

**THE CORPORATION OF THE CITY OF WINDSOR
POLICY**

		Policy No.:	HRHSPRO-00026(a)
Department:	Human Resources	Approval Date:	June 7, 2010
Division:	Occupational Health & Safety Services	Approved By:	City Council
		Effective Date:	June 15, 2010
Subject:	Workplace Violence Policy	Procedure Ref.:	
		<i>Pages:</i>	Replaces: Workplace Violence and Harassment Policy
			Date: December 5, 2005

1. POLICY

1.1 The Corporation of the City of Windsor (Corporation) maintains a zero-tolerance approach to workplace violence whether between employees, involving an employee, an official (elected or appointed) or a customer of the Corporation in the exercise of workplace responsibilities. All reported incidents of workplace violence and incidents of workplace violence the Corporation becomes aware of, shall be reviewed and appropriate action taken.

2. PURPOSE

2.1 The purpose of City of Windsor Workplace Violence Policy is to:

- ▶ Have a written policy regarding workplace violence in which all employees have a duty to report workplace violence and a right to be safe from workplace violence.
- ▶ Provide training and information regarding the Respectful Workplace Program and the Workplace Violence Policy to all employees.
- ▶ Establish measures to prevent violence in the workplace.
- ▶ Provide for a process to Perform Risk Assessments for all worksites as required.
- ▶ Allow for a process that undertakes thorough investigations of alleged incidents, when appropriate
- ▶ Holding those within the scope of this policy of inappropriate behaviour accountable.
- ▶ Providing assistance and support to any employee who is involved in incidents of violence including alleged respondents and complainants.

3. SCOPE

3.1 Policy Application

This policy applies to all employees of the Corporation and officials (elected or appointed), inclusive of paid, unpaid and/or volunteer status.

3.2 Right to Respond to Any Incident of Workplace Violence

The Workplace Violence Policy is both a complaint and incident driven policy meaning that nothing in this policy shall be deemed to limit the right or obligation of the Corporation to respond to an incident of workplace violence of which the Corporation is aware whether or not any employee has made a complaint.

3.3 Right to Discipline

Nothing in this policy shall be deemed to limit or in any other way affect the right of the Corporation to discipline employees for insubordination or other breaches of the Standards of Employee Department or the appropriate Collective Agreement whether or not the action was accompanied by an act of violence or harassment.

3.4 Right to Refuse Unsafe Work

Nothing in this policy shall be deemed to limit the rights of any worker in Section 43 of the Occupational Health and Safety Act to refuse unsafe work. In the event a refusal to work is based on an incident of workplace violence as defined in this policy, the supervisor and/or manager shall follow the requirements of the Occupational Health and Safety Act and the Corporate Safety Management Leadership Element Procedure to ensure the safety of employees in relation to workplace violence.

3.4 Notices

The Occupational Health and Safety Act Section 51(1), requires an employer in cases of workplace violence incidents resulting in a person being killed or critically injured:

An employer must:

- Immediately notify, by direct means such as telephone, a Ministry of Labour inspector, the workplace's joint health and safety committee or health and safety representative and union if any; and

- Within 48 hours notify, in writing, a director of the Ministry of Labour, giving the circumstances of the occurrence and any information that may be prescribed.

4. RESPONSIBILITY

Responsibility, Authority & Accountability

The Occupational Health and Safety Act imposes a duty on all employers' to take every precaution to ensure the health and safety of employees. As such, there is a duty to report any circumstances, which might affect the health and safety of employees.

The Occupational Health and Safety Act prescribes the requirements with regards to the employer's duty to protect the health and safety of workers in the workplace as outlined in Part III.0.1 "Violence and Harassment".

In order to comply with these duties as identified in the Occupational Health and Safety Act, the following responsibilities are determined to apply specifically for the protection of City of Windsor staff members from potential exposure to workplace violence.

4.1 Responsibilities of City Council

City Council shall ensure adequate human and financial resources are made available to Senior Management to meet the prescribed requirements of the Occupational Health and Safety Act and corresponding regulations.

4.2 Responsibilities of Chief Administrative Officer (CAO)

The Chief Administrative Officer shall support and maintain a safe and healthy workplace for all City of Windsor employees from the exposure of workplace violence.

4.3 Responsibilities of Senior Management Team (CAO, Corporate Leadership Team & Executive Directors)

Senior Management shall ensure:

- The Workplace Violence Policy and corresponding procedure is understood, implemented and maintained in an effective manner for

the protection of each employee under their department's jurisdiction.

- Employees authorized with responsibility under the Workplace Violence Policy are provided with information and resources to carry out those responsibilities.
- The Workplace Violence Policy is supported by ensuring employees within their areas participate in Corporate training and communication sessions.
- Compliance with the standards and procedures for safe and healthy work practices and measures as established.

4.4 Responsibilities of Managers/Supervisors

Managers/Supervisors shall ensure that:

- Employees are aware of and work in compliance with the standards and procedures established in the Workplace Violence Policy.
- Any incident(s) of workplace violence are documented, reported and duly investigated where a worker identifies that they are experiencing violence in the workplace or are being compromised in their ability to perform their job duties as a result of workplace violence, as per the Corporate Workplace Violence Procedure. This includes incidents of Workplace Violence that are reported by third parties, where the complainant may or may not make a formal report.
- Employees receive training to make them aware of the Workplace Violence Policy and Procedure.
- Employees work in such a manner and refrains from actions that may expose themselves or other workers to any unnecessary exposure to workplace violence.
- Employees are provided with immediate medical attention if an incident/accident occurs where a worker's health is seriously compromised due to workplace violence and they are no longer able to perform their normal job duties or remain in the workplace.
- They attend and participate in all Health and Safety training provided in relation to this policy and the prevention of workplace violence.

4.6 Responsibilities of Human Resources

- The Executive Director of Human Resources is designated as the Workplace Violence Policy Co-ordinator and is responsible for the maintenance of the Workplace Violence Policy and Procedures.
- The Workplace Violence Policy Co-ordinator is responsible to ensure the Workplace Violence Policy is in compliance with the requirements of the Occupational Health and Safety Act and any corresponding regulations.
- The Workplace Violence Policy Co-ordinator is responsible to develop a plan of communication of this policy to inform employees and officials of its existence and use.
- Where the Workplace Violence Policy Co-ordinator is a party to an incident of workplace violence, the City Clerk shall be designated as the Workplace Violence Policy Co-ordinator for that incident.
- Provide for the delivery of staff training on this policy to City of Windsor employees as established in the Corporate Health and Safety Plan and in compliance with section 25(2)(j) of the Occupational Health and Safety Act.
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- The Workplace Violence Policy Co-ordinator, in consultation with the corporate joint health and safety committees is responsible for ensuring the policy is reviewed on an annual basis to ensure it complies with all applicable legal standards, codes, and practices. Ensure that the policy and corresponding procedure is working effectively to ensure a safe and healthy work environment for all staff of the Corporation. If inadequacies or gaps in this policy or corresponding procedure are identified, amend this policy and procedure to ensure a safe and healthy workplace for all City of Windsor employees.
- Conduct investigations of complaints as directed by the Workplace Violence Policy Co-ordinator in a timely manner and provides copy of completed Workplace Violence Investigation Reports to the appropriate management member(s), complainant and respondent.

4.7 Responsibilities of Workers

All workers shall:

- Work in compliance with the Occupational Health and Safety Act and Regulations, specifically the safe work practices identified in this policy, and all other corporate and departmental safe work practices.
- Notify their supervisor of circumstances in the workplace where they experience concerns or observe others experiencing concerns in relation to possible or actual incidents of workplace violence.
- Shall attend and participate in all Health and Safety training provided in relation to this policy and the prevention of workplace violence.

5. GOVERNING RULES AND REGULATIONS

5.1 This policy is governed by the following statutes of the Province of Ontario or the Government of Canada:

Criminal Code RS 1985, c. C-46, ss. 217.1, 265

Municipal Freedom of Information and Protection of Privacy Act, RSO, 1990 c. M-56

Occupational Health and Safety Act RSO 1990, C.0.1

Ontario Human Rights Code RSO 1990, H.19

Workplace Safety and Insurance Act S.O. 1997, c. 16

6. DEFINITIONS

Customer is defined to include users and visitors to facilities as well as non- employees engaged in off-site interaction with city employees for work-related reasons.

Domestic Violence also known as **domestic abuse, spousal abuse, child abuse** or **intimate partner violence (IPV)**, can be broadly defined as a pattern of abusive behaviours by one or both partners in an intimate relationship such as marriage, dating, family, friends or cohabitation.

Domestic violence has many forms including physical aggression (hitting, kicking, biting, shoving, restraining, throwing objects), or threats of sexual abuse; emotional abuse; controlling or domineering; intimidation; stalking; passive/covert abuse. (http://en.wikipedia.org/wiki/Domestic_violence)

Employee Family Assistance Program (EFAP) is defined as the program that is contracted by the Corporation of the City of Windsor to provide counselling to eligible employees and officials.

Emergency for use in this policy, is defined as a situation where, in the reasonable opinion of an employee witness, an assault has occurred or is about to occur or there is a risk of an assault occurring which has or may cause an injury (serious) to any person, including self-injury. Without limiting the generality of this statement, the presence of a weapon in a worksite, whether or not it is being used or is in plain sight, will be treated as an emergency.

Employee as defined in this policy, to include all union and non-union, regular and temporary full and part-time staff as well as students, interns, secondments, volunteers, seasonal staff and those working through an employment contract.

Informal Resolution is defined as a mutually agreed upon resolution between the respective parties which may involve an objective third party to resolve the issue without proceeding to a formal investigation.

Injury is defined as a violation of a person's physical or psychological integrity and includes self-injury.

Injury (Serious) is defined as an Injury, which requires immediate medical attention and includes a critical injury as defined in the Occupational Health and Safety Act, Regulation 834.

Malicious Complaints are defined as complaints made under this policy, which were known to be unfounded at the time they were made. Making a vexatious or malicious complaint can result in discipline up to and including dismissal.

Official (Elected or Appointed) as defined in this policy is a person who holds a public office or membership on a Council Committee with the City of Windsor whether obtained by election or by nomination of City Council or the Corporation of the City of Windsor.

Poisoned or Negative Environment is characterized by an activity or behaviour, not necessarily directed at anyone in particular, that creates a hostile or offensive workplace. Examples include but are not limited to:

graffiti, sexual insults or jokes, or abusive treatment of an employee or the display of pornographic or otherwise offensive material.

Retaliation is defined as any action taken against an employee who reported or witnessed an incident of workplace violence that is intended or perceived as a form of intimidation of the employee or an attempt to pressure the employee into withdrawing his or her complaint or statement about the incident. Retaliation includes making a false report of workplace violence against another employee. Acts of retaliation will be treated as independent acts of workplace violence and will be dealt with under this policy.

Risk Assessment is defined as an assessment the purpose of which is to identify the risks of workplace violence that may arise from the nature of the workplace, the type of work or the conditions of work. The OHSA requires that this assessment shall include consideration of: common circumstances in similar workplaces, and circumstances specific to the workplace.

Senior Management Team (SMT) includes members of the Corporate Leadership Team or whichever group(s) directly report to the CAO and all Executive Directors.

Workplace Violence means,

- (a) the exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker,
- (b) an attempt to exercise physical force against a worker, in a workplace, that could cause physical injury to the worker;
- (c) a statement or behaviour that it is reasonable for a worker to interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker.

R.S.O. 1990, Occupational Health and Safety Act. 1(1)

Workplace Violence Policy Co-ordinator is defined as the Executive Director or Human Resources or his or her designate, or in case of conflict of interest, the City Clerk.

7. **VIOLENCE PROGRAM**

7.1 The Corporation shall develop and maintain a program to implement the policy with respect to workplace violence as required under the Occupational Health and Safety Act section 32.0.1(1)(a).

7.2 The contents of this program shall include,

- 7.2.1** Measures and procedures to control the risks identified in the assessment (refer to section 9) required by the Occupational Health and Safety Act as likely to expose a worker to physical injury.
- 7.2.2** Measures and procedures for summoning immediate assistance when workplace violence occurs or is likely to occur.
- 7.2.3** Measures and procedures for workers to report incidents of workplace violence to the employer or supervisor.
- 7.2.4** How the employer will investigate and deal with incidents or complaints of workplace violence.
- 7.2.5** Any prescribed elements identified in regulations or guidelines provided by the Ministry of Labour.
- 7.2.6** Complaints of workplace violence the corporation receives anonymously will not be investigated by the corporation. Anonymous complainants will be re-directed to obtain additional information in relation to alleged incidents for contact information in order to provide appropriate follow-up.

8. PROVISION OF INFORMATION

- 8.1** The Corporation shall provide information to a worker in accordance with the requirements of Section 25(2)(a) of the Occupational Health and Safety Act, including personal information, related to a risk of workplace violence from a person with a history of violent behaviour, when a worker can be expected to encounter that person in the course of their work and the risk of workplace violence is likely to expose the worker to physical injury while at the same time respecting Municipal Freedom of Information and Protection of Privacy Act (MFIPPA) and Ontario Human Rights Code.
- 8.2** Corporate employee's who have authority over the workplace in accordance with the requirements of Section 27(2)(a) of the Occupational Health and Safety Act shall advise a worker in the provision of information, including personal information, related to a risk of workplace violence from a person with a history of violent behaviour, when the worker can be expected to encounter that person in the course of their work and the risk of workplace violence is likely to expose the worker to physical injury while at the same time

respecting Municipal Freedom of Information and Protection of Privacy Act (MFIPPA) and Ontario Human Rights Code.

- 8.3 The Corporation or the corporate employee who has authority over the workplace shall not disclose more personal information in the circumstances of section 7.1 and 7.2 of this policy than is reasonably necessary to protect the worker from physical injury.
- 8.4 The Corporation or the corporate employee who has authority over the workplace shall consult with the City Solicitor and/or the Deputy City Solicitor in relation to all cases of this section.

9. **MEASURES TO CONTROL RISKS IDENTIFIED IN AN ASSESSMENT**

9.1 In accordance with Section 32.0.3(1) of the OHSA:

“An employer shall assess the risks of workplace violence that may arise from the nature of the workplace, the type of work or the conditions of work.”

9.2 The Corporation shall conduct assessments in adherence with the requirements of the Occupational Health and Safety Act and as detailed in Section 6.0 of the Workplace Violence Procedure.

10. **TRAINING**

10.1 All employees shall receive Workplace Violence Policy training during Corporate Employee Safety Orientation and shall be retrained once every 5 years.

10.2 All Supervisors, Managers and Senior Management shall receive Workplace Violence Policy training during Supervisor Manager Health and Safety training once every 5 years as stipulated in the requirements of the Management Windsor Certificate.

10.3 Human Resources will provide additional instruction in Non-Violent Crisis Intervention training. This course is designed to provide employees with the information necessary to identify and deal with situations of violence or potential violence in their workplace. Human Resources shall provide this training as requested by Departments in addition to prescheduled annual sessions.

11. VIOLENT INCIDENTS

- 11.1** Abusive or offensive language, swearing and arguments with co-workers or members of the public shall be addressed by the Supervisor of the offending or offended employee(s).
- 11.2** Continued more frequent arguments with co-workers or the public, intentional property damage, vandalism, theft and fist fights would indicate an increasing level of concern for the safety of all employees. The Supervisor with authority over the workplace is responsible to reconfirm the zero-tolerance policy with the offending employee and to issue discipline in consultation with their Manager and Human Resources.
- 11.3** The Supervisor shall work in conjunction with Human Resources to ensure steps are taken to reduce the risk of future similar violent situations.
- 11.4** Supervisor's conducting investigations shall follow the requirements of Section 12.0 and 14.0 of the Workplace Violence Procedure.

12. DOMESTIC VIOLENCE

The OHSA states in Section 32.0.4, the following in regards to Domestic Violence:

If an employer becomes aware, or ought reasonably to be aware, that domestic violence that would likely expose a worker to physical injury may occur in the workplace, the employer shall take every precaution reasonable in the circumstances for the protection of the worker."

13. ADMINISTRATION

13.1 Costs

The Corporation shall be responsible for the costs of the administration of this policy including the costs of any mediation services initiated by the Corporation. All parties retaining outside legal or any other assistance shall be solely responsible for the cost involved.

13.2 Records

All documentation related to complaints made under this policy shall be filed in one centralized location, separate from any personnel files, with

the Workplace Violence Policy Co-ordinator, to ensure confidentiality. Records will be destroyed in accordance with the record retention requirements of the Municipal Freedom of Information and Protection of Privacy Act.

13.3 Policy Review

In accordance with Section 32.0.1 (1)(c) of the Occupational Health and Safety Act, this policy shall be reviewed as often as necessary, but at least annually.

13.4 Communications

The Workplace Violence Policy Co-ordinator is responsible for a plan of communications to inform employees and officials (elected and appointed) about the existence of this policy and how to effectively use it.

This policy shall be posted at a conspicuous place in the workplace in accordance with section 32.0.1 (2) of the Occupational Health and Safety Act.

13.5 Inconsistencies with Policy

The Executive Director of Human Resources along with the Senior Management Team is responsible for the Workplace Violence Policy and ensuring compliance with this policy. Where consistency questions arise, the Executive Director of Human Resources is responsible for raising the concerns with the City Clerk, CAO and the appropriate members of management in an effort to resolve the issue.