



## TOWN OF MINTO

DATE: July 18, 2016

REPORT TO: Mayor and Council

FROM: Bill White, C.A.O. Clerk,  
Matt Lubbers Recreation Services Manager

SUBJECT: Bill 132 Amending the Occupational Health and Safety Act

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### **STRATEGIC PLAN:**

12.7 Demonstrate innovation in all aspects of municipal business acknowledging the importance of training, succession planning, transparency, communication and team-based approaches to municipal operations.

### **BACKGROUND**

March 8, 2016, Bill 132 received Royal Assent as part of the Province's strategy to support survivors of sexual violence and eliminate sexual harassment. While the Act changes many laws designed to help people experiencing sexual harassment or violence, amendments to the *Occupational Health and Safety Act* (OHSA) have the most impact on the Town of Minto.

In 2009 the OHSA was changed to implement new requirements regarding workplace violence and harassment. It included mandated training and obligations on municipalities to help safeguard the workplace from violence and harassment, and included a process to document and deal with complaints. Bill 132 expands and clarifies concepts introduced in 2009 with the following noted changes:

- Definition of “workplace harassment” is expanded to include “*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, or workplace sexual harassment*”. Essentially workplace harassment includes sexual harassment.
- Ensures “*reasonable action*” taken by an employer or supervisor to manage or direct workers in the workplace is not workplace harassment.
- “Workplace sexual harassment” is defined to include “*engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expressed, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, or making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome*”.
- Employers must develop a written program to respond to issues of harassment and sexual harassment in the workplace, and review the program “at least annually”. The program must include measures and procedures:
  - (a) for workers to report incidents of workplace harassment to a person other than the employer, or the supervisor if the employer or the supervisor is the harasser;
  - (b) to set out how the municipality will investigate incidents or complaints of workplace harassment;
  - (c) to confirm information obtained about an incident or complaint (including identifying information) is not disclosed unless disclosure is needed for investigation or to take corrective action; and

(d) to specify how a worker who has allegedly experienced workplace harassment and the alleged harasser (if he or she is also a worker for the employer) will be informed of the results of the investigation and of corrective action that may be taken.

- Requires employers investigate incidents and complaints in a way that is “appropriate to the circumstances” and report back on the outcome of the investigation complainants.
- Employers must provide training and instruction to their workers on their workplace harassment policy and program.
- Ministry of Labour has the power to order employers to have an “impartial person possessing such knowledge, experience or qualifications as are specified by the inspector” to conduct investigations and provide a written report. This impartial investigation must be at the employer’s expense.
- “Protocols” are needed so new hires and existing employees receive required training.

#### **COMMENTS:**

The Town’s workplace violence and harassment policy can be amended to accommodate the new definitions and required procedures. However, the amendments designed to encourage more extensive use of independent workplace investigators rather than using internal investigators require some consideration.

The sensitivity of these matters can be magnified in a small workplace. Issues involving criminal behaviour must be first referred to the police. Staff is looking at the process to ensure employees in need have access to trained persons to assist with investigations. A revised policy and presented at the September 6 meeting for approval.

#### **FINANCIAL CONSIDERATIONS:**

The cost of adding to the existing Workplace Violence and Harassment Policy should be minimal. If there is an incident to be investigated and a third party trained person is required the Town is responsible for that cost.

#### **RECOMMENDATION:**

That Council receives the C.A.O. Clerk’s and Recreation Service Manager July 18, 2016 report regarding Amendments to the Occupational Health and Safety Act pertaining to Bill 132 Sexual Harassment and violence, and that a revised policy be presented at the September 6, 2016 Council meeting.

Bill White, CAO/Clerk

Matt Lubbers, Recreation Services Manager