

Meeting Date: September 3, 2019
Department: Chief Administrative Officer
Prepared By: Greg McClinchey, Chief Administrative Officer
SUBJECT: **Amendment to the Progressive Discipline Policy (By-Law 17-18)**

RECOMMENDATION: That Council amend the Municipal Progressive Discipline Policy enacted via By-Law 17-18 as outlined in the attached report.

PURPOSE

The Municipality's Progressive Discipline Policy is intended to complement all other human resource policies and structures of the Corporation as part of the Municipal commitment to ensuring a respectful, safe and secure municipal environment.

The Municipality's Progressive Discipline Policy is also intended to provide all employees with a mechanism to receive critical feedback in a timely manner, and an opportunity to subsequently correct any performance or behavioural problems prior to the problems threatening the employment status or the on-the-job success and growth of the employee.

To be effective as a management tool, the Municipality's Progressive Discipline Policy must be reviewed and updated regularly to ensure compliance with all federal and provincial laws and regulations, and with other Municipal commitments such as those detailed in the Collective Bargaining Agreements.

CONSULTATION

Legal Counsel
Human Resources

FINANCIAL IMPLICATIONS

- None

ATTACHMENTS

- Municipality's Progressive Discipline Policy (with proposed substantive changes in red)



Progressive Discipline Policy

Goal Statement

The Progressive Discipline Policy is intended to complement all other human resource policies and structures of the Corporation as part of the Municipal commitment to ensuring a respectful, safe and secure municipal environment.

The Progressive Discipline Policy is also intended to provide employees with a mechanism to receive critical feedback in a timely manner, and an opportunity to subsequently correct any performance or behavioural problems prior to the problems threatening the employment status or the on-the-job success and growth of the employee.

Objective

The Progressive Discipline Policy is intended to establish a set of reasonable rules and guidelines for all employees to follow. These rules and guidelines have not been put in place to restrict the freedoms of employees, but rather they are in consideration of the safety, and the overall protection of Municipal employees, property, visitors and business practices of the Corporation.

Application

The Progressive Discipline Policy shall apply to all employees of the Corporation regardless of their department or job title. **This policy is intended to function as a compliment to any codes of conduct that may apply to staff and/or to the Council of the Municipality of Strathroy-Caradoc.**

Notwithstanding the above, nothing contained within this policy is intended to override or contradict any provision of a duly enacted collective bargaining agreement. In cases of conflict between this policy and the collective bargaining agreements of the Corporation, the said agreements shall take precedence.

In cases of conflict or confusion, the Chief Administrative Officer (CAO) shall be empowered to make all necessary alterations or clarifications needed to ensure the equitable and effective application of this policy. Any such clarifications shall be added to an appendix to this policy and **provided to all employees at the earliest training opportunity.**

Responsibility

The senior staff person responsible for human resources shall maintain this policy, in collaboration with Legal and Legislative Services and the CAO as outlined herein.

In cases of conflict or confusion, the Chief Administrative Officer (CAO) shall be empowered to make all necessary alterations or clarifications needed to ensure the equitable and effective application of this policy within the confines of the *Goal Statement, Objectives and/or Application* noted herein.

Definitions

- Coaching:** This is the first step in communicating expectations regarding an employee's behaviour or performance. Coaching should form part of the day-to-day interaction between a Supervisor and an employee. Coaching may be used to provide positive feedback about an employee's contributions, as well as be an informal method to communicate with the employee about behaviour or performance that is not meeting expectations. The goal of coaching is to reinforce and/or clarify work expectations, provide support to the employee to meet the expectations and allow the employee the opportunity to adjust their behaviour or performance to meet the expectations set out in the communication. Coaching may be, at the discretion of the supervisor, documented in the employee file **but will not be considered disciplinary.**
- Investigative Leave:** It should be noted that an employee may be placed on an "investigative **leave**" as a result of allegations implicating the employee of having committed a serious act. In the event that the investigation findings clear the employee of any wrongdoing, he/she will be re-instated and remunerated for any lost pay.
- Suspension:** **This includes all provisions required in a Written Warning and adds an employment suspension. A suspension consists of a formal discussion with the employee to advise that he/she shall be relieved of their job duties, without pay, at a time of the employer's choosing. The suspension from work may be from one (1) to ten (10) days, as determined by the nature and/or frequency of the transgression.**
- Termination:** This occurs when the employee has not met the performance or behaviour expectations communicated through the progressive discipline process and/or the severity of the occurrence warrants immediate termination. Decisions to terminate an employee should be reviewed by Human Resources and approved by the Chief Administrative Officer, with notification of the termination to Council at the earliest opportunity.
- Unit Chair:** **A municipal employee who has been elected or appointed by the Union to represent members of the bargaining unit.**
- Verbal Warning:** This consists of a formal discussion with the employee, wherein the employee is advised of the behaviour or substandard performance that is not meeting the work expectations and the possible consequences if the employee takes no action to change their behaviour or performance to meet these expectations. The verbal warning meeting is intended to counsel the employee for improvement, however the employee should understand there is now a risk for additional disciplinary action if the employee's behaviour or performance does not improve. Despite the phraseology, a verbal warning shall include a brief written notation of the event in the employee file.

Written Warning: This consists of a formal discussion with the employee which is documented in writing for the employee and Supervisor's reference as to what expectations were communicated, the required changes expected, the performance improvement plan where appropriate and the consequences should the employee not follow the guidance provided.

Governing Rules and Regulations

1.0 Process

1.1 In the event that an employee of the Municipality of Strathroy-Caradoc violates Municipal policies and procedures, or exhibits problematic behaviour, a system of progressive discipline shall be utilized. In this context, the Municipality of Strathroy-Caradoc recognizes its continuing responsibility to develop and administer Municipal policies and procedures in a fair and consistent manner and the Progressive Discipline Policy reinforces the importance of providing this fair and consistent approach when working with employees regarding unacceptable behaviour or performance that arises in the workplace.

Employees are valued and this policy is intended to provide guidelines for communicating expectations when correcting an employee's inappropriate behaviour or unsatisfactory performance, reinforcing the positive aspects of his/her behaviour/performance, and encouraging employees to correct their conduct to achieve satisfactory work performance or behaviour. As such, progressive discipline can be issued **as a consequence of negative** attendance, conduct, professionalism, health and safety, or performance concerns.

1.2 Employees will be given opportunities to correct the unwanted behaviour, unless the behaviour or concern is one of a severe nature, in which case, progressive discipline can be accelerated to match the violation.

Degrees of discipline shall be used in relation to the problem at hand and will not necessarily be imposed in a mechanical manner. As the situation dictates, based on the past performance of the employee, and the seriousness of the violation, the Municipality of Strathroy-Caradoc reserves the right to skip any or all steps in the disciplinary process and/or to move straight to termination where necessary. For example, some acts of serious misconduct may warrant immediate dismissal, such as theft, fraud or a risk to health and safety of individuals. Conversely, the Corporation may, depending upon the circumstances and in particular upon the nature and seriousness of the violation and whether the employee understands the necessity of modifying their conduct, elect not to proceed to the next level of discipline.

Progressive discipline will most often be structured as follows:

- A. Coaching (informal);
- B. Verbal Warning;
- C. Written Warning;

- D. **Suspension**; and
- E. Termination.

Progressive discipline provides the employee with the opportunity to change their performance or behaviour with each discussion/meeting. The progressive discipline process stresses positive, corrective actions rather than punishment or retribution. It is the correction of the employee's behaviour or performance that is the most important consideration and is the focus of the communications between the Supervisor and the employee. The steps in the progressive discipline process are to give the employee every opportunity to understand the expectations and change their behaviour or performance to meet the expectations. The objective of the discussions is for the employee to be successful in their position with the Municipality of Strathroy-Caradoc.

1.3 The following principles shall be applied when addressing progressive discipline matters:

- Corrective action should be prompt: There should be as little delay as possible between identifying an occurrence which requires corrective action and taking the necessary steps to address the employee's behaviour or performance.
- Corrective action should be appropriate: The corrective action taken should relate to the occurrence and the previous record of the employee and not be influenced by any subjective considerations.
- Corrective action should be consistent: To ensure consistency in progressive disciplinary steps, the occurrence and recommended approach should always be discussed with Human Resources. Additionally, while Directors are expected and required to execute this policy when necessary, all uses of this policy above Coaching shall be authorized by the CAO in advance of their execution.

2.0 Administrative and Progressive Discipline

2.1 Review of Occurrence: In the Supervisor's review of the employee's unacceptable behaviour or substandard performance, the following information should be considered when determining the corrective action to implement:

2.1.1 Does the employee have the information/training they require to understand what is the acceptable behaviour or standard of performance required of them? Has the employee been coached on this matter or had similar behaviour/performance concerns in the past? Has the employee had previous progressive discipline on this or other matters? Has the information about the occurrence been gathered thoroughly and objectively? Is the response, timely, reasonable and consistent?

2.1.2 Where the review of the occurrence would result in suspension or termination, Human Resources must be advised prior to action being taken. The decision to terminate an employee shall be authorized by the CAO prior to action being taken.

2.1.3 Coaching, warnings and suspension documentation will remain active in an employee's personnel file for a period of two (2) years unless further incidents occur. Should additional disciplinary issues of any kind occur, the two (2) year period shall reset from the date of the most recent occurrence. The two (2) year period may be extended where an employee has engaged in repeat or very serious misconduct at the discretion of the CAO.

3.0 Investigation

- 3.1 Where circumstances require additional information (e.g. other persons involved (internal/external), occurrence not observed directly, allegations), the occurrence will be investigated by the Supervisor or by Human Resources.
- 3.2 An employee may be placed on **Investigative Leave** as a result of allegations implicating the employee of having committed a serious act(s). In such an instance, the CAO shall be responsible for assigning an appropriate investigator. In the event that the investigation findings clear the employee of any wrongdoing, he/she will be re-instated and remunerated for any lost pay.
- 3.3 In the event that an employee is placed on **Investigative Leave** pending the results of an investigation, the employee will be notified of the decision, a stated timeline for the investigation and the actions that predicated the decision. This form of **leave** is not disciplinary but is intended to allow the Corporation to examine the issues thoroughly and to determine appropriate action. Should the investigation not be completed during the stated timeline, the Corporation reserves the right to extend the suspension, as necessary.
- 3.4 During the course of any investigation, **employees involved** will be provided with the details of the allegations and given an opportunity to respond to them. The employee(s) must ensure that he/she is available for interviews during this period. If the employee(s) fails to make him/ herself available, the Corporation will proceed with the investigation and make a determination based on the information available.
- 3.5 ~~Any employee who is placed on suspension of any kind, will be required to temporarily turn over his/her office keys, access passes and municipal identification and credit cards. Any and all municipal property, business information, and confidential information are to remain at the worksite. In the event that any employee placed on suspension maintains any files or equipment at his/her residence which are municipal property, he/she will be required to surrender these items to a supervisor, until such time as the investigation is completed.~~ All employees are obliged to cooperate with any investigation and to respond to questions in an honest and forthright manner. Failure to do so may be considered misconduct in and of itself.
- 3.6 **Employees are required to adhere to Municipal policies and standards of conduct while on Investigative Leave. Failure to do so shall be considered misconduct.**
- 3.7 An employee placed on **Investigative Leave** should not have contact with anyone from the workplace other than his or her designated point of contact.

3.8 All serious violations or alleged violations will be investigated and documented by a senior manager, and/or Human Resources and reported without delay to the CAO. All formal measures that have been taken within the progressive discipline process will be documented and kept in the employee's personnel file **in a manner consistent with this policy.**

4.0 Appeals

4.1 In the event the employee feels that they have been wrongfully accused, or disciplined, they may submit a written letter of appeal to Human Resources and/or the Chief Administrative Officer. The written appeal should include detailed information outlining the request and rationale for the appeal. The appeal shall be reviewed, investigated as necessary and a response provided to the employee verbally and in writing.

4.2 Employees represented by a union should speak to their Unit Chair when engaged in any process prescribed in this policy. The Corporation will engage with the appropriate Unit Chair or union representative when activating the processes noted herein.

5.0 Without Cause Terminations

5.1 Nothing in this policy is intended to preclude the Corporation from terminating an employee's employment on such notice or payment as may be required under the Employment Standards Act or the terms of their individual contract of employment.

Roles and Responsibilities

The senior staff person responsible for human resources shall maintain this policy, in collaboration with Legal and Legislative Services and the CAO as further outlined herein.

Directors and Supervisors are responsible for communicating this policy to their staff and, in consultation with the senior staff person responsible for human resources and the CAO, to execute this policy as further outlined herein.

All uses of this policy, above coaching, shall be authorized by the CAO in advance of their execution.

This policy shall be reviewed from time-to-time to ensure compliance with all federal and provincial laws and statutes.

Minor grammatical, spelling, and/or typographical changes or corrections that do not alter the intent of this policy/document may be made, as necessary, by the CAO and/or the Director of Legal and Legislative Services. Grammatical, spelling, and/or typographical changes shall not alter or diminish the effect of the directives contained herein.

Limitation

The Municipality of Strathroy-Caradoc accepts the doctrine of federal/provincial paramountcy as it relates to all municipal policies, procedures and by-laws.

For clarity, this acceptance means that, where there is an inconsistency or overlap between any validly enacted municipal policy, procedure or by-law and a lawful and relevant federal or provincial directive, statute or regulation, the federal or provincial directive, statute or regulation shall take precedence and override the cited municipal provision to the extent of resolving the inconsistency.

For further clarity, nothing contained within this policy is intended to override or contradict any provision of a duly enacted collective bargaining agreement. In cases of conflict between this policy and the collective bargaining agreements of the Corporation, the said agreements shall take precedence.

Implementation

This policy shall become effective immediately upon approval by the Council for the Municipality of Strathroy-Caradoc.