Village of Pemberton. Bullying, Harassment or Discrimination, retaliation against any person for reporting said behaviours, false allegation of the above behaviours or interference in a complaint will be treated seriously, and may result in discipline up to and including dismissal. Management and Employees have the following responsibilities in cooperation with this Policy:

Council and Management will:

- Take steps to prevent where possible, or otherwise minimize, Bullying, Harassment and Discrimination;

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- Ensure all parties responsible for conducting investigations are trained and qualified;
- Maintain the confidentiality of any information received during the course of a complaint or investigation process under this Policy;
- Not engage in retaliation against any individual who files a complaint or participates in an investigation under this Policy;
- Review this Policy and the procedures set out herein on a proactive basis, adding any additional prohibited behaviours as identified and;
- Review this Policy on an annual basis.

Management will:

- Make all Employees aware of this Policy, the procedures set out herein, the Policy purpose and the steps being taken by the Village to prevent where possible, or otherwise minimize, incidents of Bullying, Harassment or Discrimination;
- Provide training to Employees to help them fulfill their responsibilities under this Policy;

Employees will:

- Avoid engaging in any conduct that constitutes Bullying, Harassment or Discrimination;
- Report Bullying, Harassment or Discriminatory behaviour if observed or experienced;
- Cooperate with all aspects of the investigation process;
- Maintain the confidentiality of any information received during the course of a complaint or investigation process under this Policy;
- Not engage in retaliation against any individual who files a complaint or participates in an investigation under this Policy, and;
- Apply and comply with this Policy and the procedures set out herein.

PROCEDURE

Informal Resolution

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An individual who believes that they are experiencing or observing Bullying, Harassment or Discrimination in line with this policy may:

- If comfortable doing so, inform the individual/s that their conduct is unwelcome and contrary to this Policy, and request that they cease the offending behaviour immediately;
- If the conversation does not result in a satisfactory resolution or if the individual does not wish to speak to the other person directly or is unable to speak to the other person directly, contact the Chief Administrative Officer (CAO)* for assistance in discussing concerns with the other person;
- Review with the CAO the option of mediation between the two parties by the CAO or other neutral party as designated by the CAO.

* Where the complaint is directed against the CAO, the individual will consult the Mayor for assistance.

The informal complaint resolution process outlined above is not mandatory.

Formal Complaint Resolution

If a complaint is not resolved informally, the individual who believes they have experienced Bullying, Harassment or Discrimination (the Complainant) may wish to make a formal complaint.

The Complainant will submit the complaint in writing to the CAO or, where the CAO is named in the complaint, to the Mayor. Unless exceptional circumstances exist, a formal complaint must be brought within six (6) months of the most recent incident alleged to constitute Bullying, Harassment or Discrimination.

All complaints will be taken seriously, and will be dealt with fairly and promptly, using the investigation process set out below in this Policy.

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Investigation Process

If the subject matter of a complaint fits within the definition of Bullying, Harassment or Discrimination it will be investigated. Should the complaint not fit the definition of Bullying, Harassment or Discrimination, the Complainant will be notified accordingly.

Investigations will be unbiased, thorough, complete, and conducted in as expedient a manner as practicable upon receipt of the formal complaint, but no longer than three (3) months from the time of submitting the formal complaint. Where appropriate, the CAO or Mayor can appoint a designate which can be either a member of staff or an external third party to conduct or support the investigation.

For the purposes of the investigation, formal complaints cannot be pursued anonymously; the identity of the Complainant and the nature of the complaint shall be made known to the individual/s alleged to have engaged in Bullying, Harassment or Discrimination (the Respondent/s). The Respondent/s shall be provided the opportunity to explain their behaviour and to have such explanations properly considered in the investigation process.

Investigations will involve reviewing all relevant documentation and conducting in-person interviews with the Complainant, the Respondent/s, and any other applicable witnesses. Statements provided during interviews will be documented.

All documentation considered during, and resulting from, the investigation of a complaint will be treated as strictly confidential for the purposes of any applications made under *the Freedom of Information and Protection of Privacy Act*.

The Investigator will submit a report to the CAO or as appropriate, Council, with conclusions as to whether the evidence supports or does not support the allegations of Bullying, Harassment or Discrimination and, if applicable, recommendations for a remedy or resolution. The report will remain strictly confidential, and the parties will be provided with a summary of the findings in the report by the CAO or their designate.

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Remedies

Where a finding of Bullying, Harassment or Discrimination is made following an investigation, the Village will, as soon as is reasonably practicable, take appropriate remedial or disciplinary action against the individual/s who violated the Policy. This action may include education and training, modification of policies/procedures, or disciplinary action up to and including dismissal with just cause. A copy of the complaint and the outcome of the investigation, including any action to be taken, will be filed in the Respondent’s personnel file where applicable. Where the investigation results in a finding that the complaint of Bullying, Harassment or Discrimination has not been proven, no record of the complaint shall be kept in the Respondent’s personnel file.

The parties to the complaint will be informed of the outcome of the investigation and, where appropriate, the nature of any remedial or disciplinary action.

The Village will keep a written record of investigations as part of their due diligence as an organization. If the complaint was deemed to be unfounded, the investigation will not be referred to in any future complaints against the Respondent/s. Subject to disclosure which is required by law or is necessary to investigate or resolve a complaint, the Village will make every effort to keep confidential any information pertaining to the complaint.

In the instance a Respondent of the complaint is not a Village employee, alternative remedies will be implemented where appropriate and possible to do so.

Malicious Complaints

If a complaint is demonstrated to have been brought for frivolous or malicious purposes with the intent to cause harm, appropriate disciplinary action may be taken against the Complainant. A complaint that is simply unsubstantiated or that has been brought in error, but was made in good faith, is not considered a malicious complaint.

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Withdrawal of Complaint

At any time during the investigation, the Complainant may choose to withdraw their complaint without penalty so long as the complaint was filed in good faith.

Notwithstanding this right, if in the opinion of the CAO (or their designate), the circumstances warrant the continuation of the complaint process, they may do so unilaterally.