



Hamilton

CITY OF HAMILTON

**CITY MANAGER'S OFFICE
Human Resources Division**

TO: Chair and Members Audit, Finance and Administration Committee	WARD(S) AFFECTED: CITY WIDE
COMMITTEE DATE: December 9, 2013	
SUBJECT/REPORT NO: Workplace Violence Prevention Policy HUR13015 (City Wide)	
SUBMITTED BY: Chris Murray City Manager	PREPARED BY: David Lindeman 905-546-2424 ext. 5657
SIGNATURE:	

RECOMMENDATION

That the Workplace Violence Prevention Policy attached as Appendix A to Report HUR13015 be approved.

EXECUTIVE SUMMARY

The City is required to be proactive in creating a workplace that is free of violence. This includes establishing policies, educating all employees on their rights and responsibilities, ensuring all reasonable precautions are taken to protect workers from physical violence and having mechanisms in place to handle concerns promptly and effectively.

The City has had a Workplace Violence Prevention Policy since April 27, 2005 (Report HUR05005). When Bill 168, *an Act to amend the Occupational Health and Safety Act* with respect to violence and harassment in the workplace came into effect on June 15, 2010, the employer was required to review such policies as often as necessary, but at least annually. In this regard, Senior Management Team reviewed this policy in 2011, 2012 and 2013.

Alternatives for Consideration –Not Applicable

FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)

Financial:

Not Applicable

Staffing:

Health, Safety and Wellness Specialists from Human Resources support management in meeting their legal obligations to prevent workplace violence. They assist in completing assessments, arranging or providing training and responding to incidents of workplace violence including situations of domestic violence.

Legal:

Under the *Occupational Health and Safety Act* (the *Act*), an employer is required to create a policy and program with respect to workplace violence and to review the policy, as often as necessary, but at least annually. Workplace violence is considered a hazard under the *Act* and employers must take every precaution reasonable in the circumstances to protect workers from workplace violence. The *Act* also assigns specific duties to supervisors and workers on identifying, assessing and controlling workplace violence. The *Act* places obligations for employers to ensure all workers are protected from any physical violence that may arise in the workplace from domestic violence situations.

HISTORICAL BACKGROUND (Chronology of events)

The City has had a Workplace Violence Prevention Policy since April 27, 2005 (Report HUR05005). When Bill 168, an Act to amend the *Occupational Health and Safety Act* with respect to violence and harassment in the workplace came into effect on June 15, 2010, the employer was required to review such policies as often as necessary, but at least annually. In this regard, Senior Management Team reviewed this policy in 2011, 2012 and 2013.

The *Act* defines Workplace Violence as:

- 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.

Workplace violence does not include harassment.

Since the legislation came into effect in 2010, management has conducted workplace violence assessments in consultation with Joint Health and Safety Committees and Health, Safety and Wellness Specialists from Human Resources. These assessments were conducted starting in 2010 and are updated when changes to the workplace and/or nature of work result in new or changed workplace violence hazards.

A number of departments have also conducted Crime Prevention Through Environmental Design audits with the assistance of Hamilton Police Services. These audits resulted in physical changes to the workplace that help protect the health and safety of employees.

Department management is also responsible for ensuring that employees are trained on the policy and procedures. They also train employees on steps to take to prevent workplace violence. The type, depth and length of the training vary between departments. Training is updated or new training is delivered as the nature of work or workplace changes.

Incidents of workplace violence are primarily directed toward our employees by non-employees. These incidents could include altercations with clients, patient or resident out bursts, threats against employees and attempted acts of physical violence. There have been very few incidents of physical violence between employees.

The *Act* created an obligation for management to protect all workers by assessing the possibility that domestic violence situations could result in the potential for physical violence to occur in the workplace. In most cases, the assessment identifies that there is a risk only for the employee directly involved in the situation and not for co-workers. In these cases, management will consult with Human Resources and implement a personal safety plan for the employee. The plan outlines responsibilities, steps and controls that will help the employee at work. Since 2010, 30 plans have been developed and implemented in the workplace. There have been no incidents of workplace violence associated with these safety plans.

POLICY IMPLICATIONS/LEGISLATED REQUIREMENTS

The *Occupational Health and Safety Act* sets out duties for the employer:

- Create and post workplace violence and harassment policies
- Create workplace violence and workplace harassment prevention programs
- Conduct risk assessments for workplace violence
- Provide worker instruction respecting violence and harassment policies and programs
- Employer obligations to respond to domestic violence at work
- Report incidents of workplace violence to Ontario Ministry of Labour

The *Act* also provides workers with the right to refuse work related to workplace violence.

RELEVANT CONSULTATION

This Policy was reviewed by the Occupational Health and Safety Advisory Committee, various Joint Health and Safety Committees, and the Corporate Policy Review Group.

Senior Management Team reviewed and approved the Policy.

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

Council first approved the Workplace Violence Prevention Policy on April 27, 2005. Since that time, there have been changes to the *Occupational Health and Safety Act* that, when combined with workplace experience, resulted in updates to the policy.

Key changes to the policy:

- Adopting the definition of workplace violence contained in the *Act*
- Clearly delineating between harassment and workplace violence
- Adding new duties under the *Act*
- Reformatting to current policy template used for all other policies
- Ensuring Domestic Violence is included as a source of workplace violence
- Alignment with workplace harassment policies

ALTERNATIVES FOR CONSIDERATION

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

Not applicable

ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN:

Strategic Priority #1

A Prosperous & Healthy Community

WE enhance our image, economy and well-being by demonstrating that Hamilton is a great place to live, work, play and learn.

Strategic Priority #3

Leadership & Governance

WE work together to ensure we are a government that is respectful towards each other and that the community has confidence and trust in.

Strategic Objective

- 3.2 Build organizational capacity to ensure the City has a skilled workforce that is capable and enabled to deliver its business objectives.
- 3.3 Improve employee engagement.

APPENDICES / SCHEDULES

Appendix “A” to Report HUR13015 – Workplace Violence Prevention Policy

Corporate Human Resources Policy	 Hamilton	Content Updated: 2013-10-18
Health, Safety & Wellness Violence in the Workplace Prevention Policy		Supersedes Policy: Violence in the Workplace Prevention Policy (Appendix A, Code of Conduct) dated November 17, 2005
Policy No: HR-63-13		
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VIOLENCE IN THE WORKPLACE PREVENTION POLICY


(In accordance with the Occupational Health & Safety Act)


POLICY STATEMENT	<p>The City of Hamilton is committed to providing a respectful, supportive, healthy, safe, accessible and inclusive work environment for all employees, as they are entitled to work in an environment free from Workplace Violence. The City is also committed to providing a safe and respectful environment for all those who enter its facilities and access its services.</p>
PURPOSE	<p>The City will be proactive in working with its employees to prevent violence in the Workplace by establishing and implementing a comprehensive Workplace Violence prevention program to fulfill the requirements of relevant legislation including the:</p> <ul style="list-style-type: none"> • <i>Occupational Health and Safety Act</i> • <i>Criminal Code of Canada</i> • <i>Ontario Human Rights Code</i> • <i>Workplace Safety and Insurance Act</i> <p>This policy defines Workplace Violence (violence) and identifies the responsibilities of Employees and Management. It identifies behaviours that constitute violence and identifies the process for reporting and resolving incidents of violence.</p>
SCOPE	<p>This policy applies to all Employees of the City of Hamilton which includes but is not limited to regular, temporary and contract employees. This policy also applies to volunteers, students and interns. For the purpose of this policy, collectively these classifications will be called “Employees”. This policy also applies to elected officials.</p> <p>Members of the general public, visitors to City facilities, individuals conducting business with the City of Hamilton and employees of contractors or other organizations providing services to the City are expected to refrain from violence towards employees.</p> <p>This policy does not apply to Workplace Harassment. Refer to the Harassment and Discrimination Prevention Policy and Personal Harassment Prevention Policy in response to incidences of Workplace Harassment.</p>

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PRINCIPLES	<p>The City prohibits violence in any Workplace, or at any work related and/or staff function, or in any other work-related circumstances.</p> <p>The City will make every effort to ensure an appropriate level of privacy and confidentiality in circumstances where an incident of Workplace Violence has occurred or when a victim comes forward requesting assistance from the Employer. Private information will only be shared as required to comply with the law.</p>
DEFINITIONS	
Domestic Violence	The exercise, attempt or threat of physical force by a person who has a personal relationship with an Employee such as a spouse or former spouse, current or former intimate partner or a family member that may be directed towards an Employee or Employee(s) at the Workplace.
Employer	In accordance with the <i>Occupational Health & Safety Act</i> , means a person who employs one or more workers or contracts for the services of one or more workers and includes a contractor or subcontractor who performs work or supplies services and a contractor or subcontractor who undertakes with an owner, constructor, contractor or subcontractor to perform work or supply services.
Management	Any individual responsible for directing the work of others, including but not limited to elected officials (when in a supervisory relationship with City Employees), the City Manager, General Managers, Executive Directors, Directors, Managers, Superintendents, Supervisors, Team Leaders, Project Managers and Forepersons.
Vexatious	Conduct that is inappropriate, unnecessary, and that a reasonable person would consider to be offensive, upsetting, distressing, demeaning, or would make a person uncomfortable.
Workplace	Any building or part of a building in which one or more Employees work, including Employee eating, changing and lounge areas, and any vehicle or conveyance, or any area including outside worksites, where Employees perform their duties (construction site, open field, parking lot, road, park). A workplace also includes any work-related function or circumstances.


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Workplace Harassment	Engaging in a course of vexatious comment or conduct against an employee in the Workplace that is known or ought reasonably to be known to be unwelcome.		
Workplace Violence	<p>Includes any and/or all of the following actions:</p> <ul style="list-style-type: none"> • the exercise of physical force by a person against an employee, in a Workplace, that causes or could cause physical injury to the employee • an attempt to exercise physical force by a person against an employee, in a Workplace, that causes or could cause physical injury to the employee • a statement or behavior that is reasonable for an employee to interpret as a threat to exercise physical force against the employee, in a Workplace, that could cause physical injury to the employee. 		
RESPONSIBILITIES			
Employer (Management)	<ul style="list-style-type: none"> ○ Develop a Workplace Violence prevention program, in consultation with Joint Health and Safety Committees (JHSCs) that includes measures and procedures to identify, eliminate or minimize risks that are likely to expose an employee to violence in the Workplace. This includes conducting regular risk assessments, implementing control measures specific to the various Workplaces across the City, and providing instruction and information to employees on violence prevention in the Workplace. ○ Ensure that measures and procedures in Workplace Violence prevention program is carried out and hold Management accountable for responding to and resolving complaints of violence. ○ Ensure information and instruction on the content of a Workplace Violence prevention program is shared with all employees. ○ Take every precaution reasonable in the circumstances for the protection of the employee if the employer becomes aware, or ought reasonably to become aware, that Domestic Violence would likely expose an employee to physical injury in the Workplace. 		


<p>Corporate Human Resources Policy Health, Safety & Wellness Violence in the Workplace Prevention Policy</p>		<p>Content Updated: 2013-10-18 Supersedes Policy: Violence in the Workplace Prevention Policy (Appendix A, Code of Conduct) dated November 17, 2005</p>
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<p>Managers and Supervisors</p>	<ul style="list-style-type: none"> ○ Develop a reporting process for incidents of Workplace Violence. ○ Investigate all incidents, complaints or reports of Workplace Violence in a prompt, objective and sensitive way in accordance with the Violence in the Workplace Prevention Procedure. Monitor trends and take corrective action. ○ Create an environment that encourages victims of violence and witnesses to report all incidents of violence. ○ Ensure the Violence in the Workplace Prevention Policy and other associated policies are reviewed on an annual basis in consultation with Joint Health & Safety Committees. ○ Subject to any limitations and/or disclosure requirements of the <i>Municipal Freedom of Information and Protection of Privacy Act</i> and the <i>Personal Health Information Protection Act</i>, provide information to employees, including personal information, related to risk of Workplace Violence from a person with a history of violent behavior, if, <ul style="list-style-type: none"> a) the employee can be expected to encounter the person in the course of his/her work, and b) the risk of Workplace Violence is likely to expose the employee to physical injury <hr/> <ul style="list-style-type: none"> ○ Ensure that Workplace Violence is not tolerated, ignored or condoned. ○ Assess the risk of Workplace Violence. ○ Provide instruction and education on violence prevention programs including emergency response measures to take regarding violent incidents. ○ Ensure measures and procedures are in place in the Workplace for summoning assistance if Workplace Violence is occurring or is likely to occur. ○ Ensure this policy and associated procedures are reviewed with all employees annually and posted in the Workplace in conspicuous locations. ○ Investigate Workplace Violence in accordance with accident investigation procedures and contact Ministry of Labour and Police as required. Ensure measures are taken to correct the situation and safeguard employees. 	

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Employees

- Document reports of Workplace Violence, hazards and measures taken to address them.
 - Consult Human Resources for support concerning options to resolve incidents.
 - Discipline those employees, in consultation with Human Resources, found to have violated this policy. Reporting of Workplace Violence or risk of violence made in good faith cannot be used as the basis of reprisal against the reporting Employee.
 - Provide employees who have been directly or indirectly involved in violent incidents with appropriate supports, e.g., First Aid, medical assistance, debriefing by a skilled professional through Employee and Family Assistance Program (EFAP), and support through Critical Incident Peer Support (CIPS) Team.
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- Refrain from threatening violence or engaging in any violent behaviour in the Workplace, at any work related functions, or in any other work-related circumstances.
 - Immediately report all incidents or injuries arising from Workplace Violence to Supervisors or directly to Human Resources.
 - Participate in information updates and instruction concerning violence in the Workplace.
 - Be aware of the impact of professional obligations and legislation on the right to refuse unsafe work based on Workplace Violence.
 - Understand and comply with all Workplace Violence policies and procedures.
 - Report violent criminal acts, or suspected violent criminal acts, to the Police and notify Human Resources.
 - Co-operate fully in any investigation of a violent incident.
 - Contribute to Workplace Violence risk control measures and risk assessments.
 - Participate in the review of the Workplace Violence Prevention Program.
 - Seek support through Management, JHSC, Union (if applicable)

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<p>Joint H&S Committee</p>		<p>and Employee and Family Assistance Program (EFAP) when confronted with Workplace Violence issues.</p> <ul style="list-style-type: none"> o Seek support through Management, JHSC, Union (if applicable) and EFAP if experiencing Domestic Violence and advise Management of any potential risk to self or others in the Workplace so reasonable precautions can be taken to protect the Employee and coworkers. <ul style="list-style-type: none"> o Make recommendations to the Employer regarding the development, review and implementation of a Workplace Violence prevention program. o Review the Violence in the Workplace Prevention Policy annually. o Monitor trends associated with incidents or injuries as a result of Workplace Violence and recommend appropriate controls. o Participate in the investigation of critical injuries as a result of violence. o Provide support and referrals (internal and external) to Employees with situations concerning actual or potential violence so that they can receive prompt assistance and advice.
<p>Human Resources</p>	<ul style="list-style-type: none"> o Monitor legislative requirements, leading practices and standards related to Workplace Violence. o Develop assessment tools, information packages and training programs. o Assist in investigations of Workplace Violence. o Assist Workplaces in developing Violence Prevention programs 	
<p>COMPLIANCE</p>	<p>Any employee who is found to have violated this Violence in the Workplace Prevention Policy may be disciplined according to the severity of the actions, up to and including dismissal.</p> <p>Any form of retaliation against Employees exercising their rights under this policy will be considered a serious violation of this policy and will not be tolerated. Such retaliatory actions may be subject to disciplinary action, up to and including dismissal.</p>	

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	<p>Any Employee found to have lodged or otherwise supported a false accusation will be subject to appropriate disciplinary action up to and including dismissal.</p>	
<p>EXAMPLES OF WORKPLACE VIOLENCE</p>	<p>Examples of behaviours that constitute Workplace Violence behaviours include, but are not limited to, the following:</p> <ul style="list-style-type: none"> • Verbally threatening to attack an employee • Leaving threatening emails or notes referencing physical force against the Employee • Shaking a fist in an Employee's face • Hitting or trying to hit an Employee • Throwing an object at an Employee • Sexual abuse against an Employee • Making threatening calls to an Employee • Trying to run down an Employee using a vehicle or equipment such as a forklift • Wielding a weapon at work 	
<p>RELATED DOCUMENTS</p>	<ul style="list-style-type: none"> • <i>Violence in the Workplace Prevention Procedure - COH-RQ-WI-005</i> • <i>Personal Harassment Prevention Policy</i> • <i>Harassment and Discrimination Prevention Policy</i> • <i>Resolving Harassment and Discrimination Issues Procedure</i> • <i>Accident Reporting Guideline COH-RQ-GD-018</i> 	
<p>HISTORY</p>	<p>This policy replaces the former policy named Violence in the Workplace Prevention Policy (Appendix A, Code of Conduct) dated Nov. 17/05</p> <p>The Occupational Health and Safety Advisory Committee and Policy Review Group were consulted in the creation of this Policy.</p> <p>This policy was reviewed by Senior Management Team 2013-06-27, updated 2013-10-18 and approved 2013-10-24</p> <p>Approved by Council of the City of Hamilton 2013-MM-DD</p>	