



*House of Assembly  
Newfoundland & Labrador*

Standing Committee on Privileges and Elections

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**Final Report to the House of Assembly  
on the Development of a Legislature-Specific  
Harassment-Free Workplace Policy**

April 2019



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## INTRODUCTION

On May 2, 2018, the House of Assembly unanimously passed a Private Members' Resolution directing the Standing Committee on Privileges and Elections to undertake the development of a legislature-specific harassment-free workplace policy. The complete resolution is outlined in the following section (Terms of Reference).

Following the passing of the resolution, the Privileges and Elections Committee (PEC) prepared for the work it would undertake, including extensive cross-jurisdictional research and an analysis of applicable legislative and policy provisions. A significant portion of the work conducted throughout the Summer and Fall 2018 was focused on consultations as required by the resolution with Members, employees, and independent/external groups. Details of the Committee's consultation process are outlined in its Interim Report to the House of Assembly, which was tabled on November 21, 2018. The Interim Report also included a summary of common themes the Committee heard throughout its consultations, and a cross-jurisdictional analysis, along with a preview of directions it would be taking in its final recommendations to the House.

The Privileges and Elections Committee has continued its work over the last several months. It has developed a proposed Harassment-Free Workplace Policy (HFWP) Applicable to Complaints Against Members of the House of Assembly (the Policy) and recommends that it be adopted by the House. In addition to the proposed Policy, the Committee recommends changes to the principles of the Code of Conduct for MHAs; as well as the Code of Conduct provisions outlined in the *House of Assembly Accountability, Integrity and Administration Act (HOAAIA)*. There are also recommendations for other consequential statutory amendments to the *HOAAIA* (Note: if the House concurs in the recommendations of this report, any proposed statutory amendments must be brought to the House as a Bill and debated before coming into force).

## PRIVILEGES & ELECTIONS COMMITTEE

Scott Reid (Chair) – St. George's-Humber

Lorraine Michael (Vice Chair) – St. John's East-Quidi Vidi

Keith Hutchings – Ferryland

Pam Parsons – Harbour Grace-Port de Grave

John Finn – Stephenville-Port au Port



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## TERMS OF REFERENCE

In completing this work, the Privileges and Elections Committee was guided by the Private Members' Resolution of May 2, 2018, which stated the following:

***“BE IT RESOLVED** that this Honourable House support the introduction of a legislature-specific harassment policy, similar in principle to the policy in effect in the Nova Scotia provincial legislature, where elected representatives and their staff are held responsible for inappropriate conduct;*

***BE IT FURTHER RESOLVED** that this Honourable House, through the introduction of a legislature-specific harassment policy, recognize all forms of harassment including bullying, cyber-bullying and intimidation of all forms;*

***AND BE IT FURTHER RESOLVED** that this Honourable House develop this legislature-specific harassment policy through the Privileges and Elections Committee of this House in consultation with all Members and employees of the House and with independent groups who have experience and expertise in handling harassment complaints.”*



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# UPDATE ON THEMES & DIRECTIONS HIGHLIGHTED IN INTERIM REPORT

The Committee's Interim Report of November 2018 highlighted a number of themes and directions which emerged from the research and consultations it undertook. The Interim Report also included an immediate recommendation regarding mandatory training for all current MHAs. The following section provides an update on the implementation of this recommendation, as well as a summary of how the themes and directions highlighted in the Interim Report are addressed in the PEC's final recommendations.

## **Mandatory Training for Current MHAs**

The following recommendation from the Interim Report of the PEC was adopted, and subsequently became an order of the House, on December 4, 2018:

*Adopt the training program proposed by the Gardiner Center for Members of the House of Assembly. This training should be developed and delivered to all current Members as soon as possible, and to newly elected MHAs on an on-going basis. It is recommended that all Members participate in the training together, with no separation by caucus; and that attendance be mandatory.*

Over the Winter 2019, all 40 MHAs participated in a mandatory 4-day training program that was developed and delivered by the Gardiner Centre. This program included the following:

- Awareness (e.g. difference between effective conflict vs. harassment/bullying; discrimination based on performance vs. harassment; etc.);
- Creative problem solving;
- Supportive communication;
- Conflict management; and
- Stress management.

Members were invited to provide their feedback at the conclusion of the training, which was positive overall. The feedback provided from the experience of current Members with this training informed the training provisions of the proposed Policy.



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### **Gender-Based Issue/Power Dynamics**

Two predominant themes highlighted in the PEC's Interim Report were harassment as a gender-based issue; and the issue of power imbalance, particularly the complexities it presents in terms of dealing with workplace harassment in the legislative context and the work of elected officials. The Committee applied both of these lenses in its development of a proposed HFWP Applicable to Complaints Against MHAs, and in particular highlights the following:

- The definition of harassment in the proposed Policy includes abuse of authority, discriminatory harassment, sexual harassment and bullying. Further, the definition of discriminatory harassment prohibits harassment on the basis of sex, sexual orientation, gender identity, gender expression, marital status, and family status; and the definition of sexual harassment prohibits harassment that is gender-based.
- The proposed Policy recommends the establishment of an Independent Support Advisor to provide advice, support, and guidance to individuals on navigating the process and the options available; and also in understanding and dealing with their feelings and concerns as they deliberate on the course of action best suited to them. This position will be another avenue through which to seek support and guidance relating to gender-based and power imbalance concerns.
- The proposed Policy makes it a requirement for the Intake Officer of the Office of the Citizens' Representative to have specific skill sets to receive and provide advice on complaints of harassment (including gender-based sensitivity and inclusion).
- There are provisions in the proposed Policy that prohibit reprisal/retaliation against any MHA or employee who has alleged harassment, made a complaint, or participated in any proceedings under the Policy. Further, it stipulates that any reprisal/retaliation may be subject to disciplinary action.
- The proposed Policy includes a process for recourse in the event of breaches in confidentiality.
- The proposed Policy will make respectful workplace training mandatory for all MHAs, which must be completed once each general assembly.



## **Other Directions**

The Privileges and Elections Committee outlined a number of other directions in its Interim Report with respect to its final recommendations. The following is an overview of how these are addressed:

### **1. Separation of harassment/bullying from the Code of Conduct:**

- The proposed consequential amendments to the HOAIA provide that where the Commissioner for Legislative Standards (CLS) receives a complaint (under the Code of Conduct) which is deemed not to be within the Commissioner’s jurisdiction, but rather falls under the Policy, the CLS cannot investigate. The complainant will be notified of the option to proceed under the Policy.
- Further, if a Member proceeds with a complaint under either process (Code of Conduct or the Policy), the proposed consequential amendments provide that where a matter is investigated and reported on, the decision of the applicable statutory officer is final and it cannot be subsequently referred to the other statutory officer.

### **2. Responsibility for administration of the policy resting with the Office of the Citizens’ Representative (OCR):**

- The proposed Policy assigns responsibility for intake of complaints and the resolution process (including formal investigations) to the OCR. Its recommendations for consequential statutory amendments also include an amendment to the HOAIA to give the requisite authority to the Citizens’ Representative to act in accordance with the Policy.
- The Committee is also recommending that the House of Assembly Management Commission consider the increased mandate/responsibilities of that Office with respect to any budgetary/resource implications.

### **3. Independent Support Advisor:**

- The proposed Policy includes a requirement that a position of Independent Support Advisor be established and that it be independent of the Legislature. The position will provide advice, support, and guidance to individuals on navigating the process and the options available; and also in understanding and dealing with their feelings and concerns as they deliberate on the course of action best suited to them.
- To further ensure its independence from the Legislature, the proposed Policy assigns responsibility for identifying and retaining the services required to implement the position with the Citizens’ Representative. The intent is that it will not be a full-time position within that Office, but rather an external individual/organization retained on a contract basis to provide the service if/when required.



**4. Intake of complaints:**

- The proposed Policy includes a requirement for the Office of the Citizens' Representative to have a dedicated position for intake of complaints.
- Further, the proposed Policy assigns responsibility to the Citizens' Representative to ensure the Intake Officer has the necessary skills, knowledge, and training to receive and provide advice on complaints of harassment.

**5. Timelines for making a complaint:**

- The proposed Policy includes a requirement that all complaints must be filed no later than 6 months after the last incident of alleged harassment.

**6. Confidentiality:**

- The proposed Policy includes provisions that protect confidentiality of complainants and witnesses to the extent possible while complying with principles of natural justice and procedural fairness. The proposed Policy also outlines a process for recourse in the event it is determined that confidentiality has been breached by a Member or an employee.
- The proposed Policy also includes a requirement that:
  - i. The final report of the Standing Committee on Privileges and Elections to the House of Assembly not disclose the identity (including identifying information) of the complainant and witnesses; and
  - ii. Statements in debate regarding a matter related to the Policy must respect the confidentiality of the complainant and witnesses. The PEC is recommending that the Standing Orders Committee determine whether any amendments are necessary to address this matter.

**7. Enhanced accountability:**

- The proposed Policy includes a requirement that all Members of the House of Assembly annually sign a declaration confirming they have read and understood the provisions of the Policy.
- Currently, Members swear/affirm to uphold the Code of Conduct as part of their Oath of Office. In addition to that, the proposed amendments the HOAAIA include a requirement that Members annually sign a declaration reaffirming their commitment to follow the Code of Conduct for Members.





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## PROPOSED POLICY HIGHLIGHTS

The Standing Committee on Privileges and Elections is pleased to present to the House of Assembly the proposed Harassment-Free Workplace Policy Applicable to Complaints Against Members of the House of Assembly (as outlined in Appendix A). The Committee has worked diligently over the last number of months to develop a legislature-specific harassment policy that takes into account jurisdictional research; what it heard during the consultation process; and lessons learned through the House of Assembly's recent experience in dealing with complaints of harassment between Members.

The following section provides an overview of various components of the proposed HFWP Applicable to Complaints Against MHAs.

### Application of Policy

- The proposed Policy will apply to complaints of harassment filed by an MHA or an employee where a **Member of the House of Assembly is a respondent**.
- As outlined, “employee” means the following:
  - Legislative branch - employees of the House of Assembly Service and Statutory Offices; constituency assistants of MHAs; political support employees in the caucus offices; and political support employees of independent MHAs.
  - Executive branch - employees (including political support employees) of a department created under the *Executive Council Act*, or a branch of the Executive government of the Province; executive assistants of Ministers; and political support employees in the Premier's Office.
- The proposed Policy will apply to **interactions** that an **MHA** has with **other MHAs and employees** in the context of carrying out **that MHA's duties as an elected official**.
- The Executive branch Harassment-Free Workplace Policy (effective June 1 2018) will continue to apply to employees of the Legislature in the context of making a complaint against another employee.



### **Definition of Harassment**

- The proposed Policy outlines a clear definition of harassment, which includes the following elements:
  - Abuse of authority;
  - Discriminatory harassment;
  - Sexual harassment; and
  - Bullying.

### **Responsibilities**

- In addition to outlining the rights and responsibilities of complainants, respondents, and witnesses, the proposed Policy also outlines responsibilities of individuals, positions, and bodies that play a role in implementing processes under the Policy and/or fostering and maintaining a respectful workplace. These include:
  - MHAs and employees;
  - Caucuses;
  - Speaker of the House of Assembly;
  - Independent Support Advisor;
  - Intake Officer (Office of the Citizens' Representative);
  - Citizens' Representative;
  - Standing Committee on Privileges and Elections.

### **Complaint Process**

- The proposed Policy outlines a clear process for submitting complaints, as well as the steps and associated timelines once a formal complaint has been received by the Office of the Citizens' Representative (OCR).
- The proposed Policy also addresses anonymous and bystander complaints, in addition to outlining a process for recourse if it has been determined that accusations involve a falsehood, malicious intent, or are made in bad faith.

### **Resolution Process**

- The proposed Policy includes both informal and formal resolution options, which are complainant-driven (that is, the decision as to which option to pursue rests with the complainant).



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- Informal resolution options include individual intervention, facilitated discussions and mediation. These processes will be coordinated by the OCR, but will be delivered through the engagement of external expertise.
  - The proposed Policy also outlines the principles that will be applied by the Citizens' Representative during an investigation (should a complaint proceed to that stage), as well as the associated timelines. In addition, it outlines the process once an investigation is complete, which involves referring the final investigative report to the Standing Committee on Privileges and Elections. The Committee has the responsibility of recommending sanction (if warranted) for the respondent MHA, which will then be referred to the House of Assembly for debate and vote.
  - The PEC's deliberations of the final investigative report will be conducted *in camera*, and while their final report to the House must identify the respondent MHA, **it will not disclose the identity (or any identifying information) of the complainant or witnesses in the process.**
  - The proposed Policy also outlines specific timelines for the PEC to complete this work and to table its report in the House of Assembly. Timelines for the House in debating/dealing with the report are also outlined.
  - To ensure confidentiality of the complainant and witnesses is protected during debate in the House, the proposed Policy includes a provision to protect the identity of the complainant and witnesses during debate (which would also include any identifying information). Further, the Committee recommends that the Standing Orders Committee consider addressing this matter in the Standing Orders.

### **Confidentiality**

- The confidentiality provisions of the proposed Policy seek to respect confidentiality to the extent possible, keeping in mind the following:
  - People with responsibility for processing the files may disclose information if necessary in that context, and in accordance with the provisions of the proposed Policy.
  - Complainants, respondents, and witnesses called as part of the complaint process have the right to consult the support person of their choice. Although disclosure is permitted under the proposed Policy, it must occur with the greatest possible discretion, respect, and without unjustly tarnishing people's reputations.
- The proposed Policy also includes a process for disciplinary action against an MHA or an employee should it become known that confidentiality has been breached.



### **Training/Accountability Measures**

- Consistent with the PEC’s recommendation from its Interim Report regarding mandatory training for all current MHAs in the 48<sup>th</sup> General Assembly, the proposed Policy includes a provision that will make this training mandatory for newly-elected MHAs. It also includes a requirement that any Members who have already completed the training attend refresher training once each general assembly.
- In addition to the mandatory training noted above, training on the provisions of the HFWP Applicable to Complaints Against MHAs will also be mandatory and included in the orientation and training provided to Members following a general election or by-election.
- The provisions of the proposed Policy will also make it mandatory for MHAs to annually sign a declaration form (which must be submitted to the Clerk of the House of Assembly by January 31 of each year) confirming they have read and understood the HFWP Applicable to Complaints Against MHAs.

### **Reimbursement of Legal Fees**

- The PEC does not have the authority to recommend policy direction with respect to reimbursement of legal fees, as decisions on financial matters fall outside of its mandate. The authority for these policy decisions rests with the House of Assembly Management Commission (for MHAs and employees of the Legislature), and Treasury Board (for employees of the Executive branch).
- In this regard, the PEC is making recommendations that the Management Commission and Treasury Board (as outlined further in this report) determine policy direction as appropriate on the reimbursement of legal fees under the proposed HFWP Applicable to Complaints Against MHAs.

### **Automatic Review Mechanism**

- The proposed Policy will make it mandatory for the Standing Committee on Privileges and Elections to automatically review the Policy and its processes at least once each general assembly, and make recommendations to the House of Assembly (as necessary) for amendments.



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### **Effective Date & Implementation**

- The provisions of the proposed Policy will come into effect at the beginning of the 49<sup>th</sup> General Assembly. The PEC makes this recommendation based on the following:
  - Several consequential statutory amendments must be passed by the House before the proposed Policy can come into effect.
  - There is an implementation period required, particularly for the Office of the Citizens' Representative, which will have an expanded mandate as a result of the Policy. That office will need time to prepare/plan appropriately.
- The interim process for application of the Executive branch Harassment-Free Workplace Policy to MHAs (as adopted by the House of Assembly Management Commission) will remain in effect for any issues of harassment that may arise prior to the proposed Policy coming into effect. This process can be found at: [www.assembly.nl.ca/ManComm/Directives](http://www.assembly.nl.ca/ManComm/Directives).

### **Recommendation**

- 1. The Privileges and Elections Committee recommends that the House of Assembly adopt the proposed Harassment-Free Workplace Policy Applicable to Complaints Against Members of the House of Assembly, as outlined in Appendix A.**



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## CODE OF CONDUCT AMENDMENTS

As part of its work to develop a legislature-specific harassment-free workplace policy, the PEC also reviewed the principles and related legislative provisions of the Code of Conduct for Members of the House of Assembly, particularly in respect of the separation of harassment/bullying from the Code of Conduct (a direction that was outlined in the PEC's Interim Report). The intention is that harassment be separated from the Code of Conduct, and that all harassment-related complaints be dealt with in accordance with the proposed Policy. The Committee is of the view that the sensitive nature of harassment issues requires specific considerations that are different from other matters related to misconduct of Members (e.g. financial, ethical or otherwise).

### **Code of Conduct Principles**

The Code of Conduct currently in effect was developed by the Privileges and Elections Committee, and adopted by the House in May 2008. It states the following:

#### ***Commitments:***

Members of this House of Assembly recognize that we are responsible to the people of Newfoundland and Labrador and will responsibly execute our official duties in order to promote the human, environmental and economic welfare of Newfoundland and Labrador.

Members of this House of Assembly respect the law and the institution of the Legislature and acknowledge our need to maintain the public trust placed in us by performing our duties with accessibility, accountability, courtesy, honesty and integrity.

#### ***Principles:***

1. Members shall inform themselves of and shall conduct themselves in accordance with the provisions and spirit of the Standing Orders of the House of Assembly, the *House of Assembly Accountability, Integrity and Administration Act*, the *Members' Resources and Allowances Rules*, the *Elections Act, 1991*, the *House of Assembly Act* and this Code of Conduct and shall ensure that their conduct does not bring the integrity of their office or the House of Assembly into disrepute.



2. It is a fundamental objective of their holding public office that Members serve their fellow citizens with integrity in order to improve the economic and social conditions of the people of the province.
3. Members reject political corruption and refuse to participate in unethical political practices which tend to undermine the democratic traditions of our province and its institutions.
4. Members will act lawfully and in a manner that will withstand the closest public scrutiny. Neither the law nor this code is designed to be exhaustive and there will be occasions on which Members will find it necessary to adopt more stringent norms of conduct in order to protect the public interest and to enhance public confidence and trust.
5. Members will not engage in personal conduct that exploits for private reasons their positions or authorities or that would tend to bring discredit to their offices.
6. Members will carry out their official duties and arrange their private financial affairs in a manner that protects the public interest and enhances public confidence and trust in government and in high standards of ethical conduct in public office.
7. Members will base their conduct on a consideration of the public interest. They are individually responsible for preventing conflicts of interest and will endeavour to prevent them from arising. Members will take all reasonable steps to resolve any such conflict quickly and in a manner which is in the best interests of the public.
8. In performing their official duties, Members will apply public resources prudently and only for the purposes for which they are intended.
9. Members will not use official information which is not in the public domain, or information obtained in confidence in the course of their official duties, for personal gain or the personal gain of others.
10. Relationships between Members and government employees should be professional and based upon mutual respect and should have regard to the duty of those employees to remain politically impartial when carrying out their duties.
11. Members should promote and support these principles by leadership and example.
12. This Code of Conduct has a continuing effect except as amended or rescinded by resolution of the House of Assembly.

In reviewing the Code of Conduct and its related processes to ensure that moving forward all complaints of harassment be dealt with in accordance with the proposed Harassment-Free Workplace Policy Applicable to Complaints Against MHAs, the Committee is recommending that principle 10 be amended. The proposed amendment removes the reference to “relationships



between Members and government employees”, but retains the idea of Members having regard for the duty of impartiality of public service employees, as follows:

*Members should have regard to the duty of public service employees to remain politically impartial when carrying out their duties.*

The PEC is of the view that maintaining principle 10 as it currently exists could result in a situation where a complaint of harassment (which is relationship-based) would have to be investigated under the Code of Conduct (should a complaint be received under that process). Amending principle 10, along with other proposed statutory amendments (outlined further in this report), will ensure that complaints of harassment (which are relationship-based) are dealt with in accordance with the process outlined in the proposed Policy, which was developed taking into account the sensitive nature of harassment/relationship-based issues.

### **Recommendation**

**2. The Privileges and Elections Committee recommends that the House of Assembly amend principle 10 of the Code of Conduct for Members, as outlined in Appendix B.**

### **Code of Conduct Process**

Sections 36 to 42 of the *HOAAIA* outline processes related to the Code of Conduct including how opinions can be requested; the process and timelines for conducting inquiries; the reporting process once inquiries are completed; and the process and timelines for the House in dealing with the reports. As part of its review, and given the experience of the Legislature in recent months with the Code of Conduct, the Committee is proposing a number of statutory amendments to change that process.

The Code of Conduct process in the Act currently provides **four ways** for an investigation to be initiated (Section 36):

1. Any Member of the House of Assembly by request to the Commissioner;
2. The Commissioner, on his/her own initiative;
3. The House of Assembly, by resolution; or
4. The Premier by request to the Commissioner.

Further, Section 38 of the Act sets out the process for reporting once an inquiry under the Code of Conduct has concluded. When an investigation is initiated by the Premier, it follows a different





process than if it is initiated by a Member, the Commissioner, or the House of Assembly (which are dealt with by resolution).

Any Member of the House of Assembly (including the Premier) has the ability to request an opinion of the Commissioner about another Member as it relates to the Code of Conduct. Therefore, the Committee is of the view that it is not necessary for the Premier to have the ability to initiate a review that would follow a different reporting process than if it was initiated by any other Member. For this reason, the Committee is proposing an amendment to the *HOAAIA* (as outlined in the proposed Bill in Appendix C) to repeal subsections 36(4) and 38(2) [Note: these subsections relate to the Premier's authority to initiate a review and the related reporting process for review's initiated by the Premier].

In addition to the proposed amendments outlined above, the Committee is also proposing the following:

- An amendment to Section 35 making it mandatory for Members to annually file a declaration with the Clerk reaffirming their commitment to follow the Code of Conduct.
- The addition of Section 40.1 regarding confidentiality of the identity of the person requesting an opinion (Note: the proposed amendment mirrors what exists in the whistleblower provisions of the Act).

### **Recommendation**

- 3. The Privileges and Elections Committee recommends that the House of Assembly concur in its recommendation regarding proposed amendments to the Code of Conduct provisions of the *House of Assembly Accountability, Integrity and Administration Act*, as outlined in the proposed Bill at Appendix C.**



## OTHER CONSEQUENTIAL STATUTORY AMENDMENTS

In order to give effect to the proposed HFWP Applicable to Complaints Against MHAs, and to ensure that all harassment-related complaints are dealt with under the proposed Policy (not the Code of Conduct), the Committee is recommending a number of consequential statutory amendments to the *HOAAIA*, which include:

- Definitions related to the proposed HFWP Applicable to Complaints Against MHAs (Section 42.1);
- Separation of what is investigated under the proposed Policy versus Code of Conduct (Section 42.2);
- Authority of the Citizens’ Representative to carry out work in accordance with the Policy, and the process for final investigative reports (Sections 42.3 and 42.4);
- Role of the Privileges and Elections Committee and the options available to the Committee for recommending penalties/sanction (Sections 42.5 and 42.6);
- Confidentiality of the complainant and witnesses (Section 42.7); and
- Process where the complainant is the Citizens’ Representative (Section 42.8).

All of the proposed amendments are outlined in Appendix C.

### **Recommendation**

- 4. The Privileges and Elections Committee recommends that the House of Assembly concur in its recommendation regarding proposed amendments to *House of Assembly Accountability, Integrity and Administration Act*, as outlined in the proposed Bill in Appendix C.**



## OTHER RECOMMENDATIONS

To facilitate successful implementation of the proposed HFWP Applicable to Complaints Against MHAs, the PEC is making a number of recommendations related to, but not strictly within, the mandate outlined in the resolution directing this work. These are as follows:

**5. The Privileges and Elections Committee recommends that the House of Assembly concur in the following recommendations to the Standing Orders Committee:**

- a) That the Committee consider amendments to the Standing Orders that will ensure the spirit and intent of the proposed HFWP for Complaints Against MHAs are respected during debate in the House of Assembly.
- b) That the Committee consider whether the expanded mandate of the Privileges and Elections Committee with respect to the proposed Policy and its processes warrants an amendment to the Standing Orders to increase the number of Members on the PEC.
- c) That the Committee review the Standing Orders with a view to adding a mechanism to protect the identity of the complainant and witnesses during debate (which would also include any identifying information).

**6. The Privileges and Elections Committee recommends that the House of Assembly concur in the following recommendations to the House of Assembly Management Commission:**

- a) That the Management Commission determine policy direction with respect to reimbursement of legal fees under the proposed HFWP Applicable to Complaints Against MHAs for Members and employees of the Legislative branch.
- b) That the Management Commission consider the expanded mandate of the Office of the Citizens' Representative with respect to the Policy and provide appropriate resources to that Office as required.
- c) That the Management Commission rescind Directive 2018-001 (Interim Application of Executive Branch Harassment-Free Workplace Policy for Complaints When the Respondent is a Member of the House of Assembly) when the proposed HFWP Applicable to Complaints Against MHAs comes into effect.



**7. The Privileges and Elections Committee recommends that the House of Assembly concur in its recommendation that Treasury Board determine policy direction with respect to reimbursement of legal fees under the proposed HFWP Applicable to Complaints Against MHAs for employees of the Executive branch.**

**8. The Privileges and Elections Committee recommends that the House of Assembly concur in its recommendation to the Minister Responsible for the Human Resource Secretariat that an addendum to the Executive branch Harassment-Free Workplace Policy (effective June 1 2018) be considered to specify that a complaint by an employee against a Member of the House of Assembly must proceed under the proposed HFWP Applicable to Complaints Against MHAs.**



## CONCLUSION

The Privileges and Elections Committee is pleased to present its final report to the House of Assembly on the development of a legislature-specific harassment-free workplace policy, which includes the proposed policy along with recommendations related to the Code of Conduct for Members and other consequential statutory amendments. It recommends that the House concur in this report and its recommendations.

The final report of the Committee follows many months of analysis, consultations, and deliberations. The PEC has given this matter the utmost attention and consideration. It recognized the importance of this work, as well as the expectation that the Legislature must lead by example in this area. The PEC worked diligently to develop a policy applicable to complaints against elected officials that creates a clear process; provides options for resolution; is complainant-driven; and protects confidentiality. The proposed Policy is intended to create a cultural shift; foster a better work environment; and hold elected officials to the highest standard of behaviour.



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## SUMMARY OF RECOMMENDATIONS

1. The Privileges and Elections Committee recommends that the House of Assembly adopt the proposed Harassment-Free Workplace Policy Applicable to Complaints Against Members of the House of Assembly, as outlined in Appendix A.
2. The Privileges and Elections Committee recommends that the House of Assembly amend principle 10 of the Code of Conduct for Members, as outlined in Appendix B.
3. The Privileges and Elections Committee recommends that the House of Assembly concur in its recommendation regarding proposed amendments to the Code of Conduct provisions of the *House of Assembly Accountability, Integrity and Administration Act*, as outlined in the proposed Bill at Appendix C.
4. The Privileges and Elections Committee recommends that the House of Assembly concur in its recommendation regarding proposed amendments to *House of Assembly Accountability, Integrity and Administration Act*, as outlined in the proposed Bill in Appendix C.
5. The Privileges and Elections Committee recommends that the House of Assembly concur in the following recommendations to the Standing Orders Committee:
  - a) That the Committee consider amendments to the Standing Orders that will ensure the spirit and intent of the proposed HFWP for Complaints Against MHAs are respected during debate in the House of Assembly.
  - b) That the Committee consider whether the expanded mandate of the Privileges and Elections Committee with respect to the proposed Policy and its processes warrants an amendment to the Standing Orders to increase the number of Members on the PEC.
  - c) That the Committee review the Standing Orders with a view to adding a mechanism to protect the identity of the complainant and witnesses during debate (which would also include any identifying information).



6. The Privileges and Elections Committee recommends that the House of Assembly concur in the following recommendations to the House of Assembly Management Commission:
- a) That the Management Commission determine policy direction with respect to reimbursement of legal fees under proposed HFWP Applicable to Complaints Against MHAs for Members and employees of the Legislative branch.
  - b) That the Management Commission consider the expanded mandate of the Office of the Citizens' Representative with respect to the Policy and provide appropriate resources to that Office as required.
  - c) That the Management Commission rescind Directive 2018-001 (Interim Application of Executive Branch Harassment-Free Workplace Policy for Complaints When the Respondent is a Member of the House of Assembly) when the proposed HFWP Applicable to Complaints Against MHAs comes into effect.
7. The Privileges and Elections Committee recommends that the House of Assembly concur in its recommendation that Treasury Board determine policy direction with respect to reimbursement of legal fees under the proposed HFWP Applicable to Complaints Against MHAs for employees of the Executive branch.
8. The Privileges and Elections Committee recommends that the House of Assembly concur in its recommendation to the Minister Responsible for the Human Resource Secretariat that an addendum to the Executive branch Harassment-Free Workplace Policy (effective June 1 2018) be considered to specify that a complaint by an employee against a Member of the House of Assembly must proceed under the proposed HFWP Applicable to Complaints Against MHAs.



## APPENDICES

1. Proposed Harassment-Free Workplace Policy Applicable to Complaints Against Members of the House of Assembly
2. Proposed amendments to the principles of the Code of Conduct for Members
3. Proposed consequential statutory amendments to *House of Assembly Accountability, Integrity and Administration Act*





## APPENDIX A

The following is the proposed Harassment-Free Workplace Policy Applicable to Complaints Against Members of the House of Assembly.

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## APPENDIX B

The following is the revised Code of Conduct for Members, which includes the proposed amendment to principle 10:

### ***Commitments:***

Members of this House of Assembly recognize that we are responsible to the people of Newfoundland and Labrador and will responsibly execute our official duties in order to promote the human, environmental and economic welfare of Newfoundland and Labrador.

Members of this House of Assembly respect the law and the institution of the Legislature and acknowledge our need to maintain the public trust placed in us by performing our duties with accessibility, accountability, courtesy, honesty and integrity.

### ***Principles:***

1. Members shall inform themselves of and shall conduct themselves in accordance with the provisions and spirit of the Standing Orders of the House of Assembly, the *House of Assembly Accountability, Integrity and Administration Act*, the *Members' Resources and Allowances Rules*, the *Elections Act, 1991*, the *House of Assembly Act* and this Code of Conduct and shall ensure that their conduct does not bring the integrity of their office or the House of Assembly into disrepute.
  2. It is a fundamental objective of their holding public office that Members serve their fellow citizens with integrity in order to improve the economic and social conditions of the people of the province.
  3. Members reject political corruption and refuse to participate in unethical political practices which tend to undermine the democratic traditions of our province and its institutions.
  4. Members will act lawfully and in a manner that will withstand the closest public scrutiny. Neither the law nor this code is designed to be exhaustive and there will be occasions on which Members will find it necessary to adopt more stringent norms of conduct in order to protect the public interest and to enhance public confidence and trust.
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5. Members will not engage in personal conduct that exploits for private reasons their positions or authorities or that would tend to bring discredit to their offices.
  6. Members will carry out their official duties and arrange their private financial affairs in a manner that protects the public interest and enhances public confidence and trust in government and in high standards of ethical conduct in public office.
  7. Members will base their conduct on a consideration of the public interest. They are individually responsible for preventing conflicts of interest and will endeavour to prevent them from arising. Members will take all reasonable steps to resolve any such conflict quickly and in a manner which is in the best interests of the public.
  8. In performing their official duties, Members will apply public resources prudently and only for the purposes for which they are intended.
  9. Members will not use official information which is not in the public domain, or information obtained in confidence in the course of their official duties, for personal gain or the personal gain of others.
  10. Members should have regard to the duty of public service employees to remain politically impartial when carrying out their duties.
  11. Members should promote and support these principles by leadership and example.
  12. This Code of Conduct has a continuing effect except as amended or rescinded by resolution of the House of Assembly.
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## APPENDIX C

The following is a draft Bill which includes the proposed amendments to the *House of Assembly Accountability, Integrity and Administration Act*.

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