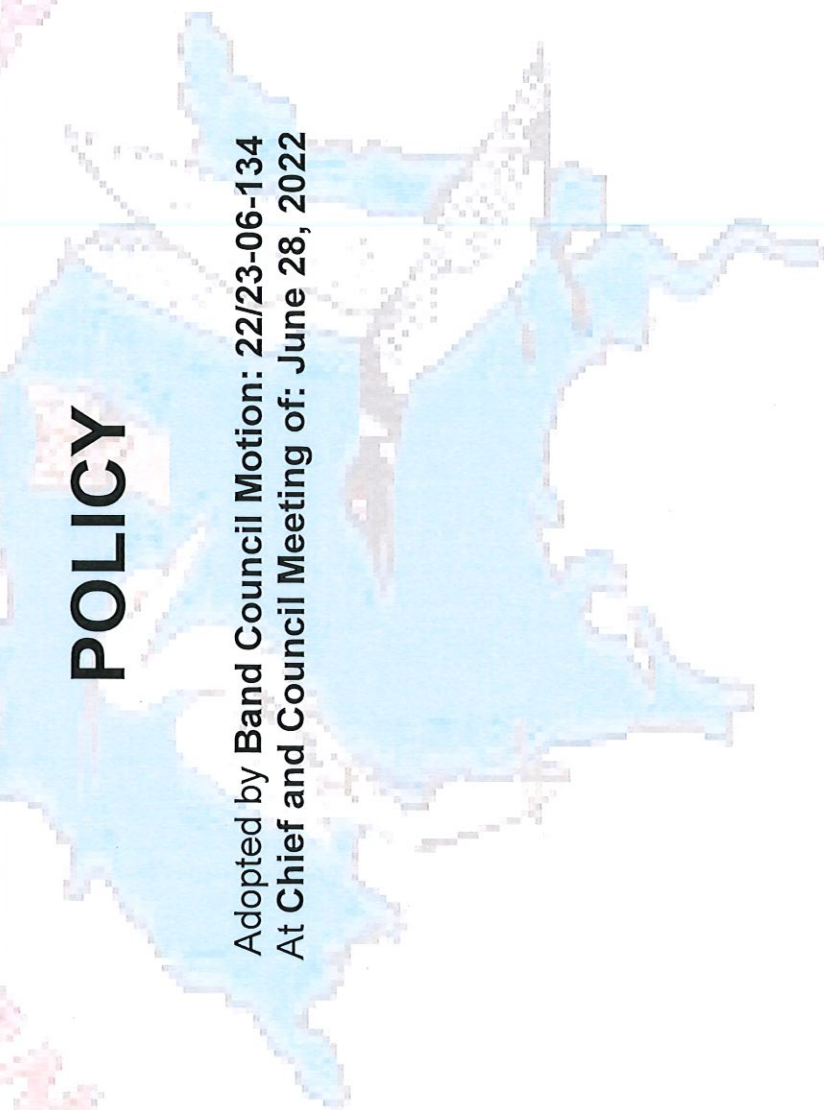




# WAHNAPITAE FIRST NATION VIOLENCE & HARASSMENT POLICY

Adopted by Band Council Motion: 22/23-06-134  
At Chief and Council Meeting of: June 28, 2022



### **Policy statement**

Wahnapiitae First Nation, is committed to a respectful, safe and healthy environment that is harassment-free and violence-free for all our employees and has developed an organization-wide policy intended to:

- prevent and respond to workplace harassment and violence of any type, and
- effectively address any incident that might occur

### **Application**

This policy applies to all employees, volunteers, community members, visitors and contractors at Wahnapiitae First Nation who are engaged in work, work-related activities or work-related relationships. It applies to employees and contractors both on and outside Wahnapiitae First Nation property. This policy applies to all incidents of workplace harassment and violence, including sexual harassment and sexual violence, family violence and third party violence.

### **Definition of harassment and violence**

The *Canada Labour Code* (the Code) defines harassment and violence at subsection 122(1) 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.”

Harassment and violence includes lateral violence which involves comments and conduct that results in physical, verbal or emotional abuse inflicted on an employee. Lateral violence is closely related to the acts or attempted acts included in harassment.

### **Harassment**

Harassment can include, but is not limited to any of the following acts or attempted acts:

- spreading rumours or gossip about an individual or group
- cyber bullying (threatening, spreading rumours or talking negatively about an individual online)
- threats made over the phone, by email, or through other medium to an employee, including from an (ex) partner or family member
- making offensive jokes or remarks
- playing unwanted practical jokes
- socially excluding or isolating someone
- stalking or inappropriately following a person
- tampering with someone’s work equipment or personal belongings
- vandalizing or hiding personal belongings or work equipment
- impeding a person’s work in any deliberate way
- persistently criticizing, undermining, belittling, demeaning or ridiculing a person
- intruding on a person’s privacy
- public ridicule or discipline
- unwelcomed physical contact
- sexual innuendo or insinuation
- unwanted and inappropriate invitations or requests, including of a sexual nature
- displaying offensive posters, cartoons, images or other visuals
- making aggressive, threatening or rude gestures
- misusing authority, including:
  - constantly changing work guidelines
  - restricting information
  - setting impossible deadlines that lead to failure, and/or
  - blocking applications for leave, training or promoting in an arbitrary manner

- engaging in any of the actions, conduct and comments outlined above against a person because of that person's:
  - race
  - national or ethnic origin
  - colour
  - religion
  - age
  - sex
  - sexual orientation
  - gender identity or expression
  - marital status
  - family status
  - genetic characteristics
  - disability, or
  - any of the other prohibited grounds listed in the *Canadian Human Rights Act*

**Harassment is not**

Harassment is not any of the following:

- consensual workplace banter and interactions (unless it includes hurtful remarks about others, especially if they pertain to any of the prohibited grounds listed above)
- reasonable management action carried out in a fair way, such as day-to-day actions by a supervisor or manager related to:
  - performance
  - absenteeism
  - assignments
  - discipline, and
  - even dismissal (unless it is abusive or discriminatory)
- every workplace disagreement, although if a conflict is poorly handled or left unresolved, it can lead to harassment

**Violence**

Violence can include but is not limited to the following acts or attempted acts:

- verbal threats or intimidation
- verbal abuse, including swearing or shouting offensively at a person
- contact of a sexual nature
- kicking, punching, scratching, biting, squeezing, pinching, battering, hitting or wounding a person in any way
- attack with any type of weapon
- spitting at a person

**Prohibition - Harassment/Violence**

Harassment and/or violence constitute serious workplace offences. If harassment and/or violence is substantiated appropriate corrective action will be taken as follows:

- If the incident is considered to be of a minor nature and/or an isolated incident, progressive discipline procedures will apply
- For more serious incidents or repeated incidents more severe progressive discipline procedures will apply
- Incidents involving violence may result in suspension or dismissal. Violence/assault will be reported to the police.

- Submitting a false complaint or otherwise abusing this policy/procedure will result in disciplinary and may include dismissal

### **Emergency procedures**

If a harassment and violence occurrence poses an immediate danger to the health and safety of an employee, or if there is a threat of such an occurrence, call 911 for emergency services (police, fire and ambulance). Employees can also contact the Employee Assistance Program (EAP) at 1-866-644-0326

### **Role of Wahnapiitae First Nation**

The role of Wahnapiitae First Nation in relation to harassment and violence prevention includes:

- committing to preventing harassment and violence in the workplace
- jointly reviewing and, when necessary, updating this policy with the policy 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 policy committee
- jointly monitoring and, when necessary, updating the work place assessment with the policy committee when there is:
  - a change to the risk factors identified, or
  - a change in the effectiveness of the preventive measures that have been developed and implemented
- jointly reviewing and updating the workplace assessment with the work place committee:
  - in situations where the principal party chooses to end the resolution process but the occurrence is not resolved, or
  - in situations where the responding party is not an employee or the employer jointly reviewing the workplace assessment with the policy committee and, when necessary, updating it
- jointly developing emergency procedures with the policy 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 policy committee
- making available to all employees information related to support services
- jointly developing or identifying harassment and violence prevention training with the policy committee
- delivering harassment and violence training to all employees and the designated recipient
- jointly reviewing and, when necessary, updating the training with the policy 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 *Work Place Harassment and Violence Prevention Regulations* (the Regulations)
- for investigations into an occurrence of harassment and violence, providing a copy of the investigator's report to the principal party, responding party, and workplace committee
- jointly determining with the workplace 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 1 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

#### **Role of designated recipient (Human Resources)**

Under this policy, Human Resources (HR or designate) will act as the designated recipient. The role of HR in relation to harassment and violence prevention at Wahnapiitae First Nation includes:

- responding to all notices of an occurrence within 7 days of receiving the notice
- initiating negotiated resolution with the principal party within 45 days after the day on which the notice of an occurrence is received
- reviewing every notice of an occurrence with the principal party against the definition of harassment and violence outlined subsection 122(1) of the Code
- making every reasonable effort to resolve an occurrence for which a notice has been provided
- allowing the principal and responding parties the option of participating in conciliation if they both agree to participate and on who will facilitate the conciliation
- providing notice of an investigation to the principal and responding parties if the principal party requests an investigation
- in the case of an investigation, selecting a person to act as an investigator from the list of investigators developed jointly by Wahnapiitae First Nation and policy committee
- ensuring selected investigators have the necessary knowledge, training and experience required by the Regulations
- ensuring investigators provide a written statement indicating they are not in a conflict of interest with respect to the occurrence
- providing investigators all the information that is relevant to their investigation
- providing monthly status updates to the principal and responding parties on the status of the resolution process

#### **Role of the workplace committee**

The role of the workplace committee in relation to harassment and violence prevention at Wahnapiitae First Nation includes:

- jointly reviewing and, when necessary, updating this policy with Wahnapiitae First Nation at least once every 3 years or following any change to an element of this policy
- jointly conducting the workplace assessment with Wahnapiitae First Nation and making recommendations to Wahnapiitae First Nation regarding changes that should be made
- jointly monitoring and, when necessary, updating the work place assessment with Wahnapiitae First Nation when there is:
  - a change to the risk factors identified, or
  - a change to the effectiveness of the preventive measures that have been developed and implemented
- jointly reviewing and, when necessary, updating with Wahnapiitae First Nation the workplace assessment every 3 years
- jointly developing the emergency procedures with Wahnapiitae First Nation
- jointly reviewing and, when necessary, updating the emergency procedures with Wahnapiitae First Nation
- jointly identifying with Wahnapiitae First Nation appropriate harassment and violence training

- jointly reviewing and, when necessary, updating the training with Wahnapiitae First Nation at least once every 3 years and following any change to an element of the training
- jointly developing a list of investigators with Wahnapiitae First Nation
- where appropriate, checking in with Wahnapiitae First Nation, if necessary, with a view to compliance with the Regulations and the Code
- implementing the preventive measures developed by the policy committee at the local workplace level
- jointly reviewing and updating with Wahnapiitae First Nation the workplace assessment:
  - in situations where the principal party chooses to end the resolution process but the occurrence is not resolved, or
  - in situations where the responding party is not an employee or the employer (for example clients, contractors, former partners)
- jointly determining with Wahnapiitae First Nation which of the investigator's recommendations from the investigator's report are appropriate to implement

### **Role of employees**

The role of all employees in relation to harassment and violence prevention at Wahnapiitae First Nation include:

- refraining from committing harassment and violence
- where appropriate and safe, informing a person committing harassment and violence that their actions are inappropriate and unwelcome
- reporting all occurrences of harassment and violence to their supervisor or Human Resources (or designate) when they experience or witness it
- where appropriate, making every reasonable effort to resolve an occurrence of harassment and violence through negotiated resolution if they were a party to an occurrence
- cooperating with an investigator and the investigation process related to an occurrence
- refraining from retaliatory behaviour against the principal party, responding party, witnesses and any other individuals who are involved in the resolution process for an occurrence
- respecting the confidentiality of the information shared throughout the resolution process of an occurrence

### **Harassment and violence prevention training**

Wahnapiitae First Nation will provide all of its employees with harassment and violence training. This training will cover:

- elements of the work place harassment and violence prevention policy
- the relationship between workplace harassment and violence and the prohibited grounds of discrimination under the *Canadian Human Rights Act*
- how to recognize, minimize and prevent work place harassment and violence

All new employees will receive training within 3 months after the day on which their employment begins. Further, all employees will receive this training again at least once every 3 years. The following groups will receive training on their obligations in relation to harassment and violence at least once every 3 years:

- supervisors
- managers
- directors, and
- members of Human Resources (or designate)

### **Privacy protection**

Wahnapitae First Nation is committed to the protection of the privacy of the persons involved in an occurrence. As such, the workplace committee are not permitted any involvement in the resolution process of an occurrence. Only trained staff in Human Resources (or designate) will engage in the resolution process with the principal party and responding party. Further, we will not permit an investigator to disclose in any report it produces and distributes the identity of any of the persons involved in an occurrence or the resolution process for an occurrence. This includes the principal party, responding party, witnesses and any other individuals interviewed by the investigator.

### **Recourse avenues**

Employees can pursue multiple recourse avenues for their occurrence. This includes:

- filing a grievance
- pursuing recourse under the *Canadian Human Rights Act* with the *Canadian Human Rights Commission*, or
- pursuing recourse under the *Criminal Code*

### **Support measures**

Employees can access Wahnapitae First Nation EAP by contacting Manulife at 1-866-644-0326 or online at [manulifeEFAP.com](http://manulifeEFAP.com)  
**About**

### **Notices submitted in bad faith**

Notices of harassment and violence that are identified throughout the resolution process as having been made in bad faith may be subject to disciplinary action.

### **Complaints related to employer non-compliance with the Code or Regulations**

In accordance with section 127.1 of the *Code* or *Regulations*, if you, as an employee believe that there has been a contravention of the *Code* as it relates to an occurrence of harassment and violence, you may make either an oral or a written complaint to Human Resources (or designate) or the ED.

### **Definitions**

The following definitions apply to this policy:

- **Designated recipient** means the work unit that has been designated by Wahnapitae First Nation, to whom a notice of an occurrence may be submitted. For the purposes of this Policy, Human Resources (or designate) will act as the designated recipient
- **Occurrence** means an occurrence of harassment and violence in the workplace
- **Principal party** means an employee or employer who is the object of an occurrence
- **Responding party** means the person who is alleged to have been responsible for the occurrence in a notice of an occurrence provided to the designated recipient
- **Witness** means a person who witnessed an occurrence of harassment and violence or is informed of an occurrence by the principal party or responding party
- **Workplace** means any place where an employee is engaged in work for the employee's employer as per 122(1) of the *Code*

## Violence & Harassment Procedure

### Outline of the resolution process

Below is a summary of the resolution process. It includes how a principal party, or witness, can submit a notice of an occurrence.

### Notice of an occurrence

You are encouraged to notify Human Resources (or designate) (the designated recipient) if:

- you are an employee who experience harassment and violence in the workplace, or
- you are an individual (employees or non-employees) who witnessed an occurrence of harassment and violence in the workplace

Notify Human Resources (or designate)

Human Resources (or designate) will ask the employee or individual to fill out a form, in which they provide the following information:

- the name of the principal party and the responding party (if known)
- the date of the occurrence
- a detailed description of the occurrence

If an employee or individual is not able to provide this information in written form, they may provide this information to Human Resources (or designate) orally. Human Resources (or designate) will then transcribe the information for them on the form.

Please note that, in order to proceed with the resolution process, it is mandatory to provide the name or identity of the principal party who was involved in the occurrence. If you do not provide the name or identity of the principal party, the occurrence will not be further reviewed.

Wahnapitae First Nation cannot reveal the identities of the parties involved in the resolution process for an occurrence to either the policy committee or workplace committee without the consent of the parties. However, the identities of the parties may be revealed to each other as part of the resolution process.

### Negotiated resolution

Negotiated resolution is a form of informal resolution where the principal party meets with the employer or designated recipient to:

- discuss the occurrence
- clarify what was submitted in the notice of occurrence, and
- attempt to reach resolution

During negotiated resolution, Human Resources (or designate) will ask the principal party to meet, either in person or by phone, with a member of Human Resources (or designate). This meeting is for an initial discussion regarding the occurrence. During this discussion, the member of Human Resources (or designate) and the principal party will review the notice of occurrence that they received against the definition of harassment and violence in the Code. Together, they will try to determine whether the occurrence meets the definition. If both the member of Human Resources (or designate) and the principal party agree that the occurrence does not meet the definition, then they will deem the occurrence as resolved. If the member of Human Resources (or designate) and the principal party do not agree as to whether the occurrence meets the definition, and the principal party wishes to continue with the resolution process, then the principal party has the option of either:



- continuing with negotiated resolution, or
- pursuing conciliation and/or an investigation

If the principal party wishes to continue with negotiated resolution, they must inform Human Resources (or designate) of this decision. Human Resources (or designate) will schedule a series of meetings with the principal party. At the meetings, where applicable, the responding party will discuss the occurrence and attempt to achieve resolution. The responding party does not have to be informed of the principal party's notice of occurrence or be involved at this stage of the resolution process. This is only if the principal party does not wish for them to be notified or involved. Human Resources (or designate) can arrange for any of the following meetings:

- meetings with only the principal party and a member from Human Resources (or designate)
- meetings with the principal party, responding party and a member from Human Resources (or designate)
- meetings between the principal party and a member from Human Resources (or designate) with concurrent but separate meetings between the responding party and a member from Human Resources (or designate)

#### **Conciliation**

A principal party and responding party may engage in conciliation at any time during the resolution process. However, conciliation can only proceed if both the principal party and the responding party agree to engage in conciliation. They must also agree on the person who will facilitate the conciliation. However, conciliation can only proceed if an investigator has not provide their final investigation report.

The principal party and responding party are required to inform Human Resources (or designate) of their desire to participate in conciliation. Human Resources (or designate) will then facilitate discussion around the selection of a conciliator who is agreeable to both parties. Human Resources (or designate) will also schedule time for both parties to meet with the conciliator.

#### **Investigation**

The principal party may request an investigation at any time during the resolution process. If the principal party wishes to proceed with an investigation, they must inform Human Resources (or designate). Human Resources (or designate) will then:

- provide notice of an investigation to the principal and responding party, and
- select an investigator from the list that has been jointly developed with the policy committee

The selected investigator will investigate the occurrence and provide Wahnapiitae First Nation a report outlining:

- a general description of the occurrence
- their conclusion, and
- their recommendation to eliminate or minimize the risk of a similar occurrence

Wahnapiitae First Nation will then provide a copy of this report to the principal party, responding party and the workplace committee.

The report will not reveal, directly or indirectly, the identity of the persons who were involved in the occurrence or the resolution process for the occurrence.

Wahnapiatae First Nation and the workplace committee will then meet to determine which of the recommendations in the investigator's report are to be implemented. Wahnapiatae First Nation will implement those recommendations within 1 year of receiving the notice of occurrence.

**Support Person**

At any time during the resolution process, an employee may be accompanied by a:

- friend
- partner
- colleague, or
- person of their choosing

who may act as a support person but that person must not be a witness or otherwise involved in the occurrence(s) or resolution processes and must not interfere with or impede resolution processes.

**Protection against reprisal**

Parties involved in an occurrence are forbidden from seeking retaliation. 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 Human Resources (or designate) immediately.

**Workplace assessment**

Human Resources (or designate) and the workplace committee will conduct a joint review. If necessary, they will update the workplace assessment if an employee submits a notice of an occurrence and the resolution process cannot proceed for any of the following reasons:

- the principal party chooses to end the resolution process at any point during the resolution process but the occurrence is not resolved
- the responding party is not an employee or the employer (for example, the responding party is a member of the public, a client, or an (ex)partner or family member)

The purpose of the review and update of the workplace assessment is to:

- determine what happened, taking into account the circumstances of the occurrence
- determine whether all risk factors have been appropriately identified
- develop new preventive measures, if needed, to mitigate the risk of a similar occurrence

**Emergency procedures**

If a harassment and violence occurrence poses an immediate danger to the health and safety of an employee, or if there is a threat of such an occurrence, call 911 for emergency services (police, fire and ambulance). Employees can also contact the Employee Assistance Program (EAP) at 1-866-644-0326

## Violence in the workplace guide (appendix A)

Below is a summary of the emergency procedures that the Wahnapitae First Nation must implement in various types of situations.

If you witness or experience violence at work:

- remove yourself from the situation if you can
- inform your manager or seek help from a co-worker immediately
- if your manager is the perpetrator, notify another manager in the line of authority
- if your physical security or well-being is threatened, press your panic button and if possible call 911
- If you are dealing with a violent person:
  - stay calm
  - try to calm the other person or diffuse the situation
  - avoid saying or doing anything that could aggravate the situation
  - avoid eye contact or sudden movements that can be perceived as threatening
  - respect the person's personal space
  - continue the conversation with the person only if the person calms down
  - tell the person that you understand the reason for their anger
  - if the behavior persists, end the conversation
  - politely notify the person that you will leave the work area or ask them to do so
  - notify your manager or seek help from a co-worker immediately (use the panic button if necessary)
  - if the person refuses to leave the premises and the situation escalates call 911 and contact the Security Office

### Active shooter

If you witness an incident involving an active shooter outside the building:

- stay out of sight (away from windows) and warn colleagues, clients and visitors
- leave the area at risk
- when safe to do so, call 911 and other building occupants
- if you cannot evacuate the building safely, lock outside doors and close the blinds and curtains
- wait for instructions from first responders

If you witness an incident involving an active shooter inside the building:

- stay calm
- if you can do so safely, leave the area immediately
- warn as many others as possible without attracting the attention of the assailant
- if you can do so safely, call 911 and notify other building occupants
- lock the doors or barricade yourself in a room using furniture
- block the windows; close the office blinds and curtains
- if the workspace has no door, hide under your desk or where you cannot be seen
- if you are in a washroom, remain there if safe to do so
- silence your cellphone, turn off radios and computers
- if you cannot escape, remain silent and hide until first responders arrive
- wait for instructions from first responders

### **Bomb threat**

If you are made aware of a bomb threat by telephone:

- listen to the caller calmly and do not interrupt them
  - try to get as much information as possible, such as:
    - when the bomb is supposed to explode
    - where the bomb is located
    - description of the device
    - reason for the call or motivation for the threat
    - telephone number on the display screen (if possible)
  - Remember any details you can about the caller, such as:
    - approximate age
    - gender
    - accent
    - level of nervousness
    - any background noise
  - call 911 and inform your manager
  - remain available to provide information to first responders
- If you are made aware of a bomb threat by e-mail:
- save the email (or letter)
  - send it immediately to Anishinabek Police Service, Chief of WFN, Executive Director and HR

If a bomb alert is activated (for example, over intercom):

- visually inspect your immediate work area including:
  - wastepaper baskets
  - storage areas
  - dislodged suspended ceiling panels
  - furniture that has been moved
  - closets
- inform your manager of the results of your search
- if you find a suspicious package, do not touch it and inform the HR/ED immediately
- do not evacuate the building until authorized to do so

## Factors that contribute to workplace harassment and violence (appendix B)

There are a number of factors that can contribute to workplace harassment and violence. These factors can be divided into 5 general categories:

- client characteristics
- physical work environment
- work activity/culture
- job factors, and
- other external factors

### **Client characteristics**

Working with clients that exhibit certain characteristics can put employees at greater risk of harassment and violence. This can include working with clients, and their relatives, who may lash out at the closest person due to:

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

### **Physical work environment**

Certain work environments and workplace designs can result in additional risks that may lead to harassment and violence. These can include:

- working alone, in small numbers or in isolated or low-traffic areas (for example isolated reception area, washrooms, storage areas, utility rooms)
- working in community-based settings (for example home visitors)
- having a mobile workplace
- working in a poorly designed client area, such as a cramped room or a room that has poor visibility of clients
- working in an overcrowded environment
- working in an environment with high noise levels

### **Work activity/culture**

- working with the public
- handling money, prescription medication or items of significant value
- working with volatile persons (for example criminal justice system employees who work with inmates)
- working on premises where alcohol is served
- working in an environment that tolerates or promotes racist, sexist, homophobic, ableist, or otherwise discriminatory attitudes and behaviours
- working during periods of intense organizational change (for example strikes, privatization, restructuring, downsizing)
- working in the same workplace with an (ex) partner who is abusive

### **Job factors**

Aspects specific to a job, such as mental and physical demands of the job, can result in additional hazards that may lead to harassment and violence. This can include:

- lack of control over how work is done

- excessive workload
- unreasonable or tight deadlines leading to high stress
- confusing, conflicting or unclear job or roles
- ambiguous or complicated reporting structures
- lack of job security

#### **Other external factors**

Other external factors that can result in harassment and violence include:

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

#### **Violence and Harassment Policy - List of Approved Investigators**

The following is the list of approved investigators under the Wahnapitae First Nation Violence and Harassment Policy and Procedure:

1. Marc Piquette, Senior HR Consultant Gallagher [marc\\_piquette@aig.com](mailto:marc_piquette@aig.com) cell: 705-670-7886. Approved investigator listed on federal national roster of workplace harassment and violence prevention investigators.
2. Ehren Baldauf, Gallagher Senior Vice President, Northern Ontario and North Toronto [ehren\\_baldauf@aig.com](mailto:ehren_baldauf@aig.com). Approved Investigator listed on federal roster of workplace harassment and violence prevention investigators.