

**TANTRAMAR  
WORKPLACE HARASSMENT AND VIOLENCE  
POLICY NO. 2023-02**

**1. APPLICATIONS**

Tantramar is committed to providing a work environment where all workers are treated with respect and dignity. Workplace harassment or violence will not be tolerated from any person in the workplace including customers, clients, other employers, supervisors, co-workers, members of the public, Mayor, Councillors and firefighters.

All employees at Tantramar including managers, supervisors, temporary employees, students, subcontractors, Mayor, Councillors and firefighters are to adhere to this code of practice, report an incident of harassment or violence as soon as possible and will not be penalized or disciplined for reporting an incident or for participating in an investigation.

**2. AUTHORITY**

This policy has been implemented by the authority of the Council of Tantramar, NB.

**3. POLICY STATEMENT**

- 3.1 As an employer the Tantramar is mandated by law to provide a harassment-free and violence-free work environment for all its employees. This mandate is carried out by management, department heads, supervisors, etc. The employer strives to provide a harassment-free and violence-free work environment through education – raising employee awareness and appreciation of workplace harassment and violence and, by dealing with situations of which it becomes aware. Any member of management who, knowing of harassment and/or violence or who could reasonably be expected to know of harassment and/or violence, fails to effectively deal with workplace harassment and/or violence assumes responsibility for such action and will be subject to discipline for condoning the offensive behaviour.
- 3.2 The employer is liable for workplace harassment and violence with which it does not deal effectively. The *Human Rights Act* of the Province of New Brunswick and the *Canadian Human Rights Act* make employers responsible for the harassing, discriminatory or violent conduct of their employees. Therefore, when an employee files a complaint under the *Human Rights Act*, the employer becomes a co-respondent to the complaint. This policy recognized the employer's responsibility.
- 3.3 Harassment and violence in the workplace are forms of discrimination. It is unwelcomed and unwanted. It affects the individual's ability to learn and work productively. It can be an expression of abuse of power, authority, or control and is coercive in nature. It is offensive, degrading and threatening. It

affects not only the individual's ability to work and learn but self-esteem and sense of well-being as well.

- 3.4 Management is responsible to take appropriate preventative or corrective action and to put a stop to any harassment and/or violence they are aware of, whether or not a complaint is filed. Failure to take appropriate action may result in disciplinary measures being imposed on management as well as the offending person.
- 3.5 Prevention and reporting of harassment and/or violent situations are the responsibility of all personnel. Any person who believes that a colleague has experienced or is experiencing workplace harassment and/or violence or retaliation for having brought forward a complaint is encouraged to notify the appropriate Department Head or Chief Administrative Officer. In addition, certain personnel are given specific responsibility under this policy; failure to carry out those responsibilities may constitute a violation of the policy.
- 3.6 Harassment and violence in the workplace will not be tolerated and management must take appropriate action to protect their employees and others in the workplace. Harassment and violence in the workplace constitute a disciplinary infraction and discipline up to and including dismissal may result.
- 3.7 The abuse of one's authority and position, to intimidate, coerce, or harass is forbidden. All managers and supervisors are responsible for their employee's work environment.
- 3.8 This policy is not intended to limit or constrain the employer's right to manage. Performance reviews, work evaluations and disciplinary measures taken by the employer for any valid reason does not constitute harassment in the workplace.

#### **4. PURPOSE**

- 4.1 The purpose of this Workplace Harassment and Violence Policy is:
  - 4.1.1 to maintain a working environment that is free from all types of harassment and violence;
  - 4.1.2 to alert all employees and management to the fact the workplace harassment and violence is against the law;
  - 4.1.3 to set out the types of behaviour that may be considered offensive;
  - 4.1.4 to establish a process for receiving complaints of harassment and violence and to provide a mechanism to deal with those complaints effectively;
  - 4.1.5 to provide an example of the steps that can be taken towards maintaining a working environment in which all employees treat each other with mutual respect.

## 5. **DEFINITIONS**

### 5.1 **Harassment:**

Harassment means any improper behaviour by any person employed with Tantramar that is directed to any employee or group of employees and which a person knew or ought reasonably to have known to be unwelcome.

For the purpose of this policy, harassment in the workplace includes personal and sexual harassment, poisoned work environment, discrimination and abuse of authority.

### 5.2 **Personal Harassment:**

Personal harassment includes, but is not limited to:

- 5.2.1 **Verbal Harassment:** comments used on the following conduct or material based on any of the protected grounds: stereotypes, name-calling, insults, threats; slurs; crude, degrading, suggestive, or unwelcome remarks; offensive songs or tapes; jokes or innuendoes based on any of the protected grounds. (See Section 5.8 for the list of Protected Grounds)
- 5.2.2 **Physical Harassment:** unwelcome physical touching or solicitation; threatening or rude gestures; physical intimidation; coercion or assault; insulting actions or practical jokes based on any of the protected grounds.
- 5.2.3 **Written or Graphic Materials:** graffiti; unwanted notes or letters; displaying or distributing derogatory or offensive materials, pictures, jokes or cartoons based on any of the protected grounds.
- 5.2.4 **Avoidance or Exclusion:** of any group or individual based on:
- a) any of the protected grounds
  - b) inaction on the part of a person who receives a complaint
  - c) a person's witnessing to an event that is the subject of a formal complaint

### 5.3 **Sexual Harassment:**

Sexual harassment is a particularly objectionable conduct or comment which cannot be tolerated. Sexual harassment means any conduct, comment, gesture, or contact of a sexual nature.

- a) that might reasonably be expected to cause offence or humiliation; or
- b) that is a condition of a sexual nature on employment, an opportunity for training or promotion, receipt of services or a contract.

Examples of behaviour that can constitute sexual harassment include, *but are not limited to*:

- ◆ unwanted touching, patting, pinching, hugging, brushing up against
- ◆ sexual assault
- ◆ inquiries or comments about a person's sex life
- ◆ telephone calls with sexual overtones
- ◆ gender-based insults or jokes causing embarrassment or humiliation
- ◆ repeated unwanted social or sexual invitations
- ◆ inappropriate or unwelcome focus/comments on a person's physical attributes or appearance
- ◆ degrading remarks about either sex
- ◆ leering
- ◆ unfair evaluations or reprimands; reduced working hours; overwork; dismissals, discipline or refusals to hire, when they are in retaliation for refusing to submit to sexual harassment

#### **5.4 Poisoned Work Environment:**

A poisoned work environment is characterized by any activity or behaviour, not necessarily directed at anyone in particular, that creates a hostile or offensive workplace. A poisoned work environment can exist even if employees agree to participate in demeaning behaviour or voice no objections.

Examples of a poisoned work environment include, but are not limited to: graffiti, sexual, racial, or religious insults or jokes where someone of the targeted sex, race or religion is present; abusive treatment of an employee and the display of pornographic or other offensive material.

#### **5.5 Abuse of Authority:**

Harassment also includes abuse of authority where an individual improperly uses the power and authority inherent in a position to endanger a person's job, undermine the performance of that job, threaten a person's economic livelihood, or in any way interfere with or influence a person's career.

Examples of abuse of authority include but are not limited to such acts or misuse of power as intimidation, threats, blackmail or coercion.

#### **5.6 Discrimination:**

5.6.1 Discrimination includes, but is not limited to:

- a) differential treatment having an adverse impact on an individual on the basis of any of the protected grounds

- b) any action or policy which has an adverse impact on an individual based on any of the protected grounds
- c) use of stereotyped images or language (including jokes and anecdotes) which suggest that all or most employees of a particular group of people are the same, thereby, denying their individuality as persons, where such conduct has the purpose or effect of substantially or unreasonably interfering with an employee's work performance or creating an intimidating, hostile, or offensive work environment.

5.6.2 There are four types of discrimination that have been identified for the purpose of this policy:

- a) **Direct discrimination:** Discrimination of a person acting on their own behalf.  
**Example:** An employee refusing to work with a person because of their race.
- b) **Indirect discrimination:** Discrimination that is carried out through another person.  
**Example:** A supervisor who instructs employees not to assist employees of a certain group.
- c) **Discrimination by association:** This type of discrimination takes place when a person is denied equal treatment for associating with a member of a particular group.  
**Example:** An employer who refuses a promotion to a Caucasian employee because that employee has an Asian partner.
- d) **Systemic discrimination:** Systemic or adverse discrimination occurs when a uniform practice has a disproportionate adverse effect on a minority and the needs of the minority are not reasonably accommodated even though this could be done without causing undue hardship. This type of discrimination does not involve an intent to discriminate nor a difference in treatment.  
**Example:** A 5'10" height requirement for the selection of police officers that disproportionately eliminates women and certain racial minority groups.

## 5.7 Workplace:

The workplace includes but is not limited to the physical work site, washrooms, cafeterias, training sessions, business travel, conferences, work related social gatherings, locker rooms, vehicles, etc.

It also includes any place where actions of an employee, whether on duty or not, will have such serious repercussions on the work environment as to seriously affect relationships between employees.

### **5.8 Protected Grounds:**

Protected grounds are listed in the *New Brunswick Human Rights Act* as race, colour, religion, national origin, ancestry, place of origin, age, physical disability, mental disability, marital status, sexual orientation, or sex.

### **5.9 Employees:**

Employees include all permanent, temporary, contract and part-time employees as well as employees who become former employees after the effective date of the policy.

### **5.10 Complainant:**

The complainant is the individual against whom the alleged harassment or violence has taken place and/or is the individual who has lodged either an informal or formal complaint relating to the harassment situation or violent situation.

### **5.11 Respondent:**

Respondent means any employee against whom a complaint has been lodged.

### **5.12 Prima Facie**

Sufficient to establish a fact or raise a presumption unless disproved or if the allegations as presented by the complainant, without further evidence, were founded they would constitute a violation of this policy.

### **5.13 Violence:**

“Workplace violence is defined as the attempted or actual use of physical force against an employee, or any threatening statement or behaviour that gives an employee reasonable cause to believe that physical force will be used against the employee, and includes sexual violence, intimate partner violence and domestic violence

Some examples are: statements or behaviour threatening physical force against an employee, arguments, property damage, sabotage, pushing, physical assault, and anger-related incidents.

“intimate partner violence” means violence committed against a person by another person who is or has been in an intimate personal relationship with the person and includes the following:

(a) abusive, threatening, harassing or violent behaviour used as a means to psychologically, physically, sexually or financially coerce, dominate and control the other member of the relationship; and

(b) deprivation of food, clothing, medical attention, shelter, transportation or other necessities of life.

#### **5.14 Council:**

For the purpose of this policy, any reference to Council includes Mayor and all Councillors.

## **6. RIGHTS AND RESPONSIBILITIES**

### **6.1 A Shared Responsibility:**

It is recognized that Tantramar has the primary responsibility and the accountability to achieve a harassment-free and violence-free workplace.

The Chief Administrative Officer shall ensure that this Policy is implemented and followed by all employees.

Although all management levels and all employees share responsibility for understanding and preventing harassment and violence in the workplace, it is important to recognize that management carries more responsibility than other employees.

### **6.2 Tantramar**

Tantramar, as the employer, is responsible to:

- ◆ Investigate all allegations of discrimination, harassment and violence and ensure appropriate documentation of all complaints.
- ◆ Administer the provisions of this policy and ensure compliance in accordance with provincial legislation.
- ◆ Provide education on harassment, violence, and discrimination to all staff.
- ◆ Ensure that new Managers are provided with Conflict Resolution Training as soon as possible.
- ◆ Ensure that all employees are familiar with this policy and the procedure for handling complaints under the policy.
- ◆ Take corrective and/or disciplinary action as required.
- ◆ Ensure that the complainant and the responded are informed, in writing, of the outcome of the investigation, including any disciplinary action to be taken, as soon as possible.
- ◆ Provide status reports on the investigation at any time to the complainant and respondent.
- ◆ Record the disciplinary action taken in the respondent's personnel file.

- ◆ Ensure that under no circumstances will the remedial action taken in relation to the respondent, in a substantiated case, penalize the complainant.
- ◆ Determine the disciplinary action to be taken in the finding of a “bad faith” complaint.
- ◆ Remind both the complainant and the respondent of possible courses of action should one or the other be unsatisfied with the resolution.
- ◆ Handle the investigation, at the Chief Administrative Officer level, in situations where the respondent is a Department Head.
- ◆ Ensure that confidentiality is maintained at all levels of the process through proper handling and filing of information including the identification of the complainant and the respondent.
- ◆ Following the informal/formal complaint process, should additional training be identified, the Chief Administrative Officer will ensure the implementation of such training.
- ◆ To achieve co-ordination of the above objectives the Chief Administrative Office will be the main contact.

### **6.3 Department Head or Designate:**

Department Heads and the Chief Administrative Officer are responsible for the implementation and administration of this policy: Department Heads in consultation with the Chief Administrative Office shall:

- ◆ Appoint qualified individuals as Advisors and investigators as soon as is necessary when an incident happens.
- ◆ Ensure that all employees have copies of and are trained in the Workplace Harassment and Violence Policy. Copies must also be posted in convenient locations for easy but private access.
- ◆ Consult with the Chief Administrative Officer to ensure that all attempts at resolution are being made within a reasonable time frame.
- ◆ Handle all aspects of the Informal Resolution Stage of the complaint procedures including interviews and mediation.
- ◆ Ensure an expedient completion to the investigations by reviewing the findings of the investigations as quickly as possible.
- ◆ Ensure that the results of the investigations are forwarded to the Chief Administrative Officer where required, as quickly as possible.
- ◆ Ensure that all Statistical Reports on workplace harassment and violence are filed and a copy forwarded to the Chief Administrative Officer.
- ◆ Keep accurate and confidential records of each situation for two purposes:

- a) To be able to hand off all related information to the investigator should a formal complaint investigation occur.
- b) To be able to provide information for a statistical report outlining the information listed in Section 13.2 Administration Procedures – Statistical Reports.

◆ Be guided by the options available in Section 6.5.2 and 7.2.4.

#### **6.4 All Supervisors**

All Supervisors have authority to prevent or discourage harassment or violence and may be held accountable for failing to do so. Failure to act may be interpreted as condoning misconduct and a contravention of this policy. The accountability extends to anyone in management or supervisory positions. Employers are responsible for management and supervisory actions (or inactions). The employer may share liability with managers and others in founded complaints.

Supervisors are also responsible for ensuring that the right of both the respondent and the complainant involved in a harassment incident or violent incident are protected. Fair and equitable procedures must be ensured for all parties.

Supervisors are responsible for:

- ◆ Establishing and maintaining a workplace that is free from harassment, discrimination and violence;
- ◆ Refusing to condone harassment, discrimination and violence;
- ◆ Ensuring that no employee is instructed to discriminate against, harass or become violent against another employee or participate in such discrimination, harassment or violence;
- ◆ Ensuring that employees are aware of their rights and responsibilities under this policy and of the mechanisms that are in place to investigate and resolve discrimination, harassment or violence complaints;
- ◆ When approached by a complainant with a discrimination, harassment or violent situation, the manager and/or supervisor shall:
  - a) Inform the complainant that they may speak to the Chief Administrative Officer, if he/she wishes, to discuss the various options available or to draft a formal complaint if necessary.
  - b) Advise complainants that the respondent(s) will be made aware of the complaint.

- c) Intervene on the complainant's behalf, if required, to inform the respondent of the alleged harassment situation or violent situation and seek some type of resolution such as an apology or, at the very least, an end to the conduct.
  - d) Advise the respondent(s) that they may speak to the Chief Administrative Officer to clarify options and ramifications of options.
- ◆ Advise employees not to subject any person who is party to any complaint (complainant, witness or respondent) to any reprisals;
  - ◆ Initiate, in consultation with the Chief Administrative Officer, appropriate remedial procedures as soon as possible, whether or not a complaint has been filed;
  - ◆ Protect the confidentiality of all parties and witnesses;
  - ◆ Cooperate with complaint investigators;
  - ◆ Discipline offenders, where appropriate;
  - ◆ Ensure that the workplace is free from being a poisoned work environment
  - ◆ Inform the Chief Administrative Officer that a situation has occurred and outline the solution.

### **6.5 Complainants:**

An employee has the right to file a complaint and to obtain a review of that complaint without fear of retaliation, through the procedures established according to this policy.

An employee may be accompanied by a person of the employee's choice, at no expense to Tantramar, during any interviews and investigative proceedings.

Employees are encouraged to take assertive action should they feel they are being subjected to any type of discrimination, harassment or violence.

Employees are encouraged to make the feelings of harassment or violence known to the respondent immediately by:

- a) Advising the respondent that the behaviour is not welcome, is offensive and must cease immediately.
- b) If circumstances are such that advising the respondent in person is uncomfortable or threatening, the complainant may make the cause known by letter. If a letter is used, the complainant should, at the very least, keep a copy and, if possible, send it registered mail keeping the receipt.

- c) Where the complainant does not wish to bring the matter to the attention of the respondent, or where such an approach has been attempted and did not produce a satisfactory result, the complainant may approach the Supervisor or the Chief Administrative Officer to seek advice on other options.

Employees should maintain a record of times, dates, witnesses and the nature of the behaviour should be kept for future reference.

Cooperate fully with all stages of the mediation and/or investigation process.

6.5.1 It is the right of the complainant, if so desired, to drop the allegations of harassment, discrimination or violence, made in good faith, without resolution, as long as:

- a) The decision was made without coercion.
- b) The complainant understands that, where reasonable suspicion or definite evidence of harassment, discrimination or violence exists, the supervisor and/or Chief Administrative Officer will be required to complete the investigation and remedy the situation. In this situation intervention on the part of the supervisor and/or Chief Administrative Officer will occur if the situation is serious in nature.
- c) If the complainant wishes to drop a complaint but the respondent insists an investigation proceed for the purpose of establishing that no harassment or violence occurred, an investigation should proceed.

6.5.2 Before making a decision on how to proceed, the complainant may seek advice and assistance from any or all of:

- (i) Any other person the complainant chooses
- (ii) The supervisor(s)
- (iii) A person at any level above the immediate supervisor
- (iv) The Advisor(s)
- (v) The appropriate collective bargaining unit
- (vi) The New Brunswick Human Rights Commission
- (vii) Chief Administrative Officer of the Tantramar

## 6.6 Respondents

Employees against whom a complaint has been lodged are entitled to and shall:

- (i) Be informed as soon as practical that a complaint has been filed;
- (ii) Be presented with a statement of allegations and be afforded an opportunity to respond to them;
- (iii) Have the right to speak to an impartial Advisor, to review options;
- (iv) Be accompanied by a person of the respondent's choice, at no

- (v) expense to Tantramar, during any interviews and investigative proceedings;
- (vi) Co-operate fully with all stages of the mediation and/or investigation process.

### 6.7 Witnesses:

- a) Employees are obligated to meet with the Chief Administrative Officer and/or the Investigators and to cooperate with all those responsible for the investigation of the complaint.
- b) No employee shall be subject to retaliation because that employee has participated as a witness.
- c) Employees are **obliged to maintain confidentiality** with respect to the investigation.

### 6.8 Advisors

- ◆ If necessary, the employer will provide access to properly trained advisors. Advisors will provide information on the process to follow.

### 6.9 Investigators:

Investigators are qualified individuals who:

- (i) Are selected and trained to conduct harassment, discrimination, and violence investigations.
- (ii) Have the responsibility to present findings to the Chief Administrative Officer.
- (iii) The rights and responsibilities of the Workplace Harassment and Violence Investigators include:
  - a. Acceptance and review of all complaints filed as a result of workplace harassment, discrimination or violence;
  - b. Informing the complainant and the respondent as soon as possible that the complaint is being investigated.
  - c. Investigating complaints including interviewing all witnesses as well as the complainant(s) and the respondent(s);
  - d. Keeping the Chief Administrative Officer apprised of the investigation; its progress; and, its resolutions. Where the Department Head is the subject of the complaint, the results will be referred to the Chief Administrative Officer of Tantramar.

- (iv) Where the investigator feels that the matter requires Criminal Code or Provincial Statute investigation, the matter should be referred to Tantramar for assignment to the appropriate police investigating agency. The complainant has the right to choose whether or not to lodge a complaint with police;
- (v) Handle all matters pertaining to the investigation in the strictest confidence;
- (vi) On the conclusion of an investigation to present a report to the Chief Administrative Officer.
- (vii) Complete the final report and recommendations within 3 months of the formal complaint being filed. An extension will only be considered under exceptional circumstances.

### **6.10 Implementation, Reviews and Updates:**

In establishing and implementing this Policy, the Chief Administrative Officer will consult with the Joint Health and Safety Committee.

In consultation with the Joint Health and Safety Committee, the Chief Administrative Officer will also review this Policy yearly.

### **6.11 Code of Practice for Managing Workplace Violence**

Tantramar is committed to protecting employees from Workplace Violence. Workplace Violence will not be tolerated from anyone in the workplace, including customers, other employers, supervisors, co-workers and members of the public.

“Violence” in a place of employment, means the attempted or actual use of physical force against an employee, or any threatening statement or behaviour that gives an employee reasonable cause to believe that physical force will be used against the employee, and includes sexual violence, intimate partner violence and domestic violence.

Worker’s must report any violent incidents to the Chief Administrative Officer or their immediate supervisor.

The **Chief Administrative Officer** will investigate and deal with all complaints or incidents of workplace violence fairly, respectfully and timely. The name of anyone involved in a violent incident or a description of the incident will not be disclosed unless it is:

1. Necessary to investigate the incident
2. Required to take corrective measures in response to the incident
3. Required by law

An investigation's results will be provided to the affected employees by the Chief Administrative Officer. Corrective measures identified in the investigation will be carried out by the Chief Administrative Officer and the affected department. Notices will be put on employee bulletin boards with any new or revised procedures.

All employees at Tantramar including managers, supervisors, temporary employees, Members of Council, firefighters, students and subcontractors must adhere to this code of practice, report a violent incident as soon as possible and will not be penalized or disciplined for reporting an incident or for participating in an investigation. All employees will receive training on the code of practice at the start of their employment and when the code is updated. All measures identified to mitigate violence will be added to the monthly inspection program.

## 7. PROCEDURES

**THE FOLLOWING PROCEDURES MAY BE UTILIZED BY THE COMPLAINANT WHETHER THE COMPLAINANT HAS EXPERIENCED THE HARASSMENT, DISCRIMINATION OR VIOLENCE OR BELIEVES THAT A COLLEAGUE HAS BEEN HARASSED OR DISCRIMINATED AGAINST.**

### **INTERNAL**

#### **7.1 Informal Resolution Stage:**

7.1.1 Informal resolution of complaints is encouraged. An employee may request the assistance of their supervisor or any other person in the informal resolution of a Workplace Harassment or violence complaint. This approach may include a mediation process to assist the parties in voluntarily reaching an acceptable solution. Any employee who feels that they has been subjected to harassment, violence, discrimination, or retaliation for having brought forward a complaint of workplace harassment, discrimination or violence is encouraged to communicate their concerns directly to the respondent by telling the person that the behaviour is **unwelcome and must stop**.

This communication may take one of the following forms:

- a) verbally, preferably in the presence of a witness;
- b) in writing, preferably by registered mail keeping a copy of the letter and registered mail receipt;
- c) by requesting that the Supervisor and/or Chief Administrative Officer provide a Workplace Harassment and Violence Training session for that unit if the employee feels that this would correct the situation.

- d) In the event the harassment or violence complaint is against the Chief Administrative Officer or a Councillor, it shall be reported through the Mayor. The Mayor will follow the same steps outlined in this policy by substituting the Mayor where the Chief Administrative Officer is listed throughout this Policy.
- e) In the event the harassment or violence complaint is against the Mayor, it shall be reported through the Deputy Mayor. The Deputy Mayor will follow the same steps outlined in this policy by substituting the Deputy Mayor where the Chief Administrative Officer is listed throughout this Policy.

7.1.2 Where the complainant does not wish to bring the matter to the attention of the respondent, or where such an approach has been attempted and did not produce a satisfactory result, the complainant may approach the Supervisor or the Chief Administrative Officer to seek advice on other topics.

7.1.3 At any point in the Informal Resolution Stage the complainant may seek advice from any of the sources listed in Section 6.5.2.

7.1.4 If the Informal Resolution Stage did not produce a satisfactory result or if the situation warrants omission of this stage, the Chief Administrative Officer will provide information on the Formal Resolution Process.

7.1.5 At the informal resolution stage, it is not necessary that the complainant present their concerns or allegations in written form in order for them to be acted upon. It is sufficient to invoke the procedures outlined in this policy that the complainant presents such concerns or allegations verbally. It is important that the person receiving the complaint makes notes on the circumstances and reports them to facilitate resolution.

## **7.2 Formal Resolution Stage:**

7.2.1 Any employee may choose the formal resolution process either as a first step; on the advice of the Chief Administrative Officer, or, if the informal resolution process was not successful. Complaints must be filed within a one-year timeframe. Although the employer is committed to responding to all complaints, it is recognized that complaints not filed within a reasonable time may be difficult to investigate or substantiate, therefore complaints filed after a one-year time frame would require the approval of the Chief Administrative Officer.

7.2.2 To proceed to the Formal Resolution Stage, the Harassment and Violence Complain Form, referred to in Appendix “A” may be used before an investigation can begin and submitted to the Chief Administrative Officer. The complaint should give an accurate account of the incident(s) of harassment, discrimination and/or violence including times, places and parties involved.

- 7.2.3 If the complainant deems it appropriate, a complaint may be filed using one or more of the “Other Options” listed in Section 8.
- 7.2.4 On receipt of a complaint, the Chief Administrative Officer shall conduct a preliminary investigation and only if it meets the prima facie criteria will it go to a full investigation and the Chief Administrative Officer may obtain an investigator from the Private Sector.
- 7.2.5 Only if the complaint proceeds to a full investigation, will the respondent against whom a complaint has been filed shall be informed, in writing, of the complaint, including the nature of the allegations and afforded an opportunity to respond.
- 7.2.6 Where there is a direct reporting relationship between the complainant and the respondent, it may be in the best interest of all parties for them to be physically and hierarchically relocated from one another for the period of the investigation. Where no reporting relationship exists, the Department Head, in consultation with the Chief Administrative Officer, shall determine if the parties should be physically relocated for the period of the investigation. When possible, the respondent will be the party to be relocated for the duration of the investigation.
- 7.2.7 The investigator shall report the findings, in writing, to the Chief Administrative Officer, of facts and the determination of whether the allegations constitute a violation of the policy.
- 7.2.8 If the complaint is not founded but through the course of the investigation certain workplace problems are identified, the Investigators will report on conditions to the Chief Administrative Officer.

## **8. OTHER OPTIONS**

### **External**

#### **8.1 Complaints to the New Brunswick Human Rights Commission:**

At any point in the complaint procedures, the complainant has the right to file a complaint with the New Brunswick Human Right Commission.

*New Brunswick Human Rights Act* complaints should normally be filed within one year from the time the harassment or violence occurred. This does not, however, preclude the filing of the complaint at any time. Complaints are investigated by the New Brunswick Human Rights Commission. For more information, the complainant may call the New Brunswick Human Right Commission in the local area or provincially at (506) 453-2301.

#### **8.2 Complaints under the Criminal Code:**

Sexual and other forms of assault are covered under the Criminal Code. In these instances, the police can be asked to investigate. Sexual and other forms of assault are serious criminal offenses that should be reported to the police, either directly or through any of the options included in Section 6.5.2.

### **8.3 Grievance Procedures:**

At any time throughout the complaint procedure, the complainant has the right to file a grievance with the appropriate bargaining unit.

## **9. CONFIDENTIALITY**

All information regarding discrimination, harassment or violence complaints shall remain confidential, at all levels. This confidentiality clause includes, but is not limited to, all files, notes, memos, correspondence, and the identities of the complaint and respondent. Information will not be disclosed except as required by law.

An employer shall not disclose to any person the identity of a person who is involved in an incident of violence or harassment, or the circumstances related to the incident, other than when the disclosure is:

- a) Necessary in order to investigate the incident.
- b) Required in order to take corrective measures in response to the incident,
- c) Required by law.

## **10. NO RETALIATION**

Retaliation in any form against any party involved in a discrimination, harassment or violence investigation is strictly prohibited. For the purposes of this policy, retaliation against employee:

- 1. For having invoked the policy (whether on behalf of him or herself, or another individual), or;
- 2. For having been identified as the respondent, or;
- 3. For having participated or cooperated in any investigation under this policy, or;
- 4. For having been associated with a person who has invoked this policy or participated in these proceedings;

will be considered as workplace harassment and subject to investigation and, where warranted, disciplinary action.

## **11. SANCTIONS**

- 11.1 As discrimination, workplace harassment and violence are serious matters, appropriate disciplinary action will be imposed where the complaint is substantiated. Each case will be assessed on its own merits and sanctions may range from written warnings to dismissal.
- 11.2 A sanction must attempt to restore the complainant's feelings of well-being, and the condition or circumstances they would have been in, had the discrimination, harassment or violence not occurred. Examples: position, seniority level, pay scale, benefits, etc.
- 11.3 Where a Supervisor/Department Head is found to be condoning discrimination, harassment or violence, disciplinary action will be taken.
- 11.4 Where an investigation results in a formal warning or the imposition of discipline, the information will be placed in the respondent's personnel file for a period of two (2) years as per the CUPE Local 1188 Collective Agreement, or as recommended by the investigator.

## **12. REDRESS**

- 12.1 When the decision regarding a workplace harassment, violence or discrimination investigation is rendered, the complainant(s) and respondent(s) will be informed of both the decision.
- 12.2 Respondents who have been disciplined have the right to lodge a grievance under the appropriate collective agreement.

## **13. ADMINISTRATION PROCEDURES**

Due to the seriousness of allegations of harassment, discrimination and violence, it is vitally important that all levels of the complaint procedures, the Chief Administrative Officer; the Investigators; the Department Head and Tantramar Management follow strict procedures to protect confidentiality and keep accurate records for tracking incidents and their frequency.

### **13.1 Filing of Written Information and Resolutions:**

- 13.1.1 All files of the complaint process must be kept in a separate, locked and secure storage area.
- 13.1.2 Access to file information is to be restricted to those individuals directly involved with the investigation process.

- 13.1.3 In the case of founded allegations, the complaint and the sanctions imposed will be included in the respondent's personnel file.
- 13.1.4 In the cast of unfounded allegations, no record will be included in the respondent's personnel files unless requested by the respondent. This also applies to resolutions reached at the Informal Complaint Stage.
- 13.1.5 Regardless of whether the allegation is founded or unfounded, no information regarding the complaint will appear in the complainant's file as long as the complaint was made in good faith.
- 13.1.6 Any discipline imposed as a result of an employee lodging a complaint maliciously or in bad faith shall be documented on that employee's personnel file and shall be retained thereon for two (2) years as per the CUPE Local 1188 Collective Agreement, or as recommended by the investigator.

### **13.2 Statistical Report:**

13.2.1 Each Department Head is required to document, statistically, all of the complaints lodged. Names are **not** to be recorded. Information is captured solely for statistical purposes. One (1) copy of this report is provided to the Chief Administrative Officer of Tantramar.

13.2.2 These reports shall address:

- a) Number of incidents of harassment, discrimination and violence reported;
- b) Number of incidents solved at the informal stage and by what methods;
- c) Number of incidents that became formal complaints;
- d) Types of resolutions at the informal stage;
- e) Number of founded allegations at the formal stage;
- f) Number of unfounded allegations;
- g) Sanctions recommended;
- h) Sanctions taken;
- i) Number of bad faith complaints and their resolutions.

### **13.3 Length of Time Information Remains in Personnel Files:**

Complaints and sanctions against the respondent; sanctions against the complainant for bad faith allegations; and, sanctions against supervisors for

condoning harassment, discrimination and violent practices will remain on personnel files for two (2) years or as per the CUPE Local 1188 Collective Agreement, or as recommended by the investigator.

#### **13.4 Length of Time Other Information is Kept on File:**

All other files and information that have been collected as a result of a complaint being lodged, whether held by the Advisors or the Investigators, shall be retained in accordance with the *New Brunswick Public Archives Act*.

All such files are to be classified **Confidential**.

**HARASSMENT AND VIOLENCE COMPLAINT FORM – APPENDIX “A”**

Name of Complainant: \_\_\_\_\_

Name of Respondent: \_\_\_\_\_

Date of Initial Complaint: \_\_\_\_\_ Date of Complaint: \_\_\_\_\_

Complaint made to: \_\_\_\_\_

Supervisor: \_\_\_\_\_

Details of Complaint: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Action Taken at the Informal Stage: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Action Taken By: \_\_\_\_\_ Date: \_\_\_\_\_

I, \_\_\_\_\_, the Complainant, wish to lodge a Complaint of workplace harassment and/or discrimination and/or violence. I, hereby, authorize the Chief Administrative Officer to conduct whatever investigations are necessary to reach a satisfactory resolution to the complaint. I also, hereby, agree to participate in this investigation to the best of my ability.

Date signed: \_\_\_\_\_ Signature of Complainant: \_\_\_\_\_

## ACKNOWLEDGEMENT

I, \_\_\_\_\_ hereby acknowledge that on this \_\_\_\_\_ day of  
(Print Name)

\_\_\_\_\_, 20\_\_\_\_, I received a copy of Policy 2023-02 Tantramar Workplace  
Harassment and Violence Policy.

\_\_\_\_\_  
Signature