

Matachewan First Nation
Abuse, Bullying and Harassment
Policy and Procedures

Policy Statement

Introduction

Matachewan First Nation is committed to maintaining a safe workplace free from all forms of abuse, bullying and harassment where all employees are treated with respect and dignity. Abuse, bullying, and harassment are not tolerated at Matachewan First Nation. Chief or Council Members or employees who are found to have victimized another individual in this manner are subject to disciplinary action. This includes any person who:

- interferes with the resolution of a complaint;
- retaliates against an individual for filing a complaint;
- files an unfounded complaint intended to cause harm.

MFN will make every effort to prevent and eliminate conduct that falls within the scope of this Policy. The purpose of this Policy is to avoid occurrences of abuse and physical or psychological injuries and illnesses arising out of, linked with, or occurring in the course of employment to which this Policy and Bill C65 applies.

The *Canadian Human Rights Act* protects employees from harassment based on race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability, or pardoned conviction.

Abuse, bullying, and harassment are often characterized by insulting, hurtful, hostile, vindictive, cruel, or malicious behaviours which undermine, disrupt, or negatively impact another's ability to do their job and results in a harmful work environment for the victim. This misconduct may, or may not be, the result of deliberate intention. It is essential to recognize that the behaviour's impact on others, not the intent, determines whether abuse has occurred. Depending upon the severity and impact of the behaviour, a single significant incident may constitute abuse if it is found to be sufficiently offensive, threatening or intimidating. Each situation must be examined reasonably and objectively based on its specific facts to determine whether bullying has occurred.

MFN will ensure that all employees are trained and educated on violence and abuse and that they are clear about the rules and responsibilities and this Policy and procedures. In addition, a copy of this Policy will be posted and made available to employees.

Scope

This Policy applies to Chief and Council, all volunteers, full-time, part-time, casual, temporary, and contract employees. In addition, this Policy applies to all activities on MFN premises, including interpersonal and electronic communications directly connected to the workplace and during any employment-related duties or activities, including conferences, training sessions, travel, and social functions.

The obligations set out in this Policy apply to MFN in respect of a former employee in relation to an occurrence of abuse, harassment or bullying in the workplace if the occurrence becomes known to MFN within three months after the day on which the former employee ceased to be employed by MFN.

Definitions

Abuse

Abuse is treating a person with cruelty or violence, especially regularly or repeatedly. Workplace abuse is behaviour that causes workers emotional or physical harm. Abuse includes any form of physical, emotional, or sexual mistreatment or lack of care which causes bodily injury, humiliation, or emotional damage to another individual, whether done in person or through technology, and especially by a person in a position of power. Abusive conduct may include repeated infliction of verbal abuse, such as derogatory remarks, insults, or epithets. It also includes verbal, or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, or the gratuitous sabotage or undermining of a person's work performance.

Abuse of power examples:

- Constantly reminding an employee that they can be fired or replaced.
- Humiliating an employee in front of their colleagues.
- Forcing an employee to work overtime multiple times a week without additional pay.
- A supervisor mistreats employees when they are in a bad mood.

Bullying

Workplace bullying is a persistent pattern of mistreatment of others in the workplace that causes either physical or emotional harm. It can include such tactics as verbal, nonverbal, psychological, and physical abuse, as well as humiliation. Bullying is often repeated, unwanted aggressive behaviour by one or more individuals towards another. Bullying involves an observed or perceived power imbalance and can result in physical, social, or academic harm or distress for the targeted individual. Bullying is typically behaviour that is repeated. A bully is often someone you know who misuses their power over you.

Harassment

Harassment is unwelcome, offensive conduct based on race, colour, religion, national origin, family status, age, disability, marital status, a pardoned conviction, or sex, including sexual orientation, gender identity, or pregnancy. Harassment is offensive behaviour; it is disrespectful, insulting, intimidating, humiliating, abusive or physically harmful conduct. Harassment is a human rights violation. Harassment may be a single event or a pattern of mistreatment. Harassment occurs when someone attempts to negatively control, influence, or embarrass another person or group based on a prohibited manner of discrimination.

Harassment, discrimination, bullying, and violence are all forms of workplace abuse. Therefore, for the purposes of this Policy, the term "abuse" will encompass abuse, harassment, and bullying.

Examples of abusive behaviour include:

- Teasing, name-calling, slandering, ridiculing, maligning a person or their family;
- screaming, shouting, yelling, or swearing at another in public or private;
- persistent phone calls, voicemails, emails, or postings to, or about, another person;
- unreasonable public criticism reprimands or trivialization of another's work;
- excluding others from meetings or social situations or giving the "silent treatment";
- destructive gossip, rumours, or innuendo;
- physical pushing, shoving, throwing things;
- non-verbal threatening gestures or glances, staring or glaring;
- intentional interference with another's work, for example, through impossible deadlines, supplying insufficient or incorrect resources or information;
- spreading malicious rumours;
- picking on or regularly undermining someone;
- denying someone's training or promotion opportunities.

Bullying and harassment can happen:

- face-to-face
- by letter
- by email
- by phone
- on social media

Abuse, bullying or harassment do not include:

- The standard exercise of supervisory responsibilities, including performance reviews, direction, counselling, and disciplinary action where necessary, provided they are conducted in a respectful, professional manner, in accordance with the MFN policies and procedures.
- Social interactions, jokes and bantering that are mutually acceptable provided the exchanges are respectful and there is no negative impact on others in the work environment.
- Disagreements, misunderstandings, miscommunication, or conflict situations provided the behaviour of the individuals involved remains professional and respectful.
- Evaluative work performance comments by one's supervisor relating to deficiencies, constructive feedback, and counselling are appropriate and reasonable and do not constitute abusive behaviour.

INDIVIDUALS' RESPONSIBILITIES

Everyone within the scope of this Policy is expected to support the implementation of this Policy by:

- Conducting themselves in a manner which demonstrates a professional manner and mutual respect for others and which honours diversity in the workplace;
- not engaging in the abuse, bullying or harassment of others;
- participating fully and in good faith in any resolution process or formal complaint and investigation process where they have been identified as having potentially relevant information;
- reporting bullying and harassing behaviours that they experience or observe in the workplace which may violate this Policy;
- respecting the rights to personal dignity, privacy and confidentiality pertaining to this Policy;
- reporting abuse to their supervisor or the Band Manager;
- cooperating with a harassment investigation and respecting the confidentiality of the investigation process.

Employees can expect:

- to be treated with respect in the workplace;
- that reported harassment will be dealt with in a timely, confidential, and effective manner;
- to have their rights to a fair process and confidentiality respected during an abuse investigation; and
- to be protected against retaliation for reporting harassment or cooperating with a harassment investigation.

MANAGEMENT ROLES AND RESPONSIBILITIES

While everyone to whom this Policy applies is responsible for maintaining and contributing to an environment free from abuse, those in positions of authority over others carry more responsibility. Management personnel must make every reasonable effort to establish and maintain a workplace free of abuse, bullying and harassment. Relating to this Policy, management responsibilities include but are not limited to:

- ensuring that employees have full access to information regarding employment policies and standards;
- fostering an abuse-free work environment and setting an example about appropriate workplace behaviour;
- communicating the process for investigating and resolving abuse complaints made by employees;
- respecting the rights of all parties to a fair, equitable and confidential process for responding to complaints;
- ensuring abusive situations are dealt with sensitively and confidentially.
- dealing with abusive situations immediately upon becoming aware of them, whether or not an abuse complaint has been made;
- taking appropriate action during an abuse investigation, including separating the parties to the complaint, when appropriate;
- providing support to all those who participate in a problem-solving approach;
- enforcement of corrective or disciplinary measures, where applicable.

THE BAND MANAGER'S RESPONSIBILITIES

The Band Manager will conduct a thorough and impartial investigation of all complaints promptly and confidentially. Confidentiality will be maintained during the investigation to the extent possible without jeopardizing the thoroughness of the investigation. Any individual found, after investigation, to have abused another in violation of this Policy may be subject to a required apology, counselling, training, or disciplinary action up to and including termination. Retaliation against the individual reporting the bullying behaviour is expressly prohibited.

The Band Manager will inform the person that the harassment complaint has been made against, in writing, that a harassment complaint has been filed. The letter will also provide details of the allegations that have been made against them.

Every effort will be made to resolve harassment complaints within 30-days. However, the Band Manager will advise both parties if this is not possible. If either party to a harassment complaint believes that the complaint is not being handled in accordance with this Policy, they should contact the Band Manager.

The Band Manager shall:

- ensure that this Policy is applied in a timely, consistent, and confidential manner;
- take the prescribed measures to prevent and protect against abuse, and violence in the workplace;
- respond to occurrences of harassment and violence in the workplace;
- offer support to employees affected by abuse in the workplace;
- investigate, record and report, in accordance with the regulations, all occurrences of abuse;
- ensure that employees, including those who have supervisory or managerial responsibilities, receive training in the prevention of harassment and violence in the workplace and are informed of their rights and obligations under this Policy in relation to abuse;
- ensure that the person designated to receive complaints relating to occurrences of abuse has knowledge, training and experience in issues relating to abuse and has knowledge of relevant legislation;
- ensure that this Policy is applied in a timely, consistent, and confidential manner;
- determine whether allegations of harassment are substantiated;
- determine what corrective action is appropriate where a harassment complaint has been substantiated.

- administer this Policy;
- review this Policy annually or as required; and
- make necessary adjustments to ensure that this Policy meets the organization's needs.

REPORTING ABUSE

Any person that believes they have been abused in violation of this Policy should report the conduct immediately to their supervisor; or, if that person is responsible for the behaviour, to the Band Manager. If the Band Manager is responsible for the behaviour, the individual may appeal directly to the Chief, in which case, the Chief will substitute for the Band Manager in the following text. The employee should be prepared to provide details such as what happened; when it happened; where it happened; how often, and who else was present, if applicable. Reports must be made in writing.

Complaints should be made as soon as possible but no later than one year of the last incident of perceived harassment unless there are circumstances that prevented the employee from doing so. Complaints must be made in writing.

A former employee may, within 3-months, may make a complaint relating to an occurrence of abuse or violence in the workplace, in which case this Policy applies to the former employee and to MFN as if the former employee were an employee, to the extent necessary to finally dispose of the complaint.

Mediation

Wherever appropriate and possible, the parties to the harassment complaint will be offered mediation before proceeding with a harassment investigation.

Mediation is voluntary and confidential. It is intended to assist the parties in arriving at a mutually acceptable resolution to the harassment complaint.

The mediator will be a neutral person, agreed upon by both parties. Accordingly, the mediator will not be involved in investigating the complaint.

Each party to the complaint has the right to be accompanied and assisted during mediation sessions by a person of their choosing.

Investigation

If mediation is inappropriate or does not resolve the issue, a harassment investigation will be conducted. All examinations will be handled by an individual with the necessary training and experience. In some cases, an external consultant may be engaged for this purpose.

The investigator will interview the person who made the complaint, the person the complaint was against, and any witnesses that have been identified. All people interviewed will have the right to review their statements, as recorded by the investigator, to ensure their accuracy.

The investigator will prepare a report that will include:

- a description of the allegations;
- the response of the person the complaint was made against;
- a summary of information learned from witnesses, if applicable; and
- a decision about on a balance of probabilities, the harassment did occur.

The investigator will submit this report to The Band Manager. Both parties to the complaint will be given a copy.

Substantiated Complaint

If a harassment complaint is substantiated, the Band Manager will decide what appropriate action is required.

Remedies for the abused employee may include

- an oral or written apology, compensation for lost wages;
- payment for any lost employment benefits such as sick leave; and
- compensation for emotional damage.

Corrective action for the employee engaged in harassment may include a reprimand, a suspension; a transfer; a demotion, or dismissal. Both parties to the complaint will be advised, in writing, of the decision.

Disciplinary Actions

Abusive misconduct may result in a written reprimand, with a documented action plan including consequences if the behaviour continues. A copy of the written reprimand and work plan will be added to the employee's file. Should the employee be unwilling to resolve the situation or the behaviour at issue continues, the penalty for the employee may be dismissal. Where appropriate, the Band Manager may immediately suspend an employee without pay, pending a final determination of the facts and approval of the disciplinary action. The decision to immediately terminate due to employee misconduct must be reviewed with and approved by the Chief and Council.

Disciplinary actions are subject to appeal and the dispute resolution process as outlined in the Matachewan First Nation Human Resource Policies and Procedures Section 13.10.5 and 13.10.6.

Other Redress

An employee who is not satisfied with the outcome of the harassment complaint process may file a discrimination complaint with the *Canadian Human Rights Commission*.

Privacy and Confidentiality

All parties to a harassment complaint are expected to respect the privacy and confidentiality of all other parties involved and to limit the discussion of a abuse complaint to those that need to know.

Matachewan First Nation and all individuals involved in the abuse complaint process will comply with the Personal Information Protection and Electronic Documents Act (PIPEDA) requirements to protect personal information.

Review

Matachewan First Nation will review this Policy and procedures annually or as required and make necessary adjustments to ensure that it meets the needs of all employees.

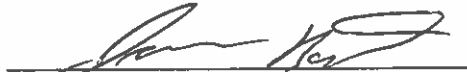
Enquiries

Enquiries about this Policy and related procedures can be made to the Band Manager.

Chief and Council of Matachewan First Nation hereby approve and accept this complete HR Policy as of:

(Date Signed) _____

as presented to Council at a duly convened Council meeting and signed by a quorum of Council.




Chief

Chief's Signature

Melanie Baucher


Print Councillor's Name



Councillor's Signature

STAN FOX


Print Councillor's Name



Councillor's Signature

Lilianne Jobson

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Councillor's Signature

Adrian Baucher

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