



Provincial Employment Standards
CONSULTING Inc.

Harassment

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The attached documents have been prepared for the **Rural Municipality of Baildon No. 131 (hereinafter R.M. of Baildon)** located at Suite 1 – 1410 Caribou Street West, Moose Jaw, Saskatchewan.

Table of Contents

1. APPLICATION
2. POLICY STATEMENT
3. DEFINITIONS
4. PROCEDURES
 - 4.1. Informal Procedure
 - 4.2. Formal Procedure
5. COMPLAINT OPTIONS
 - 5.1. Complaints to the Saskatchewan Human Rights Commission (SHRC)
 - 5.2. Complaints under the Criminal Code
 - 5.3. Complaints to Occupational Health and Safety (OH&S)
6. RIGHTS AND RESPONSIBILITIES
 - 6.1. A Shared Responsibility
 - 6.2. Owners and Managers
 - 6.3. Complainant
 - 6.4. Respondent
 - 6.5. Witnesses
 - 6.6. Investigator

Business Identification and Legal Entity Information documents verified by:

ISC Client Other

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1. Application

This policy applies to all personnel including casual employees of the **R.M. of Baildon**. Where applicable, this policy also applies to volunteers, staff members, contractors, fee for service individuals and clients.

2. Policy Statement

As an employer, the **R.M. of Baildon** is committed to providing a work environment in which all individuals are treated with respect and dignity. It is the employer's responsibility to prevent and eliminate harassment in the workplace.

Harassment in the workplace is a form of discrimination. It is unwelcome and unwanted. It affects the individual's ability to learn and work. It can also be an expression of abuse of power, authority or control and is coercive in nature.

The **R.M. of Baildon** is responsible to take appropriate preventive or corrective action and to put a stop to any harassment they are aware of whether or not a complaint is filed. Failure to take appropriate action may result in civil action against the **R.M. of Baildon** and complaints to the Saskatchewan Human Rights Commission (SHRC) and/or Employment Standards.

Harassment in the workplace will not be tolerated and the **R.M. of Baildon** must take appropriate action to protect employees and others in the workplace. Harassment in the workplace constitutes a disciplinary infraction and shall be dealt with appropriately. The abuse of one's authority or position to intimidate, coerce or harass is forbidden. The **R.M. of Baildon** is responsible for their employees' work environment.

This policy is not intended to limit or constrain the employer's right to manage. Performance reviews, work evaluation and disciplinary measures taken by the employer for any valid reason do not constitute harassment in the workplace. This policy delineates some unacceptable behavior but does not modify any other rights or obligations.

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3. **Definitions**

For the purposes of this policy, harassment in the workplace includes personal and sexual harassment, poisoned work environment and abuse of authority.

Personal Harassment

Personal harassment means any objectionable or offensive behaviour that is known or ought reasonably to be known to be unwelcome. It includes objectionable conduct, comment or display made on either a one-time or continuous basis that demeans, belittles or causes personal humiliation or embarrassment. Without limiting the above, personal harassment includes harassment within the meaning of The Saskatchewan Human Rights Code (i.e. harassment on the basis of the following prohibited grounds of discrimination: race, colour, religion, national origin, ancestry, place of origin, age, physical disability, mental disability, marital status, sexual orientation or sex).

Sexual Harassment

Sexual harassment means any conduct, comment, gesture or contact of a sexual nature whether on a one-time basis or a series of incidents that:

- a) might reasonably be expected to cause offence or humiliation; or,
- b) might reasonably be perceived as placing a condition of a sexual nature on employment, an opportunity for training, promotion, receipt of services or a contract.

Examples of behaviour that can constitute sexual harassment include but are not limited to:

- unwanted touching, patting or leering
- sexual assault
- inquiries or comments about a person's sex life
- telephone calls with sexual overtones
- gender-based insults or jokes causing embarrassment or humiliation
- repeated unwanted social or sexual invitations
- inappropriate or unwelcome focus/comments on a person's physical attributes or appearance

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Poisoned Work Environment

A poisoned work environment is characterized by an activity or behaviour not necessarily directed at anyone in particular that creates a hostile or offensive workplace. Examples of a poisoned work environment include but are not limited to:

- graffiti
- sexual, racial, religious insults or jokes
- abusive treatment of an employee
- the display of pornographic or other offensive material

Abuse of Authority

Harassment also includes abuse of authority where an individual improperly uses the power and authority inherent in a position to endanger a person's job, undermine the performance of that job, threaten the person's economic livelihood or in any way interfere with or influence a person's career. It is the exercise of authority in a manner which serves no legitimate work purpose and ought reasonably to be known to be inappropriate. Examples of abuse of authority include but are not limited to acts or misuse of power such as:

- intimidation
- threats
- blackmail
- coercion

Workplace

The workplace includes but is not limited to the physical work site, washrooms, cafeterias, training sessions, business travel, conferences, work related social gatherings, the employee or client's home or worksite, etc.

Complainant

The complainant is the person who alleges that she/he has been harassed by the respondent.

Respondent

The respondent is the person who is alleged to have harassed the complainant.

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Parties

The parties to the complaint mean the complainant, respondent and witnesses.

Saskatchewan Employment Act

Pursuant to *The Saskatchewan Employment Act*, harassment means any inappropriate conduct, comment, display, action or gesture by a person that constitutes a threat or safety of the worker, and is either:

- based on race, creed, religion, colour, sex, sexual orientation, marital status, family status, disability, physical size or weight, age, nationality, ancestry or place of origin; or
- adversely affects the worker's psychological or physical well-being and that the person knows or ought reasonably to know would cause a worker to be humiliated or intimidated (sometimes referred to as personal harassment).

Personal harassment must involve repeated occurrences, however, a single serious incident may also constitute harassment if it is shown to have a lasting harmful effect on a worker. It does not include any reasonable action taken relating to the management of the place of employment.

Sexual harassment, which is conduct, comment, gesture or contact of a sexual nature that is offensive, unsolicited or unwelcome, is also prohibited.

4. Procedures

Upon becoming aware of any incident which may fall under the definition of harassment, nothing precludes the **R.M. of Baildon** from foregoing the procedure under this policy and taking appropriate action which may include invoking the normal disciplinary procedure.

4.1. Informal Procedure

Complainants and respondents must use the informal complaint procedure to attempt to resolve workplace harassment unless it is inappropriate to do so.

An effective way to end the problem of harassment in the workplace is for the complainant to communicate concerns directly by telling the person that the behaviour is unwelcome and must stop.

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Alternatively, the complainant may request the assistance of his or her supervisor in the informal resolution of a workplace harassment complaint. If the communication is done orally, the complainant should have a supervisor present. If done in writing, the complainant shall provide a copy to his or her supervisor and keep a copy of the letter for himself/herself. The supervisor may help with other methods of informal resolution such as discussion and mediation to assist the parties in voluntarily reaching an acceptable solution.

When the facts are not in dispute and it is determined by the supervisor that the respondent or any other person has committed an act or acts constituting harassment, the employer shall take appropriate action up to and including dismissal. Nothing in the informal procedure prevents the employer from recommending the matter be investigated or, if the informal complaint procedure is not successful, other appropriate action.

4.2. **Formal Procedure**

Where appropriate, the complainant may choose to file a formal complaint. The employer is committed to responding to all complaints; however, it is at management's discretion whether or not to investigate a complaint if it is not filed within one year of the alleged circumstance leading to the complaint unless:

- there is a strong factual and legal case;
- there is evidence of substantial loss or damage to the complainant and a clearly identifiable remedy;
- there are justifiable reasons beyond the complainant's control for not filing the complaint within the one-year limitation; and,
- the respondent will not be unduly prejudiced by the extension.

A formal complaint must be written and signed and should give an accurate account of the incident or incidents of harassment including times, places and parties involved. When completed, the complaint shall be submitted to the employer.

If the complainant deems it inappropriate to file a complaint with a particular supervisor, a complaint may be filed with the Reeve and Council. The Reeve and Council shall

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investigate or appoint an investigator to ensure the complaint is dealt with in a confidential and expeditious manner. When there is a direct reporting relationship between the complainant and the respondent, it may be in the best interest of all parties for them to be physically and hierarchically removed from one another for the period of the investigation. If there is no reporting relationship, the Reeve and Council shall determine if the parties should be physically removed from one another for the period of the investigation.

The Reeve and Council may, upon reviewing the written complaint and interviewing the complainant, determine whether or not the complainant has a prima facie complaint under this policy which merits further investigation. The Reeve and Council shall inform the complainant whether or not the investigation will be pursued and may take action to resolve the issue. The respondent shall be informed of the complaint, presented with a written statement of allegations and afforded an opportunity to respond.

Unless directed otherwise, an appointed investigator shall gather and analyze the information, summarize the findings and may propose corrective action or make recommendations. The investigator shall report the findings and recommendations to the Reeve and Council who shall determine whether the respondent has committed an act or acts constituting harassment.

Where it is determined that the respondent has committed an act or acts of harassment, the Reeve and Council shall take appropriate action up to and including dismissal or may take any other action deemed appropriate.

A complaint under this policy that involves falsehood or malicious intent or is otherwise made in bad faith, as determined by the investigation, shall be subject to appropriate disciplinary action.

The parties to the complaint must be informed of the outcome in writing.

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5. Complaint Options

5.1. Complaints to the Saskatchewan Human Rights Commission (SHRC)

Complaints should normally be filed within one year from the time the harassment occurred. Complaints are investigated by the SHRC. For more information call the SHRC.

5.2. Complaints under the Criminal Code

Sexual and other forms of assault are covered under the Criminal Code. In these instances, the police may be asked to lay criminal charges. Sexual and other forms of assault are serious criminal offenses that should be reported to the police.

5.3. Complaints to Occupational Health and Safety (OH&S)

The complainant has the right to request assistance from an Occupational Health and Safety officer to resolve a complaint of harassment. For more information call OH&S.

6. Rights and Responsibilities

6.1. A Shared Responsibility

While all employees share responsibility for understanding and preventing harassment in the workplace, it is important to recognize that management and ownership carry more responsibility than employees.

6.2. Elected Officials and Managers

The elected Officials and managers are responsible for the implementation and administration of this policy. They shall:

- appoint an investigator as soon as possible;
- consult with the investigator to set a reasonable time frame for the completion of the investigation;
- review the findings and recommendations;
- determine the outcome and the appropriate action to be taken; and,

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- ensure the parties are informed of the outcome in a timely fashion.

Those who have authority to prevent or discourage harassment may be held accountable for failing to do so. This accountability extends to anyone in a management or supervisory position. The **R.M. of Baidon** is also responsible for ensuring that the rights of all the parties involved in a harassment incident are protected. Fair and equitable procedures must be ensured for all parties.

6.3. **Complainant**

The complainant has the right to:

- make a complaint and obtain a review of the complaint;
- be accompanied by a person of their choice during the interview; and,
- not be subject to retaliation for the reason of having made a complaint under this policy.

It is the responsibility of the complainant to:

- immediately make known, if possible, their disapproval or unease to the respondent;
- follow all procedures under this policy;
- cooperate with all those responsible for dealing with the investigation of the complaint; and,
- maintain confidentiality.

6.4. **Respondent**

The respondent has the right to:

- be informed that a complaint has been filed;
- be presented with a written statement of allegations and be afforded an opportunity to respond to them; and,
- be accompanied by a person of their choice during their interview.

It is the responsibility of the respondent to:

- follow all procedures under this policy;
- cooperate with all those responsible for dealing with the investigation of the complaint; and,
- maintain confidentiality.

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6.5. **Witnesses**

Witnesses have the right to not be subject to retaliation because he or she has participated as a witness.

It is the responsibility of the witness to:

- meet with the investigator and cooperate with all those responsible for the investigation of the complaint; and,
- maintain confidentiality with respect to the investigation.

6.6. **Investigator**

The investigator shall:

- ensure the respondent has received a written statement of the allegations;
- ensure all parties involved have been informed of their rights and responsibilities;
- interview the parties concerned and any witnesses;
- collect all pertinent evidence;
- use a mediation process where appropriate;
- prepare a report; and,
- ensure the investigation is completed in a timely fashion taking into account particular circumstances (usually up to three months).

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