

TOWNSHIP OF WOLLASTON

i. Work Refusal Policy & Procedure

POLICY:

The Council and Administration of the Corporation of the Township of Wollaston is committed to providing a safe and healthy work environment for all Employees. Compliance with all relevant legislative requirements is a key component in pursuing this objective.

PURPOSE:

Section 43 of the Occupational Health and Safety Act provides each worker, including an emergency services' worker under non-emergency conditions, the right to refuse work or to do particular work where he or she has reason to believe that:

- any equipment, machine, device or thing the worker is to use or operate is likely to endanger himself, herself or another worker
- the physical condition of the workplace or part thereof in which he or she works or is to work is likely to endanger himself or herself
- workplace violence is likely to endanger himself or herself, or
- any equipment, machine, device or thing he or she is to use or operate or the physical condition of the workplace or the part thereof in which he or she works or is to work is in contravention of this Act or the regulations, and such contravention is likely to endanger himself, herself or another worker.

SCOPE:

The Township of Wollaston recognizes and respects this right. This policy is intended to provide a consistent process for responding appropriately to work refusals. It applies to all Township of Wollaston employees.

[Note: Emergency services' workers (fire fighters) have the right to refuse work with limitations. The right to refuse work does not apply when the circumstance described above is inherent in the worker's work or is a normal condition of the worker's employment or if the worker's refusal to work would directly endanger the life, health or safety of another person.]

RESPONSIBILITIES:

Section 28(c) and (d) of the Occupational Health and Safety Act requires that a worker shall:

- report to his or her employer or supervisor the absence of, or defect in, any equipment or protective device of which the worker is aware and which may endanger himself, herself or another worker; and
- report to his or her supervisor any contravention of the Act or the regulations or the existence of any hazard of which he or she knows.

Section 27(2)(c) states that a supervisor shall take every precaution reasonable in the circumstances for the protection of a worker.

Therefore, prior to refusing work, a worker who identifies a concern with respect to a potential safety hazard must immediately bring it to the attention of his or her supervisor and together they should try to resolve the concern, utilizing the principles of the **Standard Procedures**, as shown below. If the worker and the supervisor are unable to resolve the concern, then the worker can exercise his or her right to refuse work under Section 43 of the Act and the procedures outlined below should be followed.

Standard Procedures

Stage 1

1. The worker must advise his or her supervisor or employer that he/she is refusing to work under the Occupational Health and Safety Act and state the reasons for the work refusal.
2. The supervisor must immediately:
 - notify THE occupational health and safety (OH&S) representative of the refusal
 - arrange for the OH&S representative to be present during the investigation
 - initiate the investigation
3. Until the investigation by the supervisor, worker and OHS Representative begins, the refusing worker is not to be assigned alternate work. No other workers are to be assigned to that work.
4. The refusing worker is to be a direct participant in all stages of the investigation and therefore remain near where the investigation will take place.
5. If, during the investigation, a potential measure is identified that requires additional resources (e.g. occupational hygiene assessment, engineering assessment) and time is needed to access these resources, the refusing worker may be reassigned alternate, safe, non-refused work pending the results. This assumes the agreement of the parties involved in the investigation (i.e. supervisor, worker and OHS Representative)
6. If this investigation results in resolution of the refusal issue, the investigation will be documented and signed off by the supervisor and worker and OHS Representative that participated in the investigation. These OHS Representatives may complete a separate report if they wish.

If the worker is not satisfied with the proposed resolution and has reasonable grounds to believe the work refusal is still justified, proceed to Stage 2 of this procedure.

Stage 2

1. The supervisor or the OH&S representative will immediately notify the Ministry of Labour of the work refusal.
2. The Ministry of Labour inspector will conduct an investigation. If the investigation by the Ministry is delayed, the supervisor will notify the parties involved in the Stage 1 investigation of the pending Ministry visit.
3. While the investigation is ongoing and pending the decision from the Ministry of Labour, the worker will:
 - remain, during his or her normal working hours, in a safe place that is as near as reasonably possible to his or her work station and available to the inspector for the purposes of the investigation or
 - be assigned, subject to the provisions of a collective agreement, if any, to reasonable alternative work or given other directions.
4. While the investigation is ongoing and pending the decision from the Ministry of Labour, another worker may be asked to perform the refused work as long as he or she is fully advised of the reasons for the work refusal and the status of the investigation, in the presence of the OH&S representative.
5. Following the investigation, the Ministry of Labour inspector will provide a decision on whether the circumstance on which the refusal was based is likely to endanger the worker or another person. Copies of the decision will be posted in the appropriate workplace(s) and distributed to all people who were involved in the investigation, the OH&S representative, as well as senior management and union office health and safety contacts.
6. Based on the Ministry's decision, the worker returns to work, either immediately or after the employer has complied with any order(s) to provide a safe workplace.

The Ministry of Labour report, along with any internal report should be tabled at the next staff meeting. Any Ministry of Labour report should be posted in a prominent location in the workplace, as required. A copy of all reports will be held by the Clerk.

The Ministry's decision can be appealed in accordance with Section 61 of the *Occupational Health and Safety Act*.

This *Occupational Health and Safety Act* and this policy prohibit reprisals against employees for exercising their right to refuse unsafe work.