

Request for Decision**United Townships of Head, Clara & Maria
Municipal Council**

Type of Decision									
Meeting Date	Friday, October 5, 2012				Report Date	Wednesday, September-26-12			
Decision Required	X	Yes		No	Priority	X	High		Low
Direction	x	Information Only			Type of Meeting	X	Open		Closed
REPORT TITLE									
Workplace Violence and Harassment Policy Review Report – 05/10/12/1102									

Subject: Update to the Workplace Violence and Harassment Policy as recommended by Council following Mr. Bonenberg's reports. The current policy has been forwarded to the Municipal Solicitor, Mr. Conroy for suggestions for modification.

RECOMMENDATION: That Council recommend amendments to the draft document provided to ensure that the attached policy will be complied with at the Council level should a situation occur which involves complaints made about Council members, members of the public or the Clerk.

Suggestions for modification are required by Council. It is staff position that the current policy is enforceable as it is aside from including a section designating a lead and investigator if the complaint is made against or by the Clerk or a member of Council.

To obtain confirmation that an investigation is something that Mr. Conroy's office is willing to do, an email was sent requesting his input. All members of Council were cc'd on that email. At time of printing, I was not in receipt of Mr. Conroy's response. I will provide it as soon as possible.

Regardless of his recommendations, Council needs to ultimately make a commitment to enforcing the policy and should review suggested modifications with a goal to making this a stand-alone working document.

BACKGROUND/EXECUTIVE SUMMARY:

On Wednesday, September-26-12 staff and two members of Council participated in a workshop provided by Shelley TerMarsch of Valley Employee Family Assistance Program. The summary re-affirmed the steps that should be taken in the event of Workplace Harassment and Bullying. Taken from the handouts provided and the videos they include:

- Don't ignore the behaviour.
- There doesn't need to be intent to bully or harass.
- It is whether or not the victim "feels" harassed or bullied.
- It is not whether another person might feel harassed or bullied but instead another "similar" person. (e.g. A 30 year old woman's reaction compared to that of a 60 year old man; she would feel differently about the same action/statement/conduct).
- It doesn't matter who the aggressor is; the "boss" has an obligation to back up the employee.
- The workplace needs to be a safe and welcome place for everybody.
- The aggressor needs to be held accountable.
- Work shouldn't hurt.

It is felt that Council has the tools available to deal with bullying, harassment and workplace violence within the workplace.

From a staff perspective, there was an incident considered bullying and harassing which occurred in September. That situation was quickly dealt with by the Clerk to the satisfaction of the staff members involved using the tools available in the current policy. A brief report was provided to Council.

Also in September there was an incident which constituted potential workplace violence. This situation as well was dealt with immediately and to the satisfaction of the workers involved. This too was simply reported to Council through a verbal report as there is no need to share details. An annual report is to be created and provided to Council detailing any investigations, situation and associated costs. This will be provided in December.

In 2011 and 2012 Head, Clara & Maria Council spent a considerable amount of money on the situation which began in 2011. That situation is still in some respects unresolved and ongoing.

Mr. Bonenberg's reports stated that the probability that harassment occurred by a member of Council in 2011 was 'likely'. In 2011 Mr. Instance confirmed 4 instances of harassment by a member of Council. The activity was confirmed but resolution was avoided.

The municipal policy which exists is reflective of other policies within Ontario and includes definitions, examples and remedies. There simply has to be a will to enforce it.

The tools exist within the current policy. Staff is not sure what needs to be amended aside from clarifying the lead and/or investigator in the event of a complaint by and/or about the Clerk or a member of Council and has subsequently referred the existing document to the Municipal Solicitor for input and modification.

Understanding that members of Council sometimes find it difficult to separate their personal views from their duties at the Council table (due to being human and wanting to avoid further turmoil) it is understood that to some extent, we have to just get over it.

Being a victim, following the rules and policy provided for direction and resolution and finding none results in a lingering feeling of hopelessness. The rules apply to some but not all. Similar behaviour by staff would result in termination.

Options/Considerations:

1. Staff requires Council direction to determine how to amend the Workplace Harassment and Violence policy to ensure that should a situation similar to that which occurred in 2011 happens again that there are clear parameters for dealing with the situation.
2. How do we proceed if a claim of harassment or bullying against the Clerk, a member of Council or a member of the public occurs again? There was no resolution to the situation the first time; what can be changed to ensure that the next time something similar happens it will be dealt with promptly and effectively.

Financial Considerations/Budget Impact: taking steps to resolve complaints could be costly as we have seen; legal fees, consulting fees may be involved. It will depend on Council direction and decisions.

Policy Impact: amends current policy ensuring that ALL complaints are taken seriously, dealt with efficiently and effectively.

Others Consulted: Mr. Conroy, Municipal Solicitor; Various sample policies were reviewed which reinforced the content of the existing policy including the following "Employers' Guide" from Canadian Human Rights Commission http://www.chrc-ccdp.ca/pdf/ahpoliciesworkplace_en.pdf;

Approved and Recommended by the Clerk

Melinda Reith,
Municipal Clerk

Melinda Reith

The following are provisions from the Code of Conduct to be followed and will not become a part of this document but will be referred to when investigating a complaint of harassment, bullying or workplace violence against a member of Council. They are included here for your review and information.

4. GENERAL APPLICATION OF THIS CODE

4.1. Complaints made under this code are to be submitted to the Municipal Clerk on the complaint form provided on the municipal website.

4.2. Any submissions or written comments together with the personal information of the complainant made to the Municipality under this or any other process will become part of the public record and may be reproduced, recorded and/or reported on line. There is no promise of confidentiality provided to the complainant under this process; it is open and transparent.

4.3. The content of the complaint is not to be made public or provided to members of Council but instead is to be forwarded to the municipal Integrity Commissioner for investigation and report.

4.4. Upon receiving a formal complaint under the Council Member Code of Conduct, if an Integrity Commissioner has not already been appointed by Council; the Clerk shall research individuals and firms qualified to act as an Integrity Commissioner and prepare a report to Council for their consideration. At that time, Council will choose an Integrity Commissioner by resolution to act upon the complaint received.

4.5. It is the intent of this policy to have the process of investigation started within 15 working days of the complaint being filed with the Clerk.

4.6. It is incumbent on the Municipal Clerk to contract with the Integrity Commissioner and to keep all complaints and allegations confidential until proven and decided by the Integrity Commissioner at which time the report is to be made public as per the Municipal Act.

4.7. Any report will first be reviewed by Council at a meeting open to the public prior to it being published.

4.8. Complaints that are considered frivolous and vexatious by the Clerk will not be subjected to the costs of investigation. In this instance "frivolous" means "not having any serious purpose or value" and "vexatious" means "annoying or harassing".

1. The first part of the document is a letter from the author to the reader, explaining the purpose of the study and the methods used.