



**House of Assembly  
Newfoundland and Labrador**

**Minutes of the House of Assembly  
Management Commission**

**Date:** May 16, 2018

**Location:** House of Assembly Chamber

**Time:** 5:30 pm

**Members Present:**

Hon. Perry Trimper, Speaker (Chair)  
Mr. Mark Browne, MHA (Lib) Placentia West – Bellevue  
Hon. Siobhan Coady, MHA (Lib), St. John's West  
Mr. Paul Davis, MHA (PC) Topsail-Paradise  
Mr. Keith Hutchings, Opposition House Leader  
Ms. Lorraine Michael, MHA (NDP), St. John's East-Quidi Vidi  
Hon. Andrew Parsons, Government House Leader  
Ms. Sandra Barnes, Clerk of the House of Assembly

**Other**

Mr. Brian Warr, Deputy Speaker  
Ms. Bobbi Russell, Policy & Communications Officer  
Ms. Kim Hawley George, Law Clerk  
Mr. Bruce Chaulk, Commissioner for Legislative Standards

**CM 2018-022** The Minutes of the Management Commission meeting held on April 18, 2018 were approved as read.

**CM 2018-023** Pursuant to Section 64 of the *House of Assembly Accountability, Integrity and Administration Act*, the Commission approved the proposed amendments to Section 46 of the *Members' Resources and Allowances Rules* prohibiting the reimbursement of cannabis, subject to final wording by the Office of the Legislative Counsel. The Commission directed that the timing of publication be coordinated with the coming into force of anticipated statutory changes required to effect legalization.

- CM 2018-024** The Commission deferred a decision with respect to access to the Leader's Travel fund of \$42,100 under the Official Opposition Caucus for members of the caucus and staff, as delegated by the member designated as Leader of the Official Opposition Caucus for administrative purposes.
- CM 2018-025** The Commission deferred a decision as to whether application of the Executive branch Harassment-Free Workplace Policy (effective June 1), with adjustments as outlined, is required in the interim in situations involving Members of the House of Assembly (in addition to the Code of Conduct).
- CM 2018-026** The Commission directed the Law Clerk to draft amendments to Section 22 of the *House of Assembly Accountability, Integrity and Administration Act* that would make attendance at training mandatory for Members of the House of Assembly, with the draft amendments to be brought forward at a future meeting for approval.

**Adjournment:** 7:35 pm

Hon. Perry Trimper, MHA  
Speaker (Chair)

Sandra Barnes  
Clerk and Secretary to the Commission

**House of Assembly Management Commission**

**Briefing Note**

**Title:** Request for Appeal – Member for Placentia West-Bellevue

**Issue:** Payment of invoice from previous fiscal year (2017-18).

**Background:**

- The Member for Placentia West-Bellevue is appealing the denial of payment by Corporate and Members' Services Division of certain expenses incurred by the Member. The expenditures were rejected for payment as they were incurred in the 2017-18 fiscal year, but the invoice was not submitted for payment within 30 days of the end of that year.

- Subsection 7(2) of the *Members Resources and Allowances Rules* (the Rules) states that:

*(2) A claim against an allowance for a payment or reimbursement shall be made in respect of the fiscal year in which the expenditure was made or incurred, and shall be submitted and received by the clerk not more than 30 days after the end of that fiscal year.*

- The expenses, totaling \$250.00, are permitted under the Rules, but could not be approved for payment as per the provisions of subsection 7(2). The expense was for a business card advertisement in the Annual Marystown Lion's Club Winter Carnival booklet. The attached letter from the Member for Placentia West-Bellevue provides further details.
- The Member is appealing this decision and has made a request to the Management Commission in accordance with Section 24 *House of Assembly Accountability, Integrity and Administration Act* (the Act).
- The Commission may make a ruling on payment of these expenses as per subsection 24(9) of the Act which states:

*(9) Notwithstanding that an expense claim has been denied by an officer, staff member or the speaker, in accordance with the rules, where there is an appeal to the commission under this section and the commission determines that that claimed expense amount*

- (a) *has been incurred by the member; and*
- (b) *is a permitted expense under the Act and rules; and*
- (c) *does not exceed an expense amount or allowance allocation permitted under the rules,*

*and a denial of payment of the expense amount would, in the opinion of the commission, be unjust, the commission may approve the expenditure for the claimed expense to the extent that the commission considers to be just and the decision of the commission is final.*

- While there were sufficient funds remaining in the Member's allocation to pay the expenses had they been submitted in the 2017-18 fiscal year, the expenses cannot be charged to the Member's expense allocation for that year because they were not submitted by the deadline of April 30, 2018. Should the Commission approve payment, the expenses will be charged to the Member's allocation for fiscal year 2018-19.

**Analysis:**

**Legal Consultation:**

Not applicable.

**Internal Consultation(s):**

Not applicable.

**External Consultation(s):**

Not applicable.

**Comparison to Government Policy:**

Not applicable.

**Financial Impact:**

Not applicable.

**Legislative Impact:**

Not applicable.

**Options:**

1. Approve the payment of expenses totaling \$250.00 for the Member for Placentia West-Bellevue with the expenses to be paid within the appropriate allocation for the 2018-19 fiscal year.
2. Deny the payment of expenses totaling \$250.00 for the Member for Placentia West-Bellevue.

**Status:**

- Not applicable.

**Action Required:**

- The decision of the Commission is requested.

Prepared by: Bobbi Russell  
Date: May 28, 2018

Approved by: Sandra Barnes

**Attachments:**

1. Letter from the Member for Placentia West-Bellevue to the Speaker.



HOUSE OF ASSEMBLY  
Newfoundland and Labrador

**Mark Browne, MHA**  
**District of Placentia West - Bellevue**

May 24<sup>th</sup>, 2018

Hon. Perry Trimper, MHA  
Speaker of the House of Assembly  
Chair of the House of Assembly Management Commission  
PO Box 8700  
St. John's, NL  
A1B 4J6

Dear Mr. Chair,

Please accept this correspondence as an official appeal to the House of Assembly Management Commission (HOAMC) of invoice number HOA0047899 in the amount of \$250.00, for a business card advertisement in the 43<sup>rd</sup> Annual Marystown Lion's Club Winter Carnival Booklet.

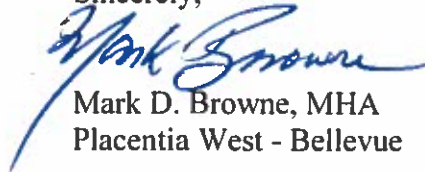
This claim was rejected by the Corporate and Members' Services Division because it contained expenses from the 2017-2018 Fiscal year. This event took place in February, but my office did not receive an invoice from the group until recently.

I am requesting the approval of the Commission to authorize payment for this business card advertisement, which I am told complies with the rules, but did not meet the year-end cut off for payment out of the fiscal year.

As a Member of the HOAMC, I will recuse myself from discussion on this matter.

Thank you for consideration of this matter.

Sincerely,



Mark D. Browne, MHA  
Placentia West - Bellevue

**House of Assembly Management Commission**

**Briefing Note**

**Title:** Request for Appeal – Member for Harbour Grace-Port de Grave

**Issue:** Payment of invoice from previous fiscal year (2017-18).

**Background:**

- The Member for Harbour Grace-Port de Grave is appealing the denial of payment by Corporate and Members' Services Division of certain expenses incurred by the Member. The expenditures were rejected for payment as they were incurred in the 2017-18 fiscal year, but the invoice was not submitted for payment within 30 days of the end of that year.
- Subsection 7(2) of the *Members Resources and Allowances Rules* (the Rules) states that:

*(2) A claim against an allowance for a payment or reimbursement shall be made in respect of the fiscal year in which the expenditure was made or incurred, and shall be submitted and received by the clerk not more than 30 days after the end of that fiscal year.*

- The expenses (for the purchase of memorial wreaths), totaling \$86.25, are permitted under the Rules, but could not be approved for payment as per the provisions of subsection 7(2). The attached letter from the Member for Harbour Grace-Port de Grave provides further details.
- The Member is appealing this decision and has made a request to the Management Commission in accordance with Section 24 *House of Assembly Accountability, Integrity and Administration Act* (the Act).
- The Commission may make a ruling on payment of these expenses as per subsection 24(9) of the Act which states:

*(9) Notwithstanding that an expense claim has been denied by an officer, staff member or the speaker, in accordance with the rules, where there is an appeal to the commission under this section and the commission determines that that claimed expense amount*

*(a) has been incurred by the member; and*

- (b) *is a permitted expense under the Act and rules; and*
- (c) *does not exceed an expense amount or allowance allocation permitted under the rules,*

*and a denial of payment of the expense amount would, in the opinion of the commission, be unjust, the commission may approve the expenditure for the claimed expense to the extent that the commission considers to be just and the decision of the commission is final.*

- While there were sufficient funds remaining in the Member's allocation to pay the expenses had they been submitted in the 2017-18 fiscal year, the expenses cannot be charged to the Member's expense allocation for that year because they were not submitted by the deadline of April 30, 2018. Should the Commission approve payment, the expenses will be charged to the Member's allocation for fiscal year 2018-19.

**Analysis:**

**Legal Consultation:**

Not applicable.

**Internal Consultation(s):**

Not applicable.

**External Consultation(s):**

Not applicable.

**Comparison to Government Policy:**

Not applicable.

**Financial Impact:**

Not applicable.

**Legislative Impact:**

Not applicable.

**Options:**

1. Approve the payment of expenses totaling \$86.25 for the Member for Harbour Grace-Port de Grave with the expenses to be paid within the appropriate allocation for the 2018-19 fiscal year.



2. Deny the payment of expenses totaling \$86.25 for the Member for Harbour Grace-Port de Grave.

**Status:**

- Not applicable.

**Action Required:**

- The decision of the Commission is requested.

Prepared by: Bobbi Russell  
Date: May 30, 2018

Approved by: Sandra Barnes

**Attachments:**

1. Letter from the Member for Harbour Grace-Port de Grave to the Speaker.

May 29, 2018

Speaker of the House of Assembly  
Chair of the House of Assembly Management Commission  
Main Floor, East Block

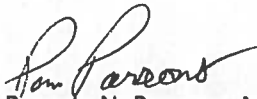
Dear Mr. Chair:

Please accept this correspondence as an official appeal to the House of Assembly Management Commission for invoice number **310** in the amount of **\$86.25**. This invoice was rejected by the Corporate and Members' Services Division because it contained expenses that were related to The 2016-17 fiscal year.

I am requesting the approval of the Commission to be reimbursed for these expenses which include **3 Memorial Wreaths**.

Thank you for consideration of this matter.

Sincerely,



Pamela N. Parsons, M.H.A.  
Harbour Grace-Port De Grave District  
1 Excel Place  
Bay Roberts, NL A0A 1G0  
Telephone: (709)786-1372

**House of Assembly Management Commission  
Briefing Note**

**Title:** Request from Official Opposition Caucus – Leader’s Travel Allocation

**Issue:** Policy change to provide for access to the funding allocated for Leader’s travel by Caucus Members and staff.

**Background:**

- The Official Opposition is seeking access to the funds allocated for Leader’s Travel under its Transportation and Communications budget allocation (refer Attachment 1).
- The budget appropriation for the Official Opposition Caucus is provided at Attachment 2. Under the Travel and Communications sub-object, \$75,900 is allocated. This is made of:
  - \$27,800 - telecommunications, postage and courier services;
  - \$6,000 - staff travel to conduct appeals, attend conferences or training; and
  - \$42,100 for travel by the Leader (subject of this request)

- The allocation to Leader’s Travel is comparable to the allocation provided to the Premier’s Office and Ministers’ Offices in government departments. It is subject to the Ministerial Expense Reimbursement Policies as outlined in **CM 2008-020** which states:

*The Commission approved the application of the Ministerial Expense Reimbursement Policies for the travel allocation of the Leader of the New Democratic Party, effective October 9, 2007, with the following modification:*

*“Minister” is interpreted as “Speaker”, or “Leader of the Official Opposition” or “Leader of the Third Party”.*

- The Leader can delegate travel to other elected MHAs or caucus staff members as directed in **CM 2008-025** which states:

*The Commission directed that a Member or staff person may travel on behalf of those who are covered under the Ministerial Expense Reimbursement Policies, with these policies to be applied to the expense claim, and costs to be charged to the appropriate allocation.*

- Currently MHA David Brazil is the **designated** Leader of the Official Opposition. The *House of Assembly Accountability, Integrity and Administration Act* does not provide for an acting or designating capacity, and the policies made under that Act must be interpreted in accordance with it. Therefore, Mr. Brazil cannot access or delegate this funding.

- However, as the funding is allocated under policy and the Management Commission has made specific decisions regarding this funding in the past, the Commission can authorize a change to the policy to allow the funding to be accessed by elected MHAs and caucus staff in the Official Opposition Office. Should this be the case, then a similar policy change would also apply to the travel funding allocated to Leader of the Third Party.
- There is no similar provision for funding for Leader’s travel in Government Members’ Caucus as the Premier’s travel funding is allocated under the Premier’s Office in Executive Council, and the Ministers’ travel funding is allocated under the Minister’s Office activity in each department.
- Should the Management Commission approve the policy change to allow caucus Members and staff to directly access the Leader’s travel funding allocation, the Ministerial Expense Reimbursement policies will continue to apply.

**Analysis:**

**Legal Consultation:**

Law Clerk

**Internal Consultation(s):**

Corporate and Members’ Services Division

**External Consultation(s):**

Office of the Comptroller General

**Comparison to Government Policy:**

Not applicable

**Financial Impact:**

The \$42,100 funding is included in the 2018-19 Budget for the Official Opposition Caucus.

**Legislative Impact:**

Not applicable

**Options:**

1. Approve a policy change to allow caucus Members and staff in the opposition caucus offices to utilize the funding allocated for the Leader’s travel.
2. Do not approve a policy change to allow elected members and caucus staff to utilize the funding allocated for the Leader’s travel.

**Status:**

- Funding allocated to Leader’s travel is frozen, and cannot be accessed by caucus Members and staff in the Official Opposition.

**Action Required:**

- The decision of the Commission is requested.

Drafted by: Sandra Barnes  
Date: May 28, 2018

**Attachments:**

1. Request from the Official Opposition
2. Budget 2018 Estimate for the Legislature – Official Opposition Caucus



**HOUSE OF ASSEMBLY  
NEWFOUNDLAND AND LABRADOR  
Office of the Leader of the Official Opposition**

May 28, 2018

Honourable Perry Trimper  
Chair of the House of Assembly Management Commission  
Box 8700, St. John's, NL A1B 4J6

Dear Management Commission Members:

I write to ask the House of Assembly Management Commission to approve access to the travel budget that has been allocated to the Official Opposition Caucus in the 2018-19 Budget.

Sincerely,

A handwritten signature in blue ink that reads "David Brazil".

**DAVID BRAZIL, MHA  
Conception Bay East – Bell Island  
Leader of the Official Opposition**

**Attachment 2 - Budget 2018 Estimate for the Legislature – Official Opposition Caucus**

**HOUSE OF ASSEMBLY**

	2018-19	2017-18	
	Estimates	Revised	Budget
	\$	\$	\$
<b>HOUSE OF ASSEMBLY (Cont'd)</b>			
<i>CURRENT</i>			
<b>1.1.07. OFFICIAL OPPOSITION CAUCUS</b>			
Appropriations provide for the costs associated with the Leader of the Official Opposition and operations of the Official Opposition Caucus.			
01. Salaries	<b>927,700</b>	860,200	927,700
Operating Accounts:			
<i>Employee Benefits</i>	<b>2,500</b>	1,700	2,500
<i>Transportation and Communications</i>	<b>75,900</b>	18,900	75,900
<i>Supplies</i>	<b>19,900</b>	6,900	19,900
<i>Purchased Services</i>	<b>18,700</b>	13,300	18,700
<i>Property, Furnishings and Equipment</i>	<b>4,700</b>	3,400	4,700
02. Operating Accounts	<b>121,700</b>	44,200	121,700
10. Grants and Subsidies	<b>11,700</b>	11,500	11,500
<b>Amount to be Voted</b>	<b>1,061,100</b>	915,900	1,060,900

**House of Assembly Management Commission**

**Briefing Note**

**Title:** Harassment-Free Workplace Policy Applicable to Members of the House of Assembly

**Issue:** Whether to direct application of Executive Branch Harassment-Free Workplace Policy (effective June 1) with necessary adjustments to Members of the House of Assembly, until such time as the House votes on recommendations from the Standing Committee on Privileges and Elections.

**Background:**

- On February 23, 2018, the Executive Branch announced a new Harassment-Free Workplace Policy for departmental employees that will come into effect on June 1, 2018 (see Attachment 1).
- This policy will **automatically apply** (with necessary adjustments for differences in the governance and operating environment as outlined in Attachment 2) to:
  - **Public service employees of the Legislature** (in accordance with subsection 20(3) of the *House of Assembly Accountability, Integrity and Administration Act* which stipulates the Legislature follow the policies of the Executive Branch in the absence of its own on a matter); AND
  - **Political support employees of the Legislature** (in accordance with clause 3.2 in the political support staff contract which applies Executive Branch policies to these employees in the absence of the Legislature having its own).
- The Executive Branch Harassment-Free Workplace Policy (effective June 1) was developed under a policy framework for application to employer-employee workplace environments. While the principles of the policy are applicable to all work environments, the operational aspects (e.g. the complaint and resolution processes) do not take into account the employment nature of elected officials, or that in application to elected officials the policy **must co-exist** with the provisions of the **legislated requirements of the Code of Conduct**.
- On May 2, 2018 the House of Assembly unanimously passed a Private Member's Motion, **which constitutes an order of the House** to the Privileges and Elections Committee, to undertake the development of a Legislature-specific harassment policy. The complexities of the environment, particularly how a Legislature-specific policy will work in tandem with the legislated Code of Conduct for elected officials, will require significant policy analysis by the Committee in completing its work.



- Once its work is completed, the Privileges and Elections Committee must bring its recommendations back to the House of Assembly for debate and a decision (via a vote). This **will not be completed prior to June 1** when the new Executive Branch Harassment-Free Workplace Policy comes into effect.
- The Management Commission has the following options in the interim, until such time as the House votes on recommendations from the Standing Committee on Privileges and Elections:
  1. Direct **interim application** of the Executive Branch Harassment-Free Workplace Policy (effective June 1), with an adjusted process, to Members of the House of Assembly. The Code of Conduct for Members will also continue to apply; or
  2. Maintain status quo - continue with the **Code of Conduct provisions** for Members.
- An analysis of the application of the Executive Branch Harassment-Free Workplace Policy (effective June 1) to Members of the House of Assembly indicates that one possible approach is to make adjustments to the complaint and resolution processes in order to make them appropriate for elected officials. Consistent with the Code of Conduct, responsibility for managing the complaint and resolution process could be assigned to the Commissioner for Legislative Standards.
- The following should also be noted in considering the option of interim application:
  - Complaints related to harassment against Members will have the option of being addressed **under the Harassment-Free Workplace Policy, or the Code of Conduct, or both**. As the Code of Conduct is a legislated requirement, whether or not there is a specific Harassment-Free Workplace Policy, a Member can still choose to make a complaint against another Member under the Code of Conduct provisions.
  - The narrower provisions of Harassment-Free Workplace Policy could conflict with the broad principle-based provisions of the Code of Conduct. **As legislation takes precedence over policy, there could be unforeseen effects.**
  - Employees can make a complaint against a Member under the Harassment-Free Workplace Policy. This is consistent with the whistleblower provisions of the Green Act.
- The Management Commission considered this issue at its meeting on May 16, 2018, but deferred a decision pending Commission members consulting with their caucuses.
- At that meeting, and in subsequent correspondence since, the Third Party has asked for clarification on several aspects, which are outlined and explained further at Attachment 3.
- On May 23, 2018, the Speaker received correspondence from the Premier with respect to the position of the Government Caucus on this issue. A copy of the correspondence is included at Attachment 4.

- Further to the Premier’s correspondence, the Speaker received a letter from the Government House Leader on May 28, 2018 which included a proposed interim Harassment-Free Workplace Policy on behalf of the Government Caucus (see Attachment 4). Note that it is the proposal which was considered at the May 16 meeting, with suggested changes. These are noted in the attachment to the correspondence from the Government House Leader highlighted in yellow.

**Analysis:**

**Legal Consultation:**

Law Clerk

**Internal Consultation(s):**

Corporate and Members’ Services Division

**External Consultation(s):**

Commissioner for Legislative Standards

Citizens’ Representative

Human Resources Secretariat

**Comparison to Government Policy:**

Executive Branch Harassment-Free Workplace Policy (effective June 1), will **apply automatically** with standard adjustments (as outlined in Attachment 2) in situations involving **employees of the House of Assembly Service and Statutory Offices; constituency assistants; and political support staff in caucus offices.**

Application of the Executive Branch Harassment-Free Workplace Policy (effective June 1) is possible for **Members of the House of Assembly** by adopting an adjusted process on an interim basis until such time as the House votes on recommendations from the Privileges and Elections Committee.

**Financial Impact:**

Not applicable.

**Legislative Impact:**

Not applicable.

**Options:**

1. Direct interim application of the Executive branch Harassment-Free Workplace Policy (effective June 1), using an adjusted process, in situations involving Members of the House of Assembly. The interim application will continue until such time as the House votes on recommendations from the Standing Committee on Privileges and Elections. The provisions of the Code of Conduct for Members would also continue to apply.

2. Do not direct interim application of the Executive branch Harassment-Free Workplace Policy (effective June 1) in situations involving Members of the House of Assembly. The Code of Conduct provisions for Members continues in effect.

**Status:**

- Provisions of the Executive Branch Harassment-Free Workplace Policy continue to apply to all employees (public service and political support) of the Legislature. Should the House approve a policy affecting employees as a result of the recommendations of the Privileges and Elections Committee, those policy provisions will be applied at that time.
- Provisions of the Code of Conduct apply to Members of the House of Assembly.

**Action Required:**

- The decision of the Commission is requested.

Prepared by: Bobbi Russell  
Date: May 22, 2018

Approved by: Sandra Barnes

**Attachments:**

1. Executive Branch Harassment-Free Workplace Policy (effective June 1).
2. Application Analysis of Executive Branch Harassment-Free Workplace Policy (effective June 1) to Legislature.
3. Clarification Items requested by the Commission – Interim Application of the Executive Branch Harassment-Free Workplace Policy (effective June 1) to MHAs.
4. Correspondence dated May 23, 2018 from the Premier to the Speaker; and correspondence dated May 28, 2018 from the Government House Leader to the Speaker.

**This policy comes into effect June 1, 2018**

## Harassment-Free Workplace Policy

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- [Complaint Process](#)
- [Rights and Responsibilities of the Parties and Witnesses](#)
- [Resolution Options](#)
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- [Restoring the Workplace](#)
- [Monitoring](#)

### **Preamble**

Ensuring all people are treated with respect, dignity and fairness is a foundational value of the public service. All individuals in the work environment share a responsibility for upholding this value and are expected to exhibit honesty, integrity, and a high standard of personal conduct that welcomes differences, promotes diversity, and provides a safe and healthy workplace for all.

The protection of individuals from harassment in the work environment is of paramount importance. The Harassment-Free Workplace Policy (hereafter known as “the Policy”) promotes awareness, prevention, and the appropriate and timely resolution of allegations of harassment.

### **Policy Statement**

All employees are entitled to perform their duties in a harassment-free work environment. The Employer, in collaboration with all employees, is responsible for fostering a harassment-free work environment. Managers and supervisors are responsible for taking reasonable measures to ensure this requirement is met, regardless of whether a complaint has been filed. Failing to respond adequately to issues of harassment is, in itself, a violation of the Policy. All individuals share in the collective responsibility for a harassment-free work environment, including bystanders who witness harassing behaviours.

All individuals are entitled to a safe and accessible resolution process for complaints under the Policy. The principles of justice, fairness, integrity, and impartiality will be applied in any resolution and/or investigation of situations that arise under the Policy to ensure that the rights, responsibilities, and obligations of all individuals are respected.

The Policy does not restrict the Employer’s right to manage the workplace. Harassment does not include actions taken under this Policy or supervisory and management actions, such as the assignment of work, performance reviews, coaching, and/or disciplinary or corrective action, when conducted in a respectful manner and in good faith.

The most effective way to resolve workplace harassment is to prevent such an occurrence from happening in the first place. The Employer will inform all employees of the Harassment-Free Workplace Policy and promote a respectful work environment.

All individuals in the workplace are expected and required to conduct themselves in accordance with the standards and principles established by the Policy even in the absence of a complaint of harassment. Harassment in any form will not be tolerated.

## Application

The Policy applies to all individuals in the workplace.

Actions taken under the Policy must follow the appended procedures (the "Procedures"). However, where a discrepancy exists between the Policy and the Procedures, the Policy shall prevail.

Bargaining unit employees should also consult their respective collective agreements.

## Harassment

**Harassment** is defined as any objectionable or offensive behaviour that is known or ought reasonably to be known to be unwelcome. Harassment may be intended or unintended.

Harassment will normally involve a series of incidents; however, a single incident may constitute harassment if it would be considered egregious or severe to a reasonable person taking into account the circumstances of the incident.

Examples of possible harassment include, but are not limited to:

- Verbal abuse, yelling, and/or making threats;
- Making degrading or offensive comments, gestures, or jokes;
- Spreading malicious gossip or rumours;
- Inappropriate communication through social media, e-mail, or instant messaging;
- Actual or threatened physical contact or assault;
- Bullying or intimidation (e.g. sabotaging work equipment, interfering with someone's ability to perform their duties, exclusionary practices, etc.).

Forms of harassment include:

**Abuse of authority** - harassment which occurs through a use of authority serving no legitimate work purpose.

**Discriminatory harassment** - harassment that is based on an actual or perceived prohibited ground of discrimination as outlined in the Human Rights Act, 2010, such as race, colour, nationality, ethnic origin, social origin, religious creed, religion, age, disability, disfigurement, sex, sexual orientation, gender identity, gender expression, marital status, family status, source of income, or political opinion.

**Sexual harassment** - harassment which is gender-based or of a sexual nature.

Examples of possible sexual harassment include, but are not limited to:

- Repeated unwelcome social invitations;
- Unwanted touching;
- Leering or inappropriate staring;
- Displaying or circulating sexually suggestive materials (e.g. jokes, messages, posters, pictures);
- Comments about a person's clothing, body, personal appearance, and/or habits;
- Gender-based insults;
- Derogatory conduct towards a person based on his/her conformity or non-conformity with traditional gender-role stereotypes;
- Engaging in sexually charged discussions in the workplace (e.g. questions or comments about sexual activities).

## Definitions

Alternative Dispute Resolution (ADR) - processes that usually involve a neutral third party providing collaborative, practical, and innovative approaches to reach agreements or resolve disputes by such means as facilitated problem-solving or mediation.

Bystander – an individual who is not the subject of harassment but who has witnessed or is otherwise aware of behaviour which contravenes the Policy.

Complaint - is a complaint, which has been confirmed in writing, against an individual or group of individuals whose alleged behaviour contravenes the Policy. All complaints will be dealt with under the provisions of the Policy and Procedures.

Complainant - any employee or individual who has filed a complaint under the Policy alleging harassment.

Conflict coaching - one-on-one support with a Respectful Workplace Program (RWP) Coordinator to help an individual employee deal with a conflict situation. The RWP Coordinator will offer objective, non-judgmental feedback and will ask questions which give the employee an opportunity to reflect on approaches and consider ways to increase effectiveness in dealing with a conflict situation.

Day - for the purpose of the Policy, a day means a business day, not including statutory holidays. Days in which the process is held in abeyance in accordance with the policy are excluded from inclusion in the timeline requirements.

Employer - for the purpose of the Policy, the Government of Newfoundland and Labrador is responsible for the management of personnel in accordance with policies and procedures established by Treasury Board as per the Financial Administration Act, and includes without limitation Department Heads, Deputy Ministers, and designates.

**Employee Assistance Program (EAP)** - is a service offered through the Employee Assistance and Respectful Workplace Division of the Public Service Commission (PSC). EAP provides assistance to employees and their immediate family members in resolving personal problems. The services offered are professional, confidential and readily available whenever the need arises. EAP strives to make a positive contribution to the well-being and growth of each individual engaged in the service, as well as the organization as a whole.

Exceptional circumstances - circumstances beyond the control of the Employer which interfere with the Employer's ability to conduct an investigation, comply with timelines outlined in the Policy, or which may require modification of the Procedures.

Investigation - the systematic and objective examination of the facts relevant to a workplace harassment complaint. An investigation may involve interviewing and obtaining signed statements from Complainants, Respondents, and witnesses, as well as a review of relevant documentary evidence.

**Mediation** - a voluntary problem-solving process in which a neutral third-party assists the Parties to negotiate a resolution of an issue in good faith. Mediation may be held between two or more Parties, is oriented to the future, and is not designed to lay blame, investigate facts, or determine guilt. Both Parties must mutually agree to participate in mediation.

Parties – refers to the Complainant(s) and Respondent(s) to a complaint.

Procedural Fairness - includes the right to be heard, the right to be treated without bias, the right to be informed of allegations being made and to be provided with an opportunity to respond to them, and the right to information regarding the status of the complaint.

**Respectful Workplace Program (RWP)** - a service offered through the Employee Assistance and Respectful Workplace Division of the Public Service Commission (PSC). Employees can access confidential support and guidance on how to respond constructively to situations of harassment and/or conflict to explore avenues of resolution.

Respondent - any employee against whom allegations of harassment are made under the Policy.

Reprisal/Retaliation - any negative or inappropriate action taken as a result of an allegation of harassment, the filing of a complaint, or any participation in a resolution mechanism under the Policy. Reprisal/retaliation may include any negative changes in the terms and conditions of a person's employment, including, but not limited to, transfers, changes in work schedule or assignments, negative performance evaluations, unwarranted discipline, harassment, denial of promotion or work schedule requests, denial of training, or any offensive behaviour or adverse action taken by one employee against another.

Workplace - the location where employees carry out their work duties. This may include, but is not limited to, office headquarters, external meeting locations, conference settings, work-related social events, vehicles, Employer-approved travel.

## Responsibilities

### Human Resource Secretariat

It is the responsibility of the Human Resource Secretariat (HRS) to:

- Administer the Harassment-Free Workplace Policy;
- Promote a respectful workplace for all employees;
- Make recommendations to Treasury Board on revisions to the Policy;
- Develop and administer documentation to support the Policy;
- Provide interpretation and guidance to Departments regarding the Policy;
- Provide education, awareness and training in harassment prevention and interventions;
- Complete preliminary review and assessment of draft investigation reports (e.g. assess whether report corresponds to mandate, ensure evidence referenced in the report is appended, etc.);
- Assist Departments in concluding issues arising from allegations of harassment, including those actions resulting from the findings of an investigation;

- Provide appropriate training for Investigators and maintain a current roster of Investigators within the province.

### **Harassment-Free Workplace Manager (Human Resource Secretariat)**

It is the responsibility of the Harassment-Free Workplace Manager to:

- Plan, develop, implement and monitor the Policy and associated programs to address employee conflict and harassment complaints;
- Provide advice in relation to the Policy and Procedures;
- Act as a subject matter resource for the development of employee and management orientation, training, and information programs with respect to harassment-free workplaces;
- Receive harassment complaints from employees, managers, or others;
- Review complaints, identifying whether allegations are within scope of the Policy;
- Advise Complainants of both informal and formal options available to address harassment complaints and confirm, in writing, the option selected to address his/her complaint;
- Assist Departments in notifying Respondents of a complaint;
- Advise any party or witness related to a complaint on matters pertaining to the Policy;
- Coordinate the assignment of investigators when formal investigations are necessary into complaints of harassment;
- Advise investigators on policy and procedural issues associated with the conduct of formal harassment investigations;
- Maintain records of all harassment complaints and track progress through to resolution/conclusion.

### **Respectful Workplace Division (Public Service Commission)**

It is the responsibility of the Respectful Workplace Program to:

- Provide guidance and consultation support to managers and Departments;
- Provide all employees with access to confidential support, guidance, and coaching on how to constructively respond to situations of conflict and/or explore available avenues of resolution;
- Provide access to conflict coaching to help an individual employee deal with a conflict situation;
- Assess and provide mediations and multi-party mediations by an impartial mediator who assists two or more Parties to reach a resolution to their differences in a respectful manner;
- Assess and deliver facilitated discussions by an impartial facilitator who assists two or more Parties to reach a resolution to their differences in a respectful manner;
- At the request of a Department or Agency, assess and provide group/team interventions through the provision of impartial facilitation services for meetings and other problem solving sessions which might benefit from such a process;
- Provide harassment-related supports and services in connection with or as an alternative to harassment investigations as referenced in the Policy.

### **Investigator**

When an investigation is initiated, it is the responsibility of the Investigator to:

- Inform the Complainant, the Respondent, witnesses and support persons of the process that will be followed and their roles in the investigation, including the process for disclosure of statements/evidence in accordance with the principles of procedural fairness;
- Conduct the investigation in a fair and impartial manner;
- Respect confidentiality at all times;
- Interview the Parties and witnesses and prepare written statements;
- Review all statements and evidence collected in the investigation;
- Prepare a draft investigation report for preliminary review and assessment by the Deputy Minister of the Human Resource Secretariat;
- Prepare investigation report that provides an analysis of the evidence gathered and findings as to whether harassment has occurred in accordance with the definitions outlined in the Policy;
- Submit the investigation report to the Deputy Minister of the Complainant's Department;
- Provide written notification to the Complainant and Respondent on the status of the investigation processes throughout the course of the investigation; and
- Consult with the Harassment-Free Workplace Manager as required by the Policy.

### **Deputy Minister**

It is the responsibility of Deputy Ministers to:

- Create and maintain a respectful workplace that is free of harassment;
- Lead by example and act respectfully in dealings with employees and other persons;

- Upon notification of a complaint by the Harassment-Free Workplace Manager, consult with the Human Resource Secretariat regarding next steps;
- Upon the request of Harassment-Free Workplace Manager, schedule a meeting between the Harassment-Free Workplace Manager, a Departmental representative assigned by the Deputy Minister, and the Respondent to inform the Respondent of the complaint and outline the resolution process;
- Upon receipt of an investigation report, provide a copy to the Complainant and Respondent and allow for responses;
- Following receipt of responses, make a decision as to whether to accept the investigation findings in whole, in part, or at all;
- For investigations wherein the Complainant and Respondent work in different Departments, communicate findings of the investigation to the Respondent's Deputy Minister;
- Upon consultation with the Human Resource Secretariat, take appropriate action within timelines outlined in the Policy and collective agreement provisions, as required.

## Manager

It is the responsibility of Managers to:

- Lead by example and act respectfully in dealings with employees and other persons;
- Monitor the workplace and watch for signs that harassment may be taking place;
- Encourage early and open dialogue before inappropriate behaviour escalates;
- Address instances of harassment as soon as they are known, even in the absence of a complaint;
- Address all harassment situations appropriately and ensure others act accordingly;
- Consult with the Human Resource Secretariat to discuss the appropriate courses of action;
- Participate in learning opportunities on the prevention, early intervention, and resolution of harassment-related issues;
- Ensure employees are aware of the Policy and Procedures for preventing and addressing harassment;
- Ensure that all employees have the opportunity to participate in available education and training related to a harassment-free workplace;
- Monitor situations where complaints have been made even after corrective measures have been taken and ensure that individuals are not subject to retaliation for their involvement in a process under the Policy; and
- Follow-up to ensure necessary actions are implemented within a reasonable time period.

## Employee

It is the responsibility of employees to:

- Treat all individuals in the workplace with respect and dignity;
- Respect the diversity brought to the workplace by others;
- Challenge inappropriate behaviour/objectionable conduct when it happens and refuse to participate in that behaviour;
- Report inappropriate behaviour/objectionable conduct to someone in authority;
- Cooperate and share openly and honestly in workplace investigations; and
- Respect the confidentiality of all processes under the Policy.

## General Provisions

### Management Right

The Employer, in collaboration with all employees, is responsible for fostering a harassment-free work environment. Therefore, when agents of the Employer (e.g. Deputy Minister/Equivalent, Assistant Deputy Minister, Director, Manager, Supervisor) become informed of situations involving allegations of harassment, they may be obligated to intervene. In the absence of a complaint or the withdrawal of a complaint, the Employer retains the right to proceed with appropriate actions and/or interventions.

The Employer reserves the right, in appropriate circumstances, to hold a complaint in abeyance pending the resolution of any related judicial or quasi-judicial proceedings (e.g. human rights complaint, civil action, arbitration, etc.) or in exceptional circumstances.

Matters that have previously been investigated by the Employer shall not be reinvestigated, except in circumstances where it is deemed necessary and approved by the Employer.

### Anonymous Complaints

Anonymous personal complaints will not be addressed under the Policy, but may be subject to a workplace investigation at the discretion of the Employer. Anonymity cannot be granted when a complaint is filed as the Respondent has the right to know and to respond to any allegations that have been made against the Respondent.

### False Allegations



Accusations that are found to involve a falsehood, malicious intent, or made in bad faith will not be tolerated and will be considered a violation of the Policy. Employees who have made such accusations may be subject to appropriate disciplinary action. A complaint will not be deemed to be false, malicious, or made in bad faith solely because it is unfounded.

### **Bystander Intervention**

Individuals who witness behaviour that contravenes the Policy have a responsibility to take appropriate action and report the behaviour to someone in authority.

A bystander who reports behaviour which contravenes the Policy will not be considered as a Complainant. However, he or she may be interviewed as a witness in the event that there is an investigation into the concerns raised.

### **Reprisal/Retaliation**

Reprisal or retaliation against any employee who has alleged harassment, made a complaint, or participated in any proceedings under the Policy is prohibited and may result in disciplinary action.

### **Counter Complaints/Complaints Raised During an Investigation**

Where allegations or counter-allegations of harassment are raised during an investigation, these matters will not be investigated without the approval of the Harassment-Free Workplace Manager.

## ***Complaint Process***

### **Personal Complaints**

An individual seeking to resolve issues of harassment in the workplace can complete the online complaint form or contact the Harassment-Free Workplace Manager to submit a complaint. Complaints should be in writing; verbal complaints will be accepted only where they are subsequently confirmed in writing. The individual should be prepared to provide details such as what happened, when it happened, where it happened, how often, and who else was present (if applicable). The Harassment-Free Workplace Manager shall provide or facilitate any reasonable assistance that may be required for the completion of a complaint.

Where employees are, for any reason, unable to provide a written complaint, assistance can be provided by the Harassment-Free Workplace Manager who may complete the Complaint Form on behalf of the employee. In such circumstances, the employee shall be required to review and sign the completed Complaint Form.

When a complaint has been received, it will be assessed by the Harassment-Free Workplace Manager and, unless the complaint falls outside the scope of the Policy, the Harassment-Free Workplace Manager will acknowledge the complaint and schedule a meeting with the Complainant to review resolution options under the Policy. Following this meeting, written communication will be sent to the Complainant to reiterate these options and confirm the option that has been selected for resolution of the complaint.

Upon the request of Harassment-Free Workplace Manager, the Respondent's Deputy Minister will schedule a meeting between the Harassment-Free Workplace Manager, a Departmental representative assigned by the Deputy Minister, and the Respondent to inform the Respondent of the complaint and outline the resolution process.

During the meeting noted above, the Harassment-Free Workplace Manager will inform the respondent that a complaint has been made, provide the respondent with a copy of the written complaint, and provide information about the resolution process. Where applicable, the Harassment-Free Workplace Manager will coordinate the resolution process based on the option selected by the Complainant and provide information to the Deputy Minister(s) of the Complainant's and Respondent's Department(s) as required.

At any point, employees may consult with and seek the confidential support of the **Employee Assistance and Respectful Workplace Division** of the Public Service Commission. Departments may also consult with Employee Assistance and Respectful Workplace Division of the Public Service Commission.

### **Bystander Complaints**

A bystander can report alleged harassment in the workplace by completing the online bystander complaint form or contacting the Harassment-Free Workplace Manager to submit a bystander complaint. Where a bystander complaint is received under the Policy, the Harassment-Free Workplace Manager will contact the subject of the alleged harassment to discuss the bystander complaint and offer to meet to discuss options for resolution under the Policy. If the subject of the alleged harassment wishes to explore resolution options under the Policy, they must follow process for personal complaints.

## ***Rights and Responsibilities of the Parties and Witnesses***

## Complainant

Complainants have the right:

- To make a complaint to the Employer;
- To be notified of their options for resolution of the complaint;
- To be accompanied by a support person of choice (at own expense) during interview(s), provided the person is not a witness to the complaint and provided the person selected is not in a potential conflict of interest position by virtue of involvement;
- To access confidential support through the Employee Assistance and Respectful Workplace Programs; and
- Not to be subject to retaliation for the reason of having made a complaint under the Policy.

It is the responsibility of Complainants:

- To submit a complaint within 12 months following the last incident;
- To follow all requirements of the Policy;
- To cooperate with all those responsible for dealing with the informal resolution and/or investigation of the complaint; and
- To maintain confidentiality throughout the process.

## Respondents

Respondents have the right:

- To be informed that a complaint has been filed;
- To be presented with the complaint and to be afforded an opportunity to respond;
- To be accompanied by a support person of choice (at own expense) during interview(s), provided the person is not a witness to the complaint; and provided the person selected is not in a potential conflict of interest position by virtue of involvement.
- To access support through the Employee Assistance and Respectful Workplace Programs.

It is the responsibility of Respondents:

- To follow all requirements of the Policy; and
- To maintain confidentiality throughout the process.

## Witnesses

Witnesses have the right:

- Not to be subject to retaliation because of participation as a witness;
- To be accompanied by a support person of choice (at own expense) during interview(s), provided the person is not a witness to the complaint, and provided the person selected is not in a potential conflict of interest position by virtue of the person's involvement;
- To access support through the Employee Assistance and Respectful Workplace Programs;
- Witnesses are entitled to receive a copy of their statement only.

It is the responsibility of Witnesses:

- To follow all requirements of the Policy; and
- To maintain confidentiality throughout the process.

## Resolution Options

Complainants can choose to resolve their complaint through informal or formal resolution options. Informal resolution refers to mechanisms by which complaints can be resolved by means other than investigation, such as including self-resolution, coaching, mediation. Informal resolution approaches offer the Complainant a greater influence over the resolution process and the outcome. Formal resolution refers to the investigative process which involves an impartial third-party determining whether there has been a breach of the Policy.

Selection of the formal resolution option does not preclude Complainants from later deciding to pursue informal resolution or vice versa. Services provided through the Employee Assistance and Respectful Workplace Programs are available to Parties and witnesses at any point in the process.

### Informal Resolution Options

1. **Individual Intervention:** The Complainant may choose to approach the Respondent, either in person or in writing, to advise that the Respondent's behaviour is objectionable and unwelcome and request that the behaviour cease. The problem may be

resolved at this point and no further action will be required.

RWP Coordinators can arrange to provide support and coaching to Complainants who choose to pursue individual intervention.

2. **Management Intervention:** The Complainant may choose to have the Manager approach the Respondent to advise that the Respondent's behaviour is unwelcome to the Complainant. If the complaint is against the Manager, then the Complainant may request intervention by the next level of management.

Where this option is selected by the Complainant, the manager must consult the Human Resource Secretariat for guidance. The manager should continue to monitor the situation to ensure the issue has been resolved.

3. **Respectful Workplace Division (RWD) Intervention:** The Complainant may choose to access resolution assistance through RWP. Assistance through RWP may be in the form of consultation, personal support, problem solving, help with assertiveness skills, or a discussion about the conflict resolution choices available to the individual. In addition, RWP may recommend one or more of the following approaches:
- o **Conflict Coaching:** Conflict coaching is one-on-one support to help an individual employee deal with a conflict situation. The employee is encouraged to build on their own skills to constructively respond to situations of conflict and/or explore available avenues of resolution. The coach does not provide advice, but will offer objective, non-judgmental feedback and will ask questions so that clients are given the opportunity to reflect on their approaches and consider ways to increase their effectiveness in dealing with a conflict situation.
  - o **Facilitated Discussions:** The process is conducted by an impartial facilitator who assists Parties to reach a resolution in a respectful manner. Facilitated discussion is typically less formal and less structured than mediation, but provides a safe environment for a constructive conversation. The facilitator will first meet individually with each of the Parties involved to assess readiness and provide information on the process. If appropriate, a facilitated discussion will be scheduled.
  - o **Mediation:** The mediation process is conducted by an impartial mediator who assists Parties to reach a resolution in a respectful manner. The mediator will first meet individually with each of the Parties involved to assess readiness and provide information on the mediation process. If deemed appropriate, mediation will be scheduled.

Informal resolution services and programs offered by the Respectful Workplace Program are confidential. For example, all information discussed in a mediation session will be held in confidence, by both Parties and the mediator, unless there is agreement between the Parties and/or with the mediator as to what information may be released. Procedural updates on meeting times and general progress will be provided to the referral source upon request. However, if the Parties disclose any allegations of fraudulent, criminal activities, serious harassment (as per the professional judgment of the RWP Coordinator), or violation of any law, the RWP Coordinator will encourage the Parties to report the matter, or the RWP Coordinator will report the allegations should the Parties not do so.

Employees who would like further information on RWP Intervention are encouraged to contact a [\*\*Respectful Workplace Coordinator\*\*](#).

### Formal Resolution Option

**Investigation:** The Complainant may choose to pursue resolution through a formal investigation which involves an impartial third-party Investigator determining whether there has been a breach of the Policy. The investigation process is conducted following the principles of procedural fairness and natural justice. The following steps would generally be involved:

- An Investigator reviews the complaint;
- An Investigator interviews the Complainant, prepares a written statement, and collects supporting documentation, if applicable;
- An Investigator discloses the Complainant's statement and supporting documentation to the Respondent;
- An Investigator interviews the Respondent, prepares a written statement, and collects supporting documentation, if applicable;
- An Investigator identifies witnesses, interviews witnesses, prepares written statements, and collects supporting documentation, if applicable;
- An Investigator may take other actions deemed to be necessary for the purpose of the investigation (e.g. site visit, requests for information from third party, confirmation of records, etc.);
- An Investigator discloses all statements and relevant evidence to the Complainant and the Respondent and provides an opportunity to respond;
- An Investigator prepares a draft report and submits it to the Harassment-Free Workplace Manager who will review the report to ensure compliance with mandate and that any documentation referenced in the report has been appended;
- The Harassment-Free Workplace Manager shall submit the report to the Deputy Minister of the Complainant's Department;
- Upon receipt of investigation report, the Deputy Minister of the Complainant's Department provides a copy to the Complainant and Respondent and provides an opportunity to respond;

- The Deputy Minister of the Complainant's Department makes a decision whether to accept the investigation findings in whole, in part, or at all, and advises the Deputy Minister of the Respondent's Department, if applicable;
- The Deputy Minister(s) advises the Complainant and the Respondent of the findings in writing; and
- The Deputy Minister(s), in consultation with the Human Resource Secretariat, determines necessary corrective and/or disciplinary actions and provides any required notifications.

Principles considered by investigators in making investigation findings include, but are not limited to, the following:

1. The onus or burden of proof rests with the person making the statement;
2. The onus of proof is a balance of probabilities (i.e. it is more likely than not that the allegations/statements are founded/unfounded);
3. Corroborating evidence is relevant, but is not required to make a factual determination;
4. Issues of credibility may be considered and relied upon by investigators;
5. Admissions do not require proof and can be assumed as fact;
6. Denials will be considered in the context of relevant evidence;
7. When weighing evidence, facts are more likely when actions and statements are consistent and less so when such consistency is absent.

## Timelines

Complaints must be acted upon and resolved as soon as reasonably possible. The following timelines are a requirement of the Policy:

- The timeline for the submission of a complaint is twelve months following the last incident, which may be extended at the discretion of the Harassment-Free Workplace Manager, if satisfied that there is a reasonable justification for not having brought the matter forward earlier.
- Following receipt of a complaint, the Harassment-Free Workplace Manager will acknowledge the complaint in writing and schedule a meeting with the Complainant to discuss resolution options within five days.
- The Harassment-Free Workplace Manager will also notify the Deputy Minister(s) of the Complainant's and Respondent's Department(s) of the complaint within five days of receipt of complaint.
- Upon request of the Harassment-Free Workplace Manager, the Deputy Minister of the Respondent's Department shall schedule a meeting between the Harassment-Free Workplace Manager, a Departmental representative assigned by the Deputy Minister, and the Respondent within five days.

### Informal Resolution

- Following the selection of an informal resolution option by the Complainant, the resolution process shall be initiated within 15 days.
- Timelines for informal resolution through the Respectful Workplace Program will be determined by the RWP Coordinator, in consultation with the Parties, based on the situation. Informal resolution options offered by RWP, such as mediation, are subject to pre-participation assessment, preparation of the Parties, and the process itself.

### Formal Resolution

- Following the selection of the formal resolution option by the Complainant, the appointment of investigator shall be completed within 10 days.
- Investigation shall commence within 5 days of receipt of the complaint by the investigator and shall be completed (i.e. final report submitted to the Deputy Minister of the Complainant's Department) within 90 days.
- Following receipt of the report, the Deputy Minister of the Complainant's Department shall provide a copy to the Complainant and Respondent for review within 5 days.
- The Complainant and Respondent shall have 14 days to respond to the report.
- Following the expiry of the 14 day response period or the receipt of all responses by the Deputy Minister of the Complainant's Department, whichever occurs first, the Deputy Minister of the Complainant's Department shall within 15 days:
  - Make a decision as to whether to accept the investigation findings in whole, in part, or at all;
  - In consultation with the Deputy Minister of the Respondent's Department, if applicable, communicate the decision made to the Complainant and Respondent.
  - Provide a copy of the investigation report and communicate the decision made to the Deputy Minister of the Respondent's Department, if applicable, at the earliest possible opportunity.
- Timelines will be suspended if, at any time, the Complainant opts to pursue informal resolution options.

Bargaining unit employees should also consult their respective collective agreement and, where there is a conflict in timelines, the collective agreement shall prevail.

Should delays in the process be unavoidable, due to exceptional circumstances as defined within the Policy, the Complainant and/or Respondent will be advised in writing of the reasons for the delay and the impact on the required timelines.

## Other Recourse

Depending upon the nature of the complaint, the Complainant may decide to take other actions outside the scope of the Policy (e.g. criminal complaint, human rights complaint, grievance). Individuals retain the right to pursue appropriate avenues of legal redress. It is not the role of the Harassment-Free Workplace Manager to identify any remedies or processes that are or may be available outside the Policy and individuals are solely responsible for exploring such options should the individual choose to do so.

## Confidentiality

Respect for privacy is an important aspect of a respectful workplace. Issues related to harassment will be treated confidentially; however, there are limitations to confidentiality. Absolute confidentiality cannot be guaranteed as resolution processes must involve others. In addition, when agents of the Employer (e.g. Deputy Minister/Equivalent, Assistant Deputy Minister, Director, Manager, Supervisor) become informed of situations involving harassment, they may be obligated to intervene.

Complaints of harassment will be received and managed in a confidential manner. Information will be used for its intended purpose only. All individuals are required to maintain confidentiality when involved in processes under the Policy. Those who are found to have breached confidentiality may be subject to disciplinary action. At all times, the privacy of Parties will be respected; individuals will not be privy to disciplinary and/or corrective information regarding others.

## Records Management

Disclosure of information shall be in accordance with the Policy and the *Access to Information and Protection of Privacy Act*. Complainants and Respondents shall be entitled to receive copies of all statements and relevant documentary evidence collected in the course of an investigation. Witnesses shall only be entitled to receive a copy of their statement.

In the event that a request for information is received, information will be released in accordance with the *Access to Information and Protection of Privacy Act* or as otherwise required by law.

Following the conclusion of a complaint and/or resolution process and any associated corrective and/or disciplinary action, Departments shall provide copies of all records created or gathered in relation to the process to the Harassment-Free Workplace Manager for file review, audit, and closure purposes.

All records will be managed in accordance with approved records retention and disposition schedules.

## Representation

- Parties and witnesses may be accompanied by a support person of their choosing when attending meetings regarding a complaint, provided the person is not a witness to the complaint and provided the person selected is not in a potential conflict of interest position by virtue of involvement. The support person shall not interfere with the proceedings in any way the support person's primary role is to provide support and guidance to the person being interviewed.

Bargaining unit employees are entitled to union representation as outlined in their respective collective agreements.

In no instance shall the Employer be responsible for the cost of legal counsel and/or other representation retained by an employee.

## Restoring the Workplace

When allegations of harassment are made, the Employer must often make efforts to re-establish a respectful and productive work environment. Early engagement in the restoration of a workplace is an important responsibility of management that requires cooperation by all employees. Departments should consult with the Human Resource Secretariat regarding appropriate actions, which may vary dependent on specific circumstances and could include interim measures pending resolution of a complaint. The Respectful Workplace Program is also available to provide group/team support and intervention.

## Monitoring



The Deputy Minister of the Human Resource Secretariat will evaluate the performance of the Policy and compliance with the provisions contained within on an annual basis.

## Contact and Assistance



For more information, please contact the Harassment-Free Workplace Manager at 1-844-729-2497.

To engage the support of the Employee Assistance or Respectful Workplace Programs, please call 1-888--729-2290.


### Procedures

**Harassment Complaint Fillable Form**  - (Please ensure you have the most recent version of Adobe® Acrobat® Reader software in order to properly view this PDF document - [Download Acrobat® Reader for free](#) )

**Harassment Complaint PDF Form** 

**Bystander Complaint Fillable Form**  - (Please ensure you have the most recent version of Adobe® Acrobat® Reader software in order to properly view this PDF document - [Download Acrobat® Reader for free](#) )

**Bystander Complaint PDF Form** 

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## Application Analysis of Executive Branch Harassment-Free Workplace Policy (HFWP) – effective June 1, 2018 to Legislature

### Complaint Process Equivalents

<i>Complaint Process Step</i>	<i>Process for Executive branch (as per policy effective Jun 1/18)</i>	<i>Equivalent Process for <u>HOAS employees, caucus office staff &amp; constituency assistants</u></i>	<i>Equivalent Process for <u>MHAs</u></i>
<i>Submitting complaint</i>	<ul style="list-style-type: none"> <li>Complaint submitted (via complaint form) to Harassment-Free Workplace Manager (HFWM), Human Resources Secretariat (HRS)</li> </ul>	<ul style="list-style-type: none"> <li>Same</li> </ul>	<ul style="list-style-type: none"> <li>Complaint submitted to Commissioner for Legislative Standards (CLS)</li> </ul>
<i>Assessment of complaint</i>	<ul style="list-style-type: none"> <li>HFWM assesses to determine if complaint falls within scope of policy</li> </ul>	<ul style="list-style-type: none"> <li>Same</li> </ul>	<ul style="list-style-type: none"> <li>CLS assesses to determine if complaint falls within scope of policy</li> </ul>
<i>Communication with Complainant (if complaint falls within scope of policy)</i>	<ul style="list-style-type: none"> <li>HFWM acknowledges complaint and schedules meeting with complainant to review resolution options.</li> <li>HFWM follows up with written communication to complainant reiterating resolution options, and confirms selected option.</li> </ul>	<ul style="list-style-type: none"> <li>Same</li> </ul>	<ul style="list-style-type: none"> <li>CLS acknowledges complaint and schedules meeting with complainant to review resolution options.</li> <li>CLS follows up with written communication to complainant reiterating resolution options, and confirms selected option.</li> </ul>

<i>Complaint Process Step</i>	<i><u>Process for Executive branch (as per policy effective Jun 1/18)</u></i>	<i><u>Equivalent Process for HOAS employees, caucus office staff &amp; constituency assistants</u></i>	<i><u>Equivalent Process for MHAs</u></i>
<i>Notification to Respondent</i>	<ul style="list-style-type: none"> <li>• HFWM notifies Respondent's Deputy Minister (RDM)</li> <li>• RDM schedules meeting between HFWM, departmental rep (assigned by RDM) and respondent:               <ul style="list-style-type: none"> <li>○ Respondent informed of complaint, provided with written copy, and information on resolution process.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• HFWM notifies Clerk of the HOA</li> <li>• Clerk schedules meeting between HFWM, HOA rep (assigned by Clerk) and respondent:               <ul style="list-style-type: none"> <li>○ Respondent informed of complaint, provided with written copy, and information on resolution process.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• CLS schedules meeting with Member to notify of complaint and resolution process selected by complainant.</li> </ul>



**Resolution Options & Process Equivalents**

<i>Resolution Option</i>	<i>Process for Executive branch employees (as per policy in effective Jun 1/18)</i>	<i>Equivalent Process for HOAS employees, caucus office staff &amp; constituency assistants</i>	<i>Equivalent Process if Respondent is MHA</i>
<i>Informal – Individual Intervention</i>	<ul style="list-style-type: none"> <li>Complainant chooses to approach Respondent (in person or in writing), advising of unwelcome/objectionable behaviour.</li> </ul>	<ul style="list-style-type: none"> <li>Same</li> </ul>	<ul style="list-style-type: none"> <li>Same</li> </ul>
<i>Informal – Management Intervention</i>	<ul style="list-style-type: none"> <li>Complainant chooses to have Manager approach the respondent, advising of unwelcome/objectionable behaviour.</li> <li>If complaint is against Manager, intervention may be requested by next level of management.</li> </ul>	<ul style="list-style-type: none"> <li>Same, except for following:               <ul style="list-style-type: none"> <li>For Constituency Assistants, manager = MHA</li> <li>For caucus office staff, manager = Caucus chief of staff. If complaint is against the Chief of Staff, manger = Leader of the Caucus</li> <li>For Clerk = overseen by Commissioner for Legislative Standards</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Complainant chooses to have Commissioner for Legislative Standards (CLS) approach the Member, advising of unwelcome/objectionable behaviour.</li> </ul>
<i>Informal – Respectful Workplace (RWP) Intervention</i>	<ul style="list-style-type: none"> <li>Complainant chooses to access assistance through RWP (as outlined in Policy)</li> </ul>	<ul style="list-style-type: none"> <li>Same</li> </ul>	<ul style="list-style-type: none"> <li>Same</li> </ul>

<i>Resolution Option</i>	<i>Process for Executive branch employees (as per policy in effective Jun 1/18)</i>	<i>Equivalent Process for HOAS employees, caucus office staff &amp; constituency assistants</i>	<i>Equivalent Process if Respondent is MHA</i>
<i>Formal - Investigation</i>	<ul style="list-style-type: none"> <li>• Complainant chooses to pursue resolution through formal investigation (by impartial third party).</li> <li>• Following process followed:               <ol style="list-style-type: none"> <li>1. Investigation conducted by impartial third party &amp; report drafted.</li> <li>2. Draft report submitted to Harassment Free Workplace Manager (HFWM) who reviews to ensure compliance with mandate.</li> <li>3. Report provided to DM – Complainant’s department who provides copy to complainant and respondent (and opportunity to respond).</li> <li>4. DM – Complainant’s department makes a decision whether to accept report findings (in whole, in part, or at all), and advises DM – respondent’s</li> </ol> </li> </ul>	<ul style="list-style-type: none"> <li>• Same, except:               <ul style="list-style-type: none"> <li>○ Deputy Minister = Clerk of the House of Assembly</li> <li>○ Human Resources Secretariat = Human Resources and Payroll Administration, House of Assembly</li> <li>○ If complaint is against Clerk, process is overseen by Commissioner for Legislative Standards</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Investigator = Commissioner for Legislative Standards (CLS)</li> <li>• Following process followed:               <ol style="list-style-type: none"> <li>1. Investigation conducted by CLS.</li> <li>2. CLS prepares report, provides copy to complainant and Member, and opportunity for each to respond.</li> <li>3. CLS provides report and Standing Committee of Privileges and Elections (PEC).</li> <li>4. PEC reviews report and recommendations and makes recommendation on recourse.</li> <li>5. Recommendation of PEC referred to House of Assembly, and resolution introduced for debate and approval (by vote).</li> </ol> <p><b><u>NOTE: Report brought to House of Assembly by PEC</u></b></p> </li> </ul>

*Resolution Option Process for Executive branch employees (as per policy in effective Jun 1/18)*

*Equivalent Process for HOAS employees, caucus office staff & constituency assistants*

*Equivalent Process if Respondent is MHA*

- department (if applicable).
5. DM(s) advises complainant and respondent of findings in writing.
  6. DM(s), in consultation with Human Resources Secretariat, determines necessary corrective and/or disciplinary actions (and provides required notifications).

- could be drafted to preserve the confidentiality of the complainant.**
6. CLS notified of decision of House of Assembly (as a result of debate and vote on resolution).
  7. CLS notifies complainant of decision of the House.

## **Clarification Requested by the Commission – Interim Application of the Executive Branch Harassment-Free Workplace Policy (effective June 1)**

### **1. Timelines with respect to the application of the Executive Branch Harassment-Free Workplace Policy (effective June 1):**

- This information was distributed via email to the Commission on May 18. The following includes the “Timelines” section of the new executive branch policy:

### *Timelines*

Complaints must be acted upon and resolved as soon as reasonably possible. The following timelines are a requirement of the Policy:

- The timeline for the submission of a complaint is twelve months following the last incident, which may be extended at the discretion of the Harassment-Free Workplace Manager, if satisfied that there is a reasonable justification for not having brought the matter forward earlier.
  - Following receipt of a complaint, the Harassment-Free Workplace Manager will acknowledge the complaint in writing and schedule a meeting with the Complainant to discuss resolution options within five days.
  - The Harassment-Free Workplace Manager will also notify the Deputy Minister(s) of the Complainant’s and Respondent’s Department(s) of the complaint within five days of receipt of complaint.
  - Upon request of the Harassment-Free Workplace Manager, the Deputy Minister of the Respondent’s Department shall schedule a meeting between the Harassment-Free Workplace Manager, a Departmental representative assigned by the Deputy Minister, and the Respondent within five days.
- ### **2. Clarification with respect to the application of the new Executive Branch to political support employees (in particularly with the “Management Intervention” option under informal resolution):**
- Attachment 2 outlines that for political support staff in caucus offices, management intervention will be directed to the chief of staff for that caucus. Should the complaint be against the chief of staff, management intervention will be directed to the leader of the caucus.
- ### **3. The impact of an interim policy (and the process outlined) on investigations already ongoing by the Commissioner for Legislative Standards under the Code of Conduct:**
- As mentioned previously, the Code of Conduct process is legislated and any investigations requested previously under those provisions will not be superseded by a policy. Should an

interim policy come into effect, and a complaint be brought forward under that policy which has already been referred to the Commissioner for Legislative Standards under the Code of Conduct, it would result in two investigations on the same issue (one under the Code of Conduct provisions and one under the provisions of the Harassment-Free Workplace Policy).

May 23, 2018

Speaker Perry Trimper  
Chair, House of Assembly Management Commission  
House of Assembly of Newfoundland and Labrador  
Confederation Building  
P.O. Box 8700  
St. John's, NL A1B 4J6

Dear Speaker Trimper,

I write to you in your capacity as Chair of the House of Assembly Management Commission on the issue of a Harassment-Free Workplace Policy for the Legislature.

I understand the Management Commission recently deferred the question of whether to direct interim application of the executive branch Harassment-Free Workplace Policy in situations involving Members of the House of Assembly.

While the Commissioner of Legislative Standards is independent and has extraordinary powers under a legislated Code of Conduct that are indeed the envy of the nation, this government's position has always been that there must also be a victim-centered and restorative process mechanism to deal with harassment complaints; this is consistent with the policy government announced in February of 2018. Advantages of this policy include: awareness programs; mediation; mandatory training focused on prevention; a 90-day timeline for all investigations; a "single-access entry" point to ensure consistent application of the policy; and clear definitions of terms such as harassment, bystander, and procedural fairness. This new policy incorporates all of the recommendations from the Rublin Thomlinson report, which was commissioned in 2015 to review government's respectful workplace programs after the deeply disappointing treatment of a government employee in the course of her harassment complaint process.

The Code of Conduct is the standard by which members must conduct themselves and the role of the Commissioner of Legislative Standards cannot be undermined in any way whatsoever; however, that process can be complimented. I would ask that the legislature follow the lead of this government in complimenting the Code of Conduct process with a more restorative process aimed at improving the culture of how politics is done in this province going forward.

While I appreciate there are nuances of the application of this policy in the context of legislated members, interim application of the Harassment-Free Workplace Policy until such time as the Privileges and Elections committee completes its work is surely more desirable than the status quo. I respectfully request that you table this letter at your next meeting for consideration with a view toward the policy being in effect as soon as possible, ideally in concert with its applicability to the thousands of civil servants in this province on June 1, 2018.

Sincerely,

A handwritten signature in blue ink, appearing to read "Dwight Ball", with a horizontal line underneath.

**DWIGHT BALL**

Premier

MHA, Humber-Gros Morne

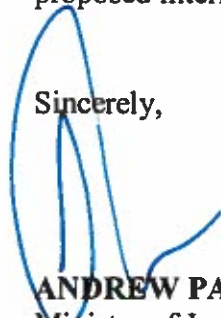
May 28, 2018

Speaker Perry Trimper  
Chair, House of Assembly Management Commission  
Confederation Building  
P.O. Box 8700  
St. John's NL  
A1B 4J6

Dear Mr. Speaker,

Further to our most recent meeting of the Management Commission please find attached a proposed interim Harassment-Free Workplace Policy on behalf of the government caucus.

Sincerely,



**ANDREW PARSONS, QC**  
Minister of Justice and Public Safety  
Attorney General  
Government House Leader



# Application Analysis of Executive Branch Harassment-Free Workplace Policy (HFWP) – effective June 1, 2018 to Members of the House of Assembly

## Complaint Process Equivalents

Complaint Process Step	Process Outlined in Executive Branch Policy (as per policy in effect Jun 1/18)	Equivalent Proposed Process if Respondent is an <u>MHA</u>
Submitting complaint	<ul style="list-style-type: none"> <li>Complaint submitted (via complaint form) to Harassment-Free Workplace Manager (HFWM), Human Resources Secretariat (HRS)</li> </ul>	<ul style="list-style-type: none"> <li>Complaint submitted to Commissioner for Legislative Standards (CLS).</li> </ul>
Assessment of complaint	<ul style="list-style-type: none"> <li>HFWM assesses to determine if complaint falls within scope of policy</li> </ul>	<ul style="list-style-type: none"> <li>CLS assesses to determine if complaint falls within scope of policy.</li> </ul>
Communication with Complainant (if complaint falls within scope of policy)	<ul style="list-style-type: none"> <li>HFWM acknowledges complaint and schedules meeting with complainant to review resolution options.</li> <li>HFWM follows up with written communication to complainant reiterating resolution options, and confirms selected option.</li> </ul>	<ul style="list-style-type: none"> <li>CLS acknowledges complaint and schedules meeting with complainant to review resolution options.</li> <li>CLS follows up with written communication to complainant reiterating resolution options, and confirms selected option.</li> </ul>
Notification to Respondent	<ul style="list-style-type: none"> <li>HFWM notifies Respondent's Deputy Minister (RDM)</li> <li>RDM schedules meeting between HFWM, departmental rep (assigned by RDM) and respondent:                             <ul style="list-style-type: none"> <li>Respondent informed of complaint, provided with written copy, and information on resolution process.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>CLS schedules meeting with Member to notify of complaint, and resolution process selected by complainant.                             <ul style="list-style-type: none"> <li>If complainant is an employee of the Legislature, CLS notifies Clerk of the House of Assembly.</li> <li>If complainant is an employee of the Executive branch, CLS notifies the Clerk of Executive Council.</li> </ul> </li> </ul>

**Resolution Options & Process Equivalents**

<b>Resolution Option</b>	<b>Process Outlined in Executive Branch Policy (as per policy in effect Jun 1/18)</b>	<b>Equivalent Proposed Process if Respondent is MHA</b>
<p><i>Informal – Individual Intervention</i></p>	<ul style="list-style-type: none"> <li>Complainant chooses to approach Respondent (in person or in writing), advising of unwelcome/objectionable behaviour.</li> </ul>	<ul style="list-style-type: none"> <li>Same</li> </ul>
<p><i>Informal – Management Intervention</i></p>	<ul style="list-style-type: none"> <li>Complainant chooses to have Manager approach the respondent, advising of unwelcome/objectionable behaviour.</li> <li>If complaint is against Manager, intervention may be requested by next level of management.</li> </ul>	<ul style="list-style-type: none"> <li>Complainant chooses to have Commissioner for Legislative Standards (CLS) approach the Member, advising of unwelcome/objectionable behaviour.</li> </ul>
<p><i>Informal – Respectful Workplace (RWP) Intervention</i></p>	<ul style="list-style-type: none"> <li>Complainant chooses to access assistance through RWP (as outlined in Policy)</li> </ul>	<ul style="list-style-type: none"> <li>Same</li> </ul>
<p><i>Formal - Investigation</i></p>	<ul style="list-style-type: none"> <li>Complainant chooses to pursue resolution through formal investigation (by impartial third party).</li> <li>Following process followed:               <ol style="list-style-type: none"> <li>Investigation conducted by impartial third party &amp; report drafted.</li> <li>Draft report submitted to Harassment Free Workplace Manager (HFWM) who reviews to ensure compliance with mandate.</li> <li>Report provided to DM – Complainant’s department who provides copy to complainant and respondent (and opportunity to respond).</li> </ol> </li> </ul>	<ul style="list-style-type: none"> <li>Investigator = Commissioner for Legislative Standards (CLS)</li> <li>Following process followed:               <ol style="list-style-type: none"> <li>Investigation conducted by CLS.</li> <li>CLS prepares report, provides copy to complainant and Member, and opportunity for each to respond.</li> <li>CLS provides report to Standing Committee of Privileges and Elections (PEC); and copy goes to Leader of the caucus to which the Member belongs.</li> </ol> <p>Note: If the Member that is the subject of the complaint is a Leader of a caucus, the report only goes to PEC.</p> </li> </ul>

**Resolution Option**

**Process Outlined in Executive Branch Policy (as per policy in effect Jun 1/18)**

**Equivalent Proposed Process if Respondent is MHA**

4. DM – Complainant’s department makes a decision whether to accept report findings (in whole, in part, or at all), and advises DM – respondent’s department (if applicable).
5. DM(s) advises complainant and respondent of findings in writing.
6. DM(s), in consultation with Human Resources Secretariat, determines necessary corrective and/or disciplinary actions (and provides required notifications).

4. PEC reviews report and recommendations and makes recommendation on recourse.
5. Recommendation of PEC referred to House of Assembly, and resolution introduced for debate and approval (by vote).

**NOTE: Report of CLS (brought before House of Assembly) would be drafted in accordance with confidentiality provisions of the policy.**

6. CLS notified of decision of House of Assembly (as a result of debate and vote on resolution).
7. CLS notifies complainant of decision of the House.

