



Town of Shelburne

Council Staff Relationship Policy

Policy # 2019-02

Enacted By Council: March 25, 2019

Motion #6

Revised By Council:

Motion #

Purpose

Effective March 1, 2019, paragraph 2.1 of subsection 270(1) of the *Municipal Act* requires a municipality to adopt and to maintain a policy with respect to the relationship between members of council and the officers and employees of the municipality.

The relationship between Members and Employees will be based on respect, cooperation, and the common goal of advancing the Town's interests. The relationship will be non-discriminatory and harassment-free.

Definitions

"Code of Conduct" means By-Law Number 03-2016, the Code of Conduct for Members of Council.

"Employee" means any employee or officer of the Town, except a Member of Council.

"Integrity Commissioner" is the individual appointed under section 223.3 of the *Municipal Act*.

"Member" means a Member of Council.

"*Municipal Act*" means the *Municipal Act, 2001*, as amended.

"Town" means the Corporation of the Town of Shelburne.

CODE OF CONDUCT

1. Relevant provisions of the Code of Conduct include the following.

1.1 Section 1.3 states, in part: "No member shall use the influence of office for any purpose other than the exercise of their official duties."

1.2 Section 1.4 states, in part: "No Member shall seek or obtain by reason of their office any personal privilege or advantage with respect to Town services not otherwise available to the general public and not consequent to their official duties."

1.3 Section 1.7 states, in part: "No member shall use the services of Town employees for their re-election campaign, during hours in which the employees are in the paid employment of the Town."

1.4 Section 1.10 reads as follows:

"Members shall be respectful of the fact that staff work for the Town as a corporate body and are charged with making recommendations that reflect their professional expertise and corporate perspective, without undue influence from any individual member or group of Members of Council.

"In addition, members shall be respectful of the fact that staff carry out directions of Council and administer the policies of the municipality and are required to do so without any undue influence from any individual member or group of Members of Council."

1.5 Section 1.14 reads as follows:

"Harassment is defined in accordance with the Ontario *Human Rights Code* as a vexatious comment or conduct that is unwelcome or ought reasonably to be known to be unwelcome".

"Members of Council acknowledge that every person who is a councillor or employee has a right to freedom from harassment in the workplace".

"Harassment of another member, staff or any member of the public is misconduct."

1.6 Section 1.15 reads as follows:

"Workplace bullying is defined as 'repeated unreasonable behaviour directed towards an employee or a group of staff, that creates a risk to health and safety.' Unreasonable behaviour can be defined as behaviour that harms, intimidates, threatens,

victimizes, undermines, offends, degrades or humiliates another staff member”.

Examples of Workplace Bullying

The most common types of workplace bullying are:

- Spreading malicious rumours, gossip or innuendo that is not true
- Excluding or isolating someone socially
- Intimidating a person
- Undermining or deliberately impeding a person's work
- Withdrawing necessary information or purposefully giving the wrong information
- Setting impossible deadlines
- Making inappropriate jokes
- Persistent criticism of appropriate work
- Freezing out, ignoring or excluding
- Attempts to humiliate staff in front of others
- Unjustified monitoring of work
- Verbal/non-verbal threats
- Abusive, offensive or insulting language
- Behaviours that frighten, humiliate, belittle or degrade
- Belittling a person's opinions
- Damaging or interfering with a person's property or work equipment
- Threats of violence or actual incidents of violence
- Regular ultimatums and/or threats of dismissal
- Inappropriate comments about a person's appearance, lifestyle or their family.

When bullying escalates to include incidents of physical assault or threats, it is considered workplace violence.

Bullying another member of Council, staff or any member of the public is misconduct.”

OTHER POLICIES AND BY-LAWS

2. By-Law Number 15-2019, the Procedural By-law, section 6.3(a), states, in part: “No Member shall: use offensive words or unparliamentary language in or against the Council or against any member of staff or the public;
3. The R-Zone Policy, Schedule A to By-law Number 20-2014, states in part, as follows:
“No form of vandalism, violence or indecency, including viewing, producing or exhibiting lewd, illegal or offensive materials are acceptable on properties, or in facilities.

Staff is not expected to put themselves at risk or jeopardize anyone's safety when dealing with any real or perceived situation. If at any time staff feels threatened, they are to call the Police for assistance. Inappropriate behaviour or actions for the purpose of this policy includes, but is not limited to, the following behaviours:

- a) Aggressive or intimidating approaches to another individual (verbal assault)
- b) Threats
- c) Attempts to goad or incite anger in others
- d) Throwing of articles in a deliberate or aggressive manner
- e) Physical striking of another individual
- f) Theft of property
- g) 9) Possession of weapons
- h) Illegal consumption of alcohol or drugs
- i) Contravention of Town by-laws, policies, or procedures
- j) Vandalism: the deliberate destruction, damage or defacing of property owned or leased through the Town
- k) Harassment: "engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome" as defined by the Ontario *Human Rights Code* or under Bill 168."

"If the nature of an issue is known in advance to be contentious (at a meeting, event, or any other location where Town staff is present) staff is to alert the police. Depending on the nature of the issue, staff may request the attendance of the police."

MUNICIPAL ACT

- 4. Section 5 of the *Municipal Act* provides that the powers of the Town shall be exercised by the Council and shall be exercised by by-law. Among other things, this means that the powers are exercised by the Council as a whole and not by individual Members.
- 5. Sections 23.1, 23.2 and 23.3 of the *Municipal Act* govern how the Council can delegate its powers.
- 6. The duties of the Mayor, who is head of Council and Chief Executive Officer of the Town, are set out in sections 225 and 226.1 of the *Municipal Act*.
- 7. The duties of the Clerk (and Deputy Clerk) and Chief Administrative Officer are set out in sections 228 and 229, respectively, of the *Municipal Act*.
- 8. The offices of Treasurer and Deputy Treasurer are established by section 286 of the *Municipal Act*.
- 9. According to section 224 of the *Municipal Act*, it is the role of Council:

"(a) to represent the public and to consider the well-being and interests of the municipality;"

"(b) to develop and evaluate the policies and programs of the municipality;"

"(c) to determine which services the municipality provides;"

"(d) to ensure that administrative policies, practices and procedures and controllership policies, practices and procedures are in place to implement the decisions of council;"

"(d.1) to ensure the accountability and transparency of the operations of the municipality, including the activities of the senior management of the municipality;"

"(e) to maintain the financial integrity of the municipality; and"

"(f) to carry out the duties of council under this or any other Act."

10. According to section 227 of the *Municipal Act*, it is the role of Employees:

"(a) to implement council's decisions and establish administrative practices and procedures to carry out council's decisions;"

"(b) to undertake research and provide advice to council on the policies and programs of the municipality; and"

"(c) to carry out other duties required under this or any Act and other duties assigned by the municipality."

IMPLICATIONS

11. The following guidelines are intended to give effect to the above laws, rules and policies:

11.1 A Member shall not attempt to influence or to interfere, either directly or indirectly, with an Employee or other individual exercising functions under the *Provincial Offences Act*.

11.2 A Member shall not use or attempt to use office or influence for the purpose of intimidating, threatening, coercing, commanding or influencing any Employee with the intent of interfering in the Employee's duties.

11.3 A Member shall not maliciously or falsely injure the professional or ethical reputation or the prospects or practice of an Employee.

- 11.4 Council has a right and a duty to ensure the accountability and transparency of the operations of the Town, including the activities of the senior management of the Town.
12. The roles of the Chief Administrative Officer and of Council under sections 224 and 227 of the *Municipal Act* complement each other:
- 12.1 The policy-making and leadership role of the Council includes developing and evaluating the Town's policies and programs and determining which services the Town provides.
- 12.2 The role of the Chief Administrative Officer is to exercise general control and management of the affairs of the Town for the purpose of ensuring the efficient and effective operation of the Town.
13. The roles of Employees and of Council under sections 224 and 227 of the *Municipal Act* complement each other:
- 13.1 It is the Employees' role to establish administrative practices and procedures to carry out Council's decisions.
- 13.2 It is Council's role to ensure that administrative policies, practices and procedures and controllership policies, practices and procedures are in place to implement Council's decisions.

ENFORCEMENT

14. A complaint alleging a breach of this Policy may be filed with the Integrity Commissioner and such complaint shall be treated and processed as a complaint under the Code of Conduct.
15. In investigating a complaint under this Policy, the Integrity Commissioner shall have the authority to recommend to Council such interim measures as are necessary to protect the Complainant, to respect the rights of both Complainant and Respondent, and to ensure the integrity of the investigation.
16. A complaint under this Policy shall be filed within six weeks after the act(s) or omission(s) giving rise to the complaint.
17. Despite section 15, the Integrity Commissioner shall not have jurisdiction over a complaint that relates to comments or conduct occurring at a meeting of Council, a committee of Council or a local board. This is because the presiding officer of a meeting is primarily responsible for ensuring that meeting participants conduct themselves respectfully and with decorum, and in accordance with the Procedural By-law.