



Respectful Workplace Policy  
& Harassment Prevention Plan

April 2022

## Town of Portugal Cove-St. Philip's

### RESPECTFUL WORKPLACE POLICY & HARASSMENT PREVENTION PLAN

Pursuant to the authority vested in the Town Council of Portugal Cove- St. Philip's the Town Council has adopted this policy on the 19 day of April, 2022.

#### 1. TITLE

This document shall be known and cited as the *PCSP Respectful Workplace Policy & Harassment Prevention Plan*.

#### 2. INTERPRETATION

- 2.1 **"Council"** shall mean the Town Council of Portugal Cove – St. Philip's.
- 2.2 **"Employee"** or **"Employees"** shall mean any individual under an employment contract with the Town of Portugal Cove-St. Philip's including all members of staff, volunteers, contractors and members of Council.
- 2.3 **"Employee Assistance Program"** shall refer to an external agency that is responsible for providing Town employees with requested assistance on a variety of confidential work and personal concerns.
- 2.4 **"Employer"** shall mean the Town of Portugal Cove-St. Philip's as represented by the Chief Administrative Officer or his/her designate.
- 2.5 **"Supervisor/Manager"** shall mean any individual who is responsible for managing and directing the work of an employee or group of employees.
- 2.6 **"Senior Executive"** shall mean a Director who is responsible for the oversight of a specific Department and the Chief Administrative Officer who oversees all Town operations.
- 2.7 **"Student"** shall mean a student who is employed by the Town, or who receives funding granted to the Town, to assist in the provision of special events, summer camps, or other activities as assigned by a Town representative. For the purpose of this Policy only, a student will be classified as an employee.
- 2.8 **"Town"** shall mean the Town of Portugal Cove – St. Philip's.
- 2.9 **"Volunteer"** shall mean any individual who volunteers with the Town to assist in Town-related activities and events. For the purpose of this Policy, a volunteer will be subject to the requirements

### **3. POLICY STATEMENT**

The purpose is to ensure that harassment in the workplace in any form, which includes violence in the workplace, will not be tolerated. Any individual within the organization, notwithstanding their seniority or position with the Town, that is found to have engaged in conduct constituting harassment shall be subject to discipline up to and including termination.

This Policy is intended to:

- Maintain a working environment that is secure and free from harassment;
- Clearly identify behaviors that constitute harassment;
- Establish and identify the mechanisms to deal with both informal and formal complaints of harassment.

### **4. APPLICATION**

This Policy applies to all employees of the Town of Portugal Cove – St. Philip’s and members of Council including, without limitation, full-time, part-time, contract, seasonal, permanent, students and volunteers, members of community groups and advisory committees to Council, and to all business-related interactions between employees and third-parties who deal with the organization (consultants, contractors, service-providers).

The Policy covers all forms of harassment prohibited by the *Human Rights Act, 2010*, SNL 2010 (H-13.01) including harassment based upon race, color, nationality, ethnic origin, social origin, religious creed, religion, age, disability (including perceived disability), disfigurement, sex (including pregnancy), sexual orientation, gender identity, gender expression, marital status, family status, source of income, political opinion, criminal conviction (unrelated to employment). This Policy also covers harassment in the form of psychological or personal harassment (bullying) and violence.

Anyone who works at the Town of Portugal Cove-St. Philip’s or who is on the Town Council and believes that he or she has been harassed in the Town of Portugal Cove-St. Philip’s workplace, or has experienced, or is at risk of workplace violence may use the procedures set out in this Policy.

For the purpose of this Policy, the Town of Portugal Cove-St. Philip’s workplace includes any place where the business of the Town is being conducted or where social or other functions of the Town occur including online communications and email.

It is not the intention of this policy to prevent managers from offering constructive criticism, feedback or guidance, or from taking appropriate disciplinary action or performance management.

### **5. RIGHTS AND RESPONSIBILITIES**

The Town of Portugal Cove-St. Philip’s is committed to, where possible, or otherwise, minimizing the hazard of workplace harassment and violence.

Every employee and Council member of the Town of Portugal Cove-St. Philip’s is entitled to employment free from workplace harassment and violence. Every employee and Council member has a responsibility to play a part in promoting a safe and positive workplace and ensuring that the work environment is free from harassment of any type.

Employees and Council members are obligated to take reasonable care to:

- not engage in bullying or workplace harassment
- report observations or experiences of bullying and workplace harassment
- comply with the harassment prevention plan

Every employee and member of Council is responsible for his or her own behavior. However, in those leadership roles, there is an additional obligation to ensure the health and safety of workers, including the obligation to apply and comply with the harassment prevention plan, oversee and correct the behavior of other employees, by leading by example and by taking action whenever they become aware of any potential breach of this Policy.

The Chief Administrative Officer (CAO), in consultation with the Mayor, is responsible for:

- Discouraging and preventing harassment; this is a continuing responsibility, whether or not formal written complaints of harassment have been brought to the attention of the management of the Town of Portugal Cove-St. Philip's.
- Overseeing informal and/or formal resolution options as appropriate.
- Providing guidance and support to persons who are subjected to harassment.
- Where harassment is found to have taken place, formally acknowledging such harassment to the person harassed.
- Regularly reviewing the procedures of this Policy to ensure that they adequately meet the policy objectives.
- Maintaining records as required by this Policy.
- Making all employees and Council members of the Town of Portugal Cove-St. Philip's aware of the issues and the existence of the procedures available under this Policy.

## 6. DEFINITIONS

Types of harassment include discriminatory, sexual, and personal.

***Discriminatory Harassment*** includes being subjected to comment or physical conduct related to one or more of the prohibited grounds of discrimination, which is intimidating, offensive, embarrassing or humiliating, interferes with work performance or job security, or creates an intimidating, hostile or offensive working environment, by someone who knows, or ought reasonably to know, that the comment or conduct is unwelcome.

By way of example, Discriminatory Harassment can include:

- Comments or conduct which disparages or ridicules a person's race, ethnicity, color, language, religion.
- Stereotyping.
- Racial, ethnic or religious jokes, slurs, nicknames, or mimicry (oral, written or graphic).
- Persisting with comments or jokes after becoming aware that the behavior is unwelcome.
- Refusing to work with people because of a prohibited ground of discrimination.

**Sexual Harassment** is a specific form of discriminatory harassment related to the prohibited grounds of sex (gender), gender identity, gender expression or sexual orientation. Sexual harassment includes any unwelcome sexual advances, requests for sexual favors; when such conduct might reasonably be expected to cause insecurity, discomfort or humiliation to another person; when submission to such conduct is made either explicitly or implicitly a condition of employment; when submission to or rejection of such conduct is used as a basis for any employment decision (including, but not limited to, matters of promotion, compensation, job security or benefits affecting the employee); when such conduct has the purpose or effect of interfering with an employee's work performance or creating an intimidating, hostile or offensive work environment, or when such conduct is demeaning to a person.

By way of example, Sexual Harassment can include:

- Unwelcome flirtations, advances, propositions, request for sexual favors, lewd or suggestive comments or other vocal activity such as catcalls, whistles and kissing sounds.
- Vulgar or sexual jokes (oral, written or graphic).
- Continuing to express sexual interest after becoming aware that the interest is unwelcome.
- Unwanted physical touching, blocking or impeding movements.
- Indecent exposure or sexual assault.

**Personal Harassment** means being subjected to objectionable conduct or comment, which serves no legitimate work purpose, and creates an intimidating, humiliating, hostile or offensive work environment. Personal harassment includes workplace harassment, and is defined as engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome.

By way of example, Personal Harassment can include:

- Spreading malicious rumors, gossip, or innuendos that are not true.
- Intimidating a person, verbal abuse, threats, belittling or humiliating a person.
- Yelling or using profanity.
- Refusing to work with a person.
- Giving unwarranted (or undeserved) punishment.
- Tampering with a person's personal belongings or work equipment.
- Making jokes, that are obviously offensive (written or oral).
- Undermining or deliberately impeding a person's work.
- Other objectionable behavior designed to torment, pester or abuse someone.

It is sometimes hard to know if Personal Harassment is happening in the workplace. It is important to remember normally, when a person with the proper authority gives appropriate/objective guidance, feedback or instruction in the workplace, or takes appropriate disciplinary action or performance management, it will not be considered Personal Harassment, but rather this is intended to assist and direct employees with their work.

Harassment typically involves a course of conduct or a pattern of behavior, including more than one incident. However, one single incident, if sufficiently serious, can constitute harassment.

**Workplace Violence** is the attempted or actual use of physical force against an individual or any threatening statement or behavior that gives the individual reasonable cause to believe that physical force will be used. Violence also includes “family” violence that gives rise to the threat of violence in the workplace, including threatening calls, emails, or unwelcome visits at the workplace.

## **7. WHAT TO DO ABOUT HARASSMENT AND WORKPLACE VIOLENCE**

This Policy outlines both informal and formal options available to any employee or Council member who believes that he or she has been harassed by other employee, Council member, or third party. Workplace violence will always be formally investigated.

The Town of Portugal Cove-St. Philip’s encourages reporting all allegations of harassment, regardless of who the offender may be. While the Town is committed to resolving harassment concerns internally, the harassment prevention plan is not intended to discourage a worker from exercising his or her rights under the *Human Rights Act, 2010*, the Criminal Code (Canada) or any other law of the province or of Canada.

## **8. INFORMAL RESOLUTION OPTIONS**

In many cases, simply informing the person that his/her comment or conduct is unwelcome will resolve the issue. A person who considers that she/he has been subjected to harassment is encouraged to bring the matter to the attention of the person responsible for the conduct. The employee or Council member should document for their own purposes the discussion including dates, times, location and names of any witnesses.

If the individual finds it too difficult to speak to the person directly, or if the individual has spoken to the person but the unwelcome comment or conduct persists, or the individual feels that as a result of speaking to the person he or she may be subjected to retaliatory behavior, the individual is encouraged to make a written record of the date, time, details of the conduct, and witnesses (if any) and discuss his or her concerns with the CAO. Council members are encouraged to speak to the Mayor.

The employee or Council member may wish to withdraw from any further action in connection with the complaint. However, in cases of serious circumstances, such as where there are previous complaints or incidents involving the person complained of or in cases involving allegations of inappropriate physical contact, the CAO or Mayor may still initiate a formal investigation if it is believed that continued investigation is appropriate in the interest of ensuring that the Town of Portugal Cove-St. Philip’s is free from harassment.

In every case where the matter is addressed informally, the employer or Council member will be kept apprised of how the matter is being addressed and of any proposed resolution initiatives.

This informal procedure will be completed as soon as possible, normally within fourteen (14) days of the complaint being received. In cases where a longer time period is appropriate, the CAO or Mayor will notify the employee or Council member of the proposed time frame.

## **9. FORMAL COMPLAINT OPTIONS**

An employee may decide to make a formal written complaint to the CAO. In the case of Council members, the written complaint is to be submitted to the Mayor.

A formal written complaint may be made, whether or not the individual has spoken to the CAO or Mayor, in an attempt to deal with the matter by way of the formal process.

The employee or Council member may also decide to make a formal written complaint in the event the informal process does not resolve the matter to the individual's satisfaction.

Upon receipt of a formal written complaint, the CAO or Mayor, as appropriate, shall determine whether the conduct falls within the scope of this Policy. In the event that it does not, the CAO or Mayor, as appropriate, will advise the person making the complaint accordingly and take no further steps under this Policy.

## **10. INVESTIGATION OF FORMAL COMPLAINT**

The CAO or Mayor, as appropriate, will initiate an investigation whenever he or she receives a formal written complaint which falls within the scope of the Policy.

The CAO or Mayor, as appropriate, may also initiate an investigation under other circumstances where and investigation would be appropriate in the interest of ensuring that the Town of Portugal Cove-St. Philip's is free from harassment, should he/she be made aware of an incident by a person who does not wish to make a complaint but who describes a very serious allegation.

In the case of a Town employee, the investigation will ordinarily be conducted by the CAO, and any other person(s) that may be designated by the CAO to assist in the investigation. If the CAO chooses to designate other person(s) to assist, these individuals shall be external to the Town of Portugal Cove-St. Philip's, with due regard being given to the nature of and parties to the complaint.

In some circumstances, the CAO may designate someone external to the Town of Portugal Cove-St. Philip's to conduct the entire investigation. In all circumstances with complaints against a member of Council, formal investigations will be performed by an external investigator.

- If an employee has a complaint against the CAO, it must be made in writing and submitted to the Mayor. The Mayor will designate someone external to the Town of Portugal Cove-St. Philip's to investigate the matter in accordance with this Policy's formal procedure. For these cases, the Mayor will receive the investigative findings and follow through with the process.
- If the complaint is made by a Council member, it must be in writing and submitted to the Mayor.
- If the complaint against the Mayor, it must be made in writing and submitted to the CAO. The CAO will designate someone external to the Town of Portugal Cove-St. Philip's to investigate the matter in accordance with this Policy's formal procedure.

The investigation will normally be completed and an appropriate resolution decided upon within thirty (30) days of the CAO or Mayor, as appropriate, receiving the formal written complaint, or upon either electing to, or being directed to, initiate a complaint, unless a longer time period is deemed appropriate. In this case, the CAO or Mayor, as appropriate, will notify the complainant as well as the person against whom the complaint is made, the respondent, of the proposed time frame.

At any stage during the process, the complainant has the right to withdraw from any further action in connection to the complaint. The CAO or Mayor, as appropriate, however, remains obligated to pursue the matter if he or she believes that continued investigation is appropriate in the interest of ensuring that the Town of Portugal Cove-St. Philip's is free from harassment.

All procedural and administrative matters arising during the course of the investigation will be facilitated by the CAO, unless the complaint is made against the CAO, in which cases such matters will be facilitated by the Mayor.

In the course of the investigation, the investigative team will:

- Investigate the complaint by interviewing the complainant, respondent, and other individual where appropriate.
- Prepare a written statement of the interview, and obtain interviewee's approval of the content.
- Share the content of the written complaint with the respondent or advise the respondent in writing of the allegations.
- Provide the respondent an opportunity to respond to the complaint and share the content of the response with the complainant.
- Provide a report of the investigative findings to the CAO or Mayor, as appropriate.

Upon receipt of the report where the complaint is substantiated, the CAO or Mayor, as appropriate, will:

- Advise the complainant and respondent of the outcome of the investigation.
- Initiate appropriate disciplinary or rehabilitative action.
- Create a confidential record of the investigative proceedings.

Where a complaint is not substantiated:

- No further action will be taken, and
- The complainant and respondent will be informed of the outcome of the investigation.

## **11. DISCIPLINARY AND REHABILITATIVE ACTION**

Disciplinary and rehabilitative action may include one or more of the following:

- A formal apology
- Counseling and/or attendance at educational seminars on harassment
- A verbal warning to the person who was deemed to have engaged in the harassment and documentation to be maintained in Employee and Public Relations Administration
- A written warning to the person who was deemed to have engaged in the harassment and documentation to be placed in that person's personnel file
- Suspension with or without pay
- Termination



For Council members, as determined by the Mayor:

- A formal apology
- Counseling and/or attendance at educational seminars on harassment
- A verbal warning to the person who was deemed to have engaged in the harassment
- A written warning to the person who was deemed to have engaged in the harassment and documentation to be maintained in Employee and Public Relations Administration
- A request by the Mayor to resign from the Town Council, with formal notification to the Department of Municipal Affairs and Environment.

The disciplinary actions may not follow the order listed above, as it will depend upon the severity of the issue and/or if the behavior is repeated. In all cases where disciplinary or rehabilitative action is warranted, the CAO is responsible for taking all reasonable measures to ensure that there is no retaliatory behavior.

## **12. CONFIDENTIALITY**

The Town of Portugal Cove-St. Philip's understands that it is difficult to come forward with a complaint of harassment and recognizes a complainant's desire for confidentiality.

To protect the interests of the complainant, the respondent, and any other persons who may report incidents of harassment, confidentiality will be maintained throughout the process to the extent practicable and appropriate under the circumstances. Any information obtained relating to workplace harassment, including personal information, will not be disclosed unless it is necessary for the purpose of an investigation, corrective action relating to the complaint, or where required by law.

Where a complaint has been made, the complainant, the respondent and all those involved in the process have an obligation to maintain the confidentiality of the matter and not to disclose any details pertaining to the complaint and the fact of the complaint except to the CAO or Mayor and any other persons investigating the complaint on behalf of the Town of Portugal Cove-St. Philip's.

All records of complaints, including contents of meetings, interviews, results of investigations and other relevant material will be kept confidential by the Town of Portugal Cove-St. Philip's, except where disclosure is required by a disciplinary or other remedial process.

## **13. NO RETALIATION**

All employees and Council members have a right to make a complaint or enforce their rights under this Policy without retaliation or threat of retaliation. The Town of Portugal Cove-St. Philip's shall protect workers from retaliation and provide support to workers when workplace harassment occurs.

Retaliation against a person who makes a complaint or who enforces any right under this Policy or who takes part in an investigation under this Policy, shall be treated in the same manner as harassment and therefore be subject to the same disciplinary actions as if the allegations of retaliation are confirmed.

#### **14. PROCEDURE WHERE AN INDIVIDUAL BELIEVES A COLLEAGUE HAS BEEN HARASSED**

An employee or Council member who believes that a colleague has experienced or is experiencing harassment, or retaliation for having brought forward a complaint of harassment, is encouraged to notify the CAO or Mayor, as appropriate.

Where a person believes that a colleague has experienced or is experiencing harassment, or retaliation for having brought forward a complaint of harassment, and reports this to the CAO or Mayor, they shall meet with the person who is said to have been the subject of harassment and then proceed in accordance with the established procedure above.

If the Town of Portugal Cove-St. Philip's becomes aware of domestic violence that would likely expose a worker to physical injury in the workplace, the Town will take every precaution reasonable under the circumstances for the protection of the worker.

#### **15. HARASSMENT BY PERSONS OUTSIDE THE TOWN OF PORTUGAL COVE-ST. PHILIP'S**

The Town of Portugal Cove-St. Philip's recognizes its responsibility to support and assist any employee or Council member who believes that he or she has been harassed by a person outside the Town of Portugal Cove-St. Philip's during the course of their business-related interaction with the Town. This includes volunteers, consultants, contractors, and service providers.

If an employee or Council member believes that he or she has been harassed by a person outside the Town of Portugal Cove-St. Philip's in the course of their business-related interaction with that person, he/she may bring the concerns to the attention of the CAO or the Mayor who will investigate the matter.

#### **16. PROVISION OF INFORMATION TO A WORKER AT RISK**

Employees and Council members will be provided with information, including personal information, if there is a risk of workplace violence from a person with a history of violent behavior if the worker can be expected to encounter that person in the course of his or her work and the risk of workplace violence is likely to expose the worker to injury. In these circumstances, the disclosure of personal information will be limited to what is reasonably necessary to protect the worker from injury.

#### **17. COMPLAINTS MADE IN BAD FAITH**

In the event that a complaint is made in bad faith – in other words, the person making the complaint had zero basis for the complaint and deliberately filed the complaint with malicious intent – that person shall be disciplined and a record of the incident will be kept on his or her personnel file.

Disciplinary actions for an individual who is found to file a complaint in bad faith shall be the same as those for a person found to have committed workplace harassment or violence depending on the seriousness of the case.

Compensation for the person falsely accused may include steps to restore any lost reputation, and any of the remedies that would be available in a case of harassment or violence.

A person who files a complaint in good faith, even where the complaint cannot be substantiated, is NOT in violation.

**18. REVIEW**

This plan shall be reviewed every two (2) years or more frequently as necessary.

**19. REPEALS**

None.

**20. AMENDMENTS**

None.

**21. DATE EFFECTIVE**

Date April 19, 2022, Motion # 2022-145