



# K'ÓMOKS FIRST NATION

## WORKPLACE VIOLENCE & HARASSMENT POLICY

March 22, 2023

Approved by the elected Chief and Council on March 22, 2023.

Signatures/Names:

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## **K'ómoks First Nation**

### **Workplace Harassment and Violence Prevention Policy (the "Policy")**

#### **1. Introduction**

The K'ómoks First Nation ("KFN") respects the dignity and self-esteem of every individual and promotes respectful and professional conduct in the workplace. KFN further acknowledges the right of everyone in the workplace to work in a safe and respectful work environment free of workplace harassment and violence. KFN is committed to meeting its legal obligations in this regard and taking all reasonable steps in so doing.

KFN will not tolerate acts or threats of workplace harassment or violence including any behaviour that creates a climate of violence or hostility in the workplace. No one – whether a Council member, manager, employee, KFN member, or member of the public – should have to accept the experience of workplace harassment and violence. To that end, KFN has jointly developed this Policy with the KFN Occupational Health and Safety Committee ("the OHS committee") in order to outline how KFN will address issues of workplace harassment and violence.

Acts of workplace harassment and violence may occur as a single incident, such as a physical attack, or as an event resulting from a series of exposures to factors such as bullying of any kind whether verbal or in writing. All factors that may contribute to workplace harassment and violence will be closely examined and any notices of workplace harassment and violence will be subject to the resolution and investigation procedures described below, which will be handled in accordance with the requirements of the *Canada Labour Code* (the "Code") and the *Workplace Harassment and Violence Prevention Regulations* (the "Regulations").

The KFN Leadership Group (Chief, Council, Band Administrator and Intergovernmental Director) will regularly consult with the OHS Committee to review this Policy, and specifically to examine its effectiveness in preventing workplace harassment and violence and addressing any issues of workplace harassment and violence that do arise. The KFN Band Administrator may make changes to this policy based on recommendations from the OHS Committee and KFN employees.

#### **2. Scope**

This Policy applies in KFN's "workplace". For the purposes of this Policy, the workplace is deemed to include any place where any individual is engaged in work for KFN.

For the purposes of this Policy, the term "Workers" shall refer to any individual engaged by KFN to perform work, regardless of status or position, including all employees, temporary workers, volunteers, committee members, and student workers, as well as contractors/consultants and their employees.

This Policy is intended to protect all Workers from workplace harassment and violence from all sources, whether internal or external.

### **3. Purpose**

The purpose of this Policy is to create and maintain a healthy and safe workplace, free from any form of harassment and violence.

In so doing, KFN wants to ensure that:

- Employees and management understand that KFN has a zero-tolerance policy towards harassment or violence in the workplace, and that those engaging in such behaviour will be subject to disciplinary action, up to and including immediate termination for just cause.
- Employees who are the subject of workplace harassment and violence understand that there are procedures and resources available to assist them.
- Employees and management understand their responsibilities and obligations with respect to workplace harassment and violence and understand that all incidents of workplace harassment and violence must be reported in accordance with this Policy.

### **4. Workplace Harassment and Violence**

This Policy deals with workplace harassment and violence as defined under the Canada Labour Code and the Regulations. Workplace harassment and violence (“WHV”) is defined under the Canada Labour Code and the Regulations as “any action, conduct or comment, including of a sexual nature, that can reasonably be expected to cause offence, humiliation or other physical or psychological injury or illness to an employee, including any prescribed action, conduct or comment”.

For an incident to be considered WHV, there must be a reasonable expectation that it will cause offence, humiliation, injury, or illness to the employee. An employee does not necessarily need to suffer offence, humiliation, injury, or illness in order for WHV to have occurred. WHV is not limited only to incidents committed by one employee against another. As long as it occurs in the workplace, any individual can be the source of WHV.

A number of internal and external risk factors can contribute to the existence of WHV. These could include (but will not be limited to):

- Working with community members
- Working with customers and the public.
- Handling or securing money, valuables, or prescription drugs.
- Carrying out inspection or enforcement duties.
- Providing service, care, advice, or education.
- Working with unstable or volatile persons.
- Working alone or in small numbers, or in isolated or low traffic areas.
- Working in community-based settings.

- Having a mobile workplace.
- Working during periods of intense organizational change.
- Working with third party workers, such as consultants, contractors, or sub-contractors.
- Working in a high-crime area.
- Transporting people and/or goods.

Alternative or adjunct list could include:

a. Customer characteristics

- (1) being angry and frustrated with the system
- (2) having a history of violence
- (3) a mental health condition, emotional disorder, or a head injury
- (4) racist, sexist, homophobic, transphobic, ableist, or otherwise discriminatory attitudes and behaviors
- (5) being under the influence of drugs or alcohol

b. Physical work environment

- (1) working alone, in small numbers, or isolated or low-traffic areas (for example, isolated reception areas, washrooms, storage areas, utility rooms)
- (2) working in an overcrowded environment
- (3) working in an environment with high noise levels
- (4) Working in high temperatures

c. Work activity/culture

- (1) working with the public
- (2) handling items of significant value

d. Job factors

- (1) excessive workload
- (2) unreasonable or tight deadlines leading to high stress
- (3) confusing, conflicting, or unclear job or roles
- (4) ambiguous or complicated reporting structures

e. External factors

- (1) Family violence or domestic violence, such as a family member or (ex) partner:
  - i. threatening an employee or co-workers either verbally or over the phone or via email
  - ii. stalking the employee
  - iii. verbally abusing the employee or co-workers
  - iv. destroying the employee or organization's property
  - v. physically harming the employee or co-workers
  - vi. using work time or workplace resources to monitor or attempt to control the actions of an (ex) partner

## 5. Management Responsibilities

Under this Policy, KFN Leadership Group and Managers have the following responsibilities:

- jointly reviewing and, when necessary, updating this policy with the OHS Committee at least once every 3 years or following any change to an element of this policy
- jointly conducting an initial workplace assessment with the OHS Committee
- jointly monitoring and, when necessary, updating the workplace assessment with the OHS Committee when there is:
  - i. a change to the risk factors identified, or
  - ii. a change in the effectiveness of the preventive measures that have been developed and implemented
- jointly reviewing and updating the workplace assessment with the OHS Committee:
  - i. in situations where the principal party chooses to end the resolution process, but the occurrence is not resolved, or
  - ii. in situations where the responding party is not an employee or the employer
- jointly reviewing the workplace assessment with the OHS Committee and, when necessary, updating it
- jointly developing emergency procedures with the OHS Committee

- deploying the workplace emergency procedures whenever an incident, including an incident of family violence or domestic violence, poses an immediate danger to the health and safety of an employee or there is a threat of such an incident
- jointly reviewing and, when necessary, updating the emergency procedures with the OHS Committee
- making available to all employees information related to support services
- jointly developing or identifying harassment and violence prevention training with the OHS Committee
- delivering harassment and violence training to all employees and the designated recipient
- jointly reviewing and, when necessary, updating the training with the OHS Committee at least once every 3 years and following any change to an element of the training
- ensuring that the designated recipient correctly follows the resolution process that is outlined in the Workplace Harassment and Violence Prevention Regulations (the Regulations)
- confidentially investigating all concerns or issues reported immediately, and thoroughly
- for investigations into an occurrence of harassment and violence, providing a copy of the investigator's report to the principal party, responding party, and OHS Committee
- jointly determining with the OHS Committee which recommendations from the investigator's report should be implemented
- implementing the jointly determined recommendations from the investigator's report
- ensuring the resolution process is completed within 1 year after the day on which a notice of an occurrence is received
- reporting to the Labour Program employee deaths resulting from occurrences of harassment and violence, within 24 hours of becoming aware of the death
- providing the Labour Program by March 1st of every year an annual report summarizing the data on all occurrences of harassment and violence in the previous calendar year
- complying with all other aspects of the Regulations and the Code as it relates to harassment and violence
- Jointly conducting with the OHS Committee workplace assessments monthly as per the requirement under the Canada Labour Code and the Regulations.

- To make staff aware of workplace assessments that will be conducted by the OHS Committee as required under the Canada Labour Code and the Regulations;
- promoting a harassment-free and violence-free workplace;
- ensuring that all employees are aware of this Policy;
- Ensuring that all records relating to WHV are maintained in accordance with the Canada Labour Code and the Regulations;
- Where applicable, to ensure the privacy and safety of all parties involved in WHV.

## **6. Employee Responsibilities**

Under this Policy, employees have the following responsibilities:

- To understand and comply with this Policy;
- To refrain from committing harassment and violence
- Where appropriate and safe, to inform a person committing harassment and violence that their actions are inappropriate and unwelcomed
- To report all occurrences of harassment and violence to their supervisor or the HVP Unit when they experience or witness it
- Where appropriate, to make every reasonable effort to resolve an occurrence of harassment and violence through a negotiated resolution if they were a party to an occurrence
- To cooperate with an investigator and the investigation process related to an occurrence
- To refrain from retaliatory behaviour against the principal party, responding party, witnesses, and any other individuals who are involved in the resolution process for an occurrence
- To respect the confidentiality of the information shared throughout the resolution process of an occurrence

## **7. Designated Recipient Responsibilities**



Under this Policy, Designated Recipient is the HR Representative from Engaged HR Consulting, reached at EngagedHR@komoks.ca who has the following responsibilities:

- To respond to all notices of an occurrence within 7 days of receiving the notice
- To initiate negotiated resolution with the principal party within 45 days after the day on which the notice of an occurrence is received
- To review every notice of an occurrence with the principal party against the definition of harassment and violence outlined in subsection 122(1) of the Code
- To make every reasonable effort to resolve an occurrence for which a notice has been provided
- To allow the principal and responding parties the option of participating in conciliation if they both agree to participate and on who will facilitate the conciliation
- To provide notice of an investigation to the principal and responding parties if the principal party requests an investigation
- In the case of an investigation, to select a person to act as an investigator from the list of investigators developed jointly by KFN and the OHS Committee, such investigators to have the necessary knowledge, training, and experience required by the Regulations
- To ensure investigators provide a written statement indicating they are not in a conflict of interest with respect to the occurrence
- To provide investigators with all the information that is relevant to their investigation
- To provide monthly status updates to the principal and responding parties on the status of the resolution process

## **8. Workplace Assessment**

In collaboration with KFN Workplace Health and Safety Committee, KFN will conduct a workplace assessment in accordance with the requirements of the Canada Labour Code and Regulations in order to identify factors (including those identified in section 4 above) that contribute to a risk of WHV.

The workplace assessment will include consideration of internal contributing factors (such as poor employee awareness of WHV) and external contributing factors (such as family violence). Within six (6) months after any WHV risk factors are identified, KFN will develop and implement preventative measures to address these risks.

The workplace assessment will be updated and reviewed at least every three (3) years.

## **9. Notice of Occurrence Procedure for Persons who have Experienced WHV**

For the purposes of this Policy:

- a “principal party” is defined as an individual who was the object of an alleged WHV incident;
- a “responding party” is defined as an individual who is alleged in a notice of occurrence to have committed WHV;
- a “Designated Recipient” is defined as an individual besides an employee’s direct supervisor who has been identified as someone to whom a notice of occurrence regarding workplace harassment and violence may be made.

An employee who believes they have experienced or witnessed WHV should take the following steps:

- If comfortable doing so, inform the person responsible for the alleged WHV that their conduct is unwelcome.

**NOTE:** The worker may ask for assistance with this from the Band Administrator, Director or Manager, or a KFN Workplace Health and Safety Committee. If the worker is not comfortable informing the person responsible, they should not do so and ask for immediate support from one of the above parties or contact an HR representative from Engaged HR at [EngagedHR@komoks.ca](mailto:EngagedHR@komoks.ca). Document all events related to the WHV, including those events leading up to it and anything that has subsequently occurred. The employee should record as much information as possible, including time, dates, and names and can do so by using the WHV reporting form.

- Report the WHV incident to the Band Administrator, Director or their Manager. Ideally this report should be in writing, (using the “Workplace Bullying, Harassment and Violence Complaint Form”). When reporting verbally, ensure that the supervisor generates a Complaint Form to record the complaint. It is the Supervisor or OHS Committee members responsibility to ensure that the complaint is documented.
- If the worker is not comfortable reporting the incident to the above parties, or the incident involves the above parties, the worker may report WHV to a Representative of Engaged HR at [EngagedHR@komoks.ca](mailto:EngagedHR@komoks.ca) or to a member of the OHS Committee.

Complaints may be provided by a witness or the principal party who experienced the WHV, and must include all relevant and available information. Former employees of KFN can also provide notices of occurrence under this process as long as the notice of occurrence is provided within three (3) months of the end of the individual’s employment.

Nothing in this Policy shall be construed as discouraging or preventing any party from pursuing any recourse they may have under the *Canadian Human Rights Act*.

## 10. Resolution & Investigation Procedure

As necessary, the parties should be separated immediately upon receiving the complaint so that investigations can begin by interviewing the parties individually and confidentially.

After receipt of a notice of occurrence, the supervisor or Designated Recipient will provide a response to the principal party within seven (7) days of receipt of the notice of occurrence. The response will provide an overview of the resolution process and inform the principal party that they may be represented during the process. The responding party will also be informed of the notice of occurrence. Upon receipt of a notice of occurrence, KFN Leadership or OHS Committee will also determine whether it is appropriate to contact the police.

KFN (through the supervisor or Designated Recipient), the principal party and responding party will then make efforts to resolve the matter through a negotiated resolution. The responding party is required to participate in this process and failure to do so will result in disciplinary consequences, up to and including termination. This negotiated resolution process will take place within forty-five (45) days of the notice of occurrence being received.

The parties may attempt resolution through conciliation if the principal party and responding party agree to do so and agree upon a person to facilitate such conciliation. Conciliation may be agreed upon and commence prior to the conclusion of the negotiated resolution process but cannot replace the requirement to complete the negotiated resolution process. Conciliation may also be agreed upon and entered into after the investigation process has been commenced. However, once an investigator has provided their report (as detailed below), the matter can no longer be resolved by conciliation.

If the matter has not been resolved through negotiated resolution or conciliation (even if the conciliation process is ongoing), and if the principal party requests it, KFN will commence an investigation into the notice of occurrence. The investigator will be selected based on the process set out in the Regulations. The investigator will be someone who is trained in investigative techniques, has knowledge, training and experience relevant to KFN, and has knowledge of the Canada Labour Code and the *Canadian Human Rights Act*.

Investigations will be undertaken promptly and diligently, and be as thorough as necessary, given the circumstances. They shall be fair and impartial, providing both the complainant and respondent equal treatment in evaluating the allegations. Upon investigating the WHV, the investigator will be responsible for preparing and submitting a written report. The investigator's report will set out a description of the events surrounding the notice of occurrence, as well as provide a conclusion and recommendations to eliminate or minimize similar occurrences. The report must not reveal the identity of any individuals involved (including the principal party, responding party, or any witnesses) and a copy must be provided to the principal party and responding party, as well as to KFN and the OHS Committee.

Following the report, KFN and the OHS Committee will jointly determine which of the investigator's recommendations will be implemented and take steps to implement such measures, including measures to prevent a recurrence of the WHV.

For clarity, any confirmed acts of WHV are considered to be serious incidents and will therefore be subject to appropriate discipline up to and including termination of employment for cause.

KFN will ensure that the resolution and investigation process is completed within one (1) year after receipt of the notice of occurrence, and throughout the process, will provide monthly status updates to the principal and responding parties.

## **11. Confidentiality and Privacy**

Confidentiality and privacy are vital to properly investigating WHV and providing support to those adversely affected by it. Any employee who becomes aware of WHV should not disclose any information to a third party without first consulting the affected individuals. The investigator's final report will not in any case reveal the identity of persons involved in a notice of occurrence.

During all procedure processes, confidentiality will be maintained to the fullest extent possible, subject to legal requirements. Participants are expected to respect the privacy and confidentiality of all discussions, both during the informal and/or formal processes.

While steps will be taken to preserve the confidentiality of the complaint to the maximum degree possible, the alleged harasser (respondent) will be made fully aware of the details of the complaints and will be given an opportunity to respond. In addition, the investigator will likely interview any other person who may have pertinent information and/or who may be a witness.

If the police investigate an incident of WHV, KFN will notify the OHS Committee. Employees with questions or concerns regarding this Policy or any WHV-related topic should contact: their manager, Band Administrator or Director, or EngagedHR@komoks.ca

## **12. Non-Retaliation**

Employees will not be disciplined for providing a notice of occurrence in good faith. Interference with the resolution or investigation process, or retaliation against anyone who has provided a notice of occurrence or who has participated in an investigation under this Policy, will be considered a violation of this Policy and may result in disciplinary action.

If you experience any retaliatory action or threat of retaliatory action from the responding party, witnesses, management, or other people within or outside the organization, please inform the OHS Committee immediately.

## **13. Frivolous Complaints**

Notices of occurrence are a serious matter. An employee who is found to have provided a frivolous, vexatious, or malicious notice of occurrence may be subject to disciplinary action.

## **14. Emergency Procedures**

In collaboration with KFN Workplace Health and Safety Committee, KFN will develop emergency procedures that are to be implemented where an occurrence or threat of WHV poses an immediate danger to the health and safety of an employee.

These emergency procedures will be communicated to all employees. For information on these procedures, employees should contact the OHS Committee, Band Administrator or Director.

## **15. Employee Training**

In collaboration with KFN Workplace Health and Safety Committee, KFN will develop and provide training on WHV to all employees (including Managers and Designated Recipients). Training will be tailored to the culture, conditions and activities of KFN and will include:

- the elements of this Policy;
- Cultural Awareness and Safety training;
- a description of the relationship between WHV and the prohibited grounds of discrimination in the *Canadian Human Rights Act*; and
- Information on how to recognize, minimize, and prevent harassment and violence.
- Information on how to contact external support is available through the Employee and Family Assistance Program (EAP).

Initial training for employees current as of May 2023, will take place no later than May 2024. Subsequent new employees will receive training within three (3) months of commencing employment. Training will be reviewed and delivered to employees at least once every three (3) years.

## **16. Record Keeping**

All written or electronic documents related to a notice of occurrence and investigation, workplace assessment, emergency procedures, WHV training, or any other matters relating to WHV will be kept by KFN for at least ten (10) years or such other minimum period of time as required by the Canada Labour Code and the Regulations and be readily available for examination by a health and safety officer.

## **17. Reporting**

On or before March 1 of each calendar year, KFN will deliver an annual report regarding WHV to the Minister of Labour. This report will include:

- the total number of WHV occurrences, specifying the number in each workplace location;
- the number of WHV occurrences that were related to sexual harassment and violence;
- the number of WHV occurrences that fell under each prohibited ground of discrimination set out in the *Canadian Human Rights Act*;
- the workplace relationships that existed between the principal and responding parties in each notice of occurrence;

- the means taken to resolve notices of occurrence and the number of occurrences for each; and
- the average time that it took to complete the resolution process.

### **18. Employee Support Measures**

KFN via the KFN Health Department will provide employees with information on medical, psychological or other support services that are available within their geographical area.

Available resources include the Group Benefits Program and independent counselling services. For information on these resources, employees should contact the OHS Committee or Band Administrator, Director or [EngagedHR@komoks.ca](mailto:EngagedHR@komoks.ca).

### **19. Policy Review**

To ensure this Policy remains current, it will reviewed at least once every three (3) years or such time period as mandated by the Code and the Regulations. The date of the last review will be indicated in the Policy.

**ACKNOWLEDGMENT**

Please print name, sign and date in acknowledgement that you have received, read and understood the contents of this Policy.

\_\_\_\_\_  
Employee Name

\_\_\_\_\_  
Witness Name

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

## **Workplace Bullying, Harassment, and Violence Complaint Form**

### **1. How to report**

KFN employees can report incidents or complaints of workplace bullying, harassment, or violence verbally or in writing. When submitting a written complaint, please use the Workplace Bullying, Harassment and Violence Complaint Form following this section. When reporting verbally, the reporting contact, along with the complainant, will fill out the complaint form.

### **2. When to report**

Incidents or complaints should be reported as soon as possible after experiencing or witnessing an incident. This allows the incident to be investigated and addressed promptly.

### **3. Reporting contact**

Report any incidents or complaints to your direct supervisor: Band Administrator, OHS Committee or Chief and Council

### **4. Alternate reporting contact**

If the employer, the complainant's supervisor, or the reporting contact named in Step 3 is the person engaging in harassing, violent, and/or bullying behaviour contact another supervisor/manager or department manager. If necessary, an external human resources agency professional may be an appropriate contact.

### **5. What to include in a report**

Provide as much information as possible in the report, such as the names of people involved, witnesses, where the events occurred, when they occurred, and what behaviour and/or words led to the complaint. Attach any supporting documents, such as emails, handwritten notes, or photographs. Physical evidence, such as vandalized personal belongings, can also be submitted.





b. : Workplace Harassment, Bullying, and Violence Investigation Form

Name of complainant	
Name of respondent/alleged bully/harasser	
Date	Location
Name of Investigator	

Person interviewed	Other people involved (e.g., alleged bully, witnesses)	Description of the situation (dates, words, actions, etc.) and impact (e.g., humiliated, intimidated)

Based on the investigation, did workplace bullying, harassment, or violence occur?  
 Yes  No

Reason(s) for this conclusion

Action(s) Taken To Stop the Bullying, Harassment, or Violence

