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# HALDIMAND COUNTY

## Report HRD-05-2022 Employee Right to Disconnect Policy

For Consideration by Council in Committee on May 31, 2022

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### OBJECTIVE:

To review and approve a corporate policy, confirming the County's practices related to staff disconnecting from work, and meeting related obligations set out in provincial legislation Bill 27, "Working for Workers Act".

### RECOMMENDATIONS:

1. THAT Report HRD-05-2022 Employee Right to Disconnect Policy be received;
2. AND THAT the Disconnecting from Work Policy be approved as presented in Attachment #1 to Report HRD-05-2022;
3. AND THAT the Senior Management Team be delegated the authority to revise this policy in the future, as deemed necessary.

**Prepared by:** Megan Jamieson, Director, Human Resources

**Respectfully submitted:** Cathy Case, General Manager of Corporate & Social Services

**Approved:** Craig Manley, MCIP, RPP, Chief Administrative Officer

### EXECUTIVE SUMMARY:

Ontario legislation, Bill 27, passed in December, 2021, requires employers with more than 24 employees to develop written policy regarding employee's right to disconnect from work. While such a policy does not create a new "right" it aims to clarify expectations about communication during off-hours, specifically when a response is or is not required. The purpose of this legislation is to ensure Ontario labour laws keep pace with the acceleration of new modernized and/or remote workplaces.

Staff have drafted a proposed policy to meet this requirement and are recommending its adoption by Council. Ultimately, having such a policy encourages staff to disconnect and intends to support employees in balancing their working and personal lives, whether working normal hours of work, flexible working hours, in the workplace or remotely.

### BACKGROUND:

Recently, the Government of Ontario introduced several legislative changes in response to the realities of remote work and the modern workplace. Specific to this report, Bill 27, known as *Working for Workers Act, 2021*, was introduced November 30, 2021 and passed December 2, 2021 and requires certain Employers to prepare a written policy on disconnecting from work. The Employment Standards Act, as amended (ESA) clarifies that "disconnecting from work" means not engaging in work-related communications, including emails, telephone calls, video calls or the sending or reviewing of other messages, so as to be free from the performance of work.

Guidelines regarding content of the required policy are open ended and subject to the employer's discretion, however the Ontario Ministry of Labour provided a number of examples and considerations for the policy to consider/address.

It is important to note that employees were already protected under the ESA as it relates to maximum daily and weekly working hours, required time off, etc. The legislative change does not give any additional "rights" to employees to disconnect from work beyond what the ESA, Collective Agreement or related policies already provides; however, it does encourage employers to set certain expectations around work-life balance and requires that these expectations be documented, communicated and accessible by all employees.

## **ANALYSIS:**

In response to Bill 27, staff are recommending for approval, the appended draft Disconnecting from Work Policy, provided as Attachment 1 to this report. Key areas of focus include:

- Scope – This policy applies to all employees, as defined by the ESA. Although members of Council, Volunteer Firefighters, Board members and volunteers are *not* covered under this policy, staff will endeavour to communicate the purpose of this policy so that all parties can understand/respect employee's time during "off-hours" and better allow them to disconnect.
- Disconnecting between shifts – as a primary goal, this policy sets expectations with staff as it relates to normal hours of work, communications / responding during off-hours and confirming protective measures for employees so they can disconnect, whenever possible, without repercussion.
- Disconnecting while on leaves of absence – in addition to highlighting the importance of time away, this policy confirms the current administrative practice of restricting access to resources while on certain types of leaves. The intent of this practice is to take a more active role in encouraging employees to disconnect during critical or longer term leaves of absence such as an approved long term sick leave.
- Exceptions – This policy does not override the County's commitment to responsive municipal government and the need to continue effective operations across all departments and to respond to emergencies. Accordingly, the policy documents key exceptions when it is not practical for staff to disconnect from work. For example, employees who are assigned to be on-call, responding to urgent/emergency situations, expectations of management employees, legitimate/appropriate communication to staff and/or when an employee opts to work outside of normal hours to respond to irregular workload demands, deadlines or special circumstance.

A number of established policies and practices covering Haldimand County employees were considered when developing the proposed policy:

- Haldimand County collective agreements (CUPE, SEIU, UFCW and ONA) as well as the Policy Governing Non-Union Employees (Corporate Policy: 2012-02) outlining normal hours of work, overtime, premiums, on-call requirements, leaves of absence and related practices.
- Flex Time Policy (Corporate Policy: 2012-03) outlining hours of work for all Non-Union and eligible CUPE employees. This policy allows for alternative work scheduling as a means of providing choice as to when work can best be performed to the mutual benefit of the Corporation and the employee;
- Working Remotely Policy (Administrative policy) outlines options for eligible Non-Union and CUPE employees to perform a portion of their job duties from an alternative workspace based on need, preference and request type.

These tools, while useful for providing flexibility to the employee and employer for balancing work/home responsibilities may have a direct impact on an employee's ability to disconnect from work. For

example, employees regularly working remotely from their home may report a “blurring” of normal working hours versus rest periods and may find themselves having a harder time disconnecting. Likewise, an employee working under a flexible working arrangement may have standard hours that differ from a co-worker, thereby sending regular communication to a peer during their rest times and vice versa. The attached policy intends to clarify the County’s expectations around normal hours of work and anticipated response times, to reinforce the employee’s right to disconnect, whenever possible, and encourage a healthy and sustainable work/life balance.

While the attached policy is meant to confirm existing expectations, staff recognize that it may be perceived as new, particularly for those who in the past have had difficulty disconnecting. Communication will be key in introducing the policy, explaining the intent and following up on any concerns. Employees who have difficulty connecting, on a regular basis, are encouraged to meet with their direct Supervisor to uncover the root of the issue, whether that be workload, priority setting, hours of work, or other competing factors.

The policy will be reviewed on an as-needed basis and updated as required to meet the changing workplace needs and/or changing legislation.

## **FINANCIAL/LEGAL IMPLICATIONS:**

Failure to document written policy on disconnecting from work, will place the County in non-compliance with the ESA, which is subject to order and/or fines to be imposed. Once approved, the policy must be provided to employees within 30 calendar days of the policy being prepared or the policy being changed, and to new employees within 30 calendar days of their date of hire. Finally, every written policy must be retained for a minimum of three (3) years.

## **STAKEHOLDER IMPACTS:**

This policy will impact all employees across each department and may indirectly impact response times where immediate communication is deemed unnecessary. While it is not considered a new “right”, it clarifies/documents the County’s expectations.

## **REPORT IMPACTS:**

Agreement: No

By-law: No

Budget Amendment: No

Policy: Yes

## **REFERENCES:**

1. [CUPE Local 4700 Collective Agreement](#)
2. [SEIU Collective Agreement](#)
3. [UFCW SW Collective Agreement](#)
4. [ONA Collective Agreement](#)
5. [Policy No. 2012-02 Policy Governing Non-Union Employees](#)
6. [Policy No. 2012-03 Flex Time Policy](#)

## **ATTACHMENTS:**

1. Draft Disconnecting from Work Policy