

The Joyce Report

made under the
House of Assembly Accountability, Integrity and Administration Act



October 18, 2018

Bruce Chaulk
Commissioner for Legislative Standards

EXECUTIVE SUMMARY

On May 10, 2018, a Member of the House of Assembly, (hereinafter referred to as the Complainant) wrote the Commissioner's Office indicating their intention to request an investigation into the conduct of Edward Joyce, (MHA, Humber – Bay of Islands), (hereinafter referred to as MHA Joyce) with respect to alleged violations of the Member's Code of Conduct. On July 3, 2018 the complete submission was received from the Complainant.

The Complainant alleged a number of incidents of harassment and intimidation by MHA Joyce directed at the Complainant, and asserted that these incidents were violations of sections 3, 6, 7 & 10 of the Member's Code of Conduct.

While acknowledging the seriousness of the issues raised by the Complainant, it must be stated that the statutory mandate of the Commissioner for Legislative Standards is to provide an opinion with respect to the compliance of a member with the provisions of the House of Assembly Accountability, Integrity and Administration Act S.N.L. 2007 c. H-10.1 (hereinafter referred to as the HOAIA) and the Member's Code of Conduct.

I have also considered specifically whether MHA Joyce engaged in behaviour that amounts to harassment. In doing so, I have relied on a definition of harassment as objectionable or offensive behaviour that is known or ought reasonably to be known to be unwelcome. In providing my opinion, it is important to note that although particular behavior may not meet the specific definition of harassment or bullying, a code of conduct violation can still be made against a member if his or her conduct as an MHA warrants such a finding based upon a review of the evidence.

In that regard, as a result of my review, I am of the opinion that MHA Joyce has violated Principle 10 of the Member's Code of Conduct. MHA Joyce's actions relating to the hiring process, the manner in which he dealt with the Complainant, particularly during the call on April 8th, did not meet the expectations of the Code of Conduct, that he perform his duties with "...accountability, courtesy, honesty and integrity." I believe his attempts to influence the Complainant's actions, as well as his response when she failed to affect his desired outcome, were outside the "norm" of political interactions and were below the standards expected of persons in their role within government. 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.

I find that the manner in which he addressed this issue was unprofessional and showed a lack of mutual respect towards members of the public service by placing those individuals in the middle of a process that is supposed to be politically impartial. This type of conduct is not acceptable and must be discouraged.

In the circumstances of this case, where the MHA Joyce has been cooperative throughout, and where the member has suffered a significant financial penalty in being removed from Cabinet for a significant period of time, it is my recommendation to the House of Assembly that MHA Joyce be reprimanded.

Recently, the issues of harassment and bullying in the House of Assembly have become the subject of much debate. While members are free to exercise their right to request my opinion with respect to the compliance of a member with the Code of Conduct, consideration should also be given to requiring members to undergo respectful workplace training as part of their orientation upon being elected as a Member of the House of Assembly. By proceeding in this fashion, one would hope that events such as those outlined in this report can be avoided in the future. In addition, it must be recognized that MHA's often have to continue to work with each other as investigations are taking place and often times following the release of my report. It would be beneficial if a more private restorative justice model was implemented to allow these matters to be resolved in a setting that will facilitate resolution of these important workplace issues while at the same time facilitate rehabilitation of relationships, where possible, to allow members to act in the best interests of their constituents.

BACKGROUND

The HOAIA Act provides the authority of the Commissioner for Legislative Standards to examine and comment on the actions of elected members of the House of Assembly.

Subsection 36(1) states as follows:

36(1) A member who has reasonable grounds to believe that another member is in contravention of the code of conduct adopted under subsection 35 (1) may, by application in writing setting out the grounds for the belief and the nature of the alleged contravention, request that the commissioner give an opinion respecting the compliance of the other member with the provisions of the code of conduct.

Upon receipt of a request for an opinion under s.36(1) , it is incumbent on the Commissioner to conduct an initial review of the matter to determine whether or not there is any substance to the allegations and whether or not it may be necessary to engage in a formal inquiry of the matter. However, before the commissioner may start an inquiry, the commissioner is required to give the member concerned reasonable notice in accordance with s.37(1).

Section 37(1)states as follows:

37(1) Upon receiving a request under subsection 36(1), (3) or (4), or where the commissioner decides to conduct an inquiry under subsection 36(2), and on giving the member concerned reasonable notice, the commissioner may conduct an inquiry.

As noted by s.37(1), providing notice to the member concerned is not indicative of the start of an inquiry. An inquiry is started when the commissioner decides to conduct an inquiry and may start after the commissioner has received a response from the member concerned. Often times it is necessary to review the member's initial response to determine if there is any basis for which to proceed with a formal investigative inquiry.

When the commissioner decides to start an inquiry, then the results of an inquiry shall be reported no later than 90 days after beginning the inquiry in accordance with s.38(4).

In civil matters such as this one, the burden of proof is on a balance of probabilities. According to the Supreme Court of Canada in F.H. McDougall [2008] 3 S.C.R. 41 the only practical way in which to reach a factual conclusion in a civil case is to decide whether or not it is more likely than not that the event occurred. In making such a determination the evidence must always be sufficiently clear, convincing, and cogent to satisfy the balance of probabilities test. In reviewing this matter it was necessary to keep the standard of proof in mind at all times.

CHRONOLOGY OF EVENTS

On May 10, 2018, a letter of intent was received by the Commissioner from the Complainant. In the letter the Complainant indicated that a detailed letter and supporting documentation would be provided at a later time.

On June 12, 2018, a complaint was received from the Complainant. In this submission, the Complainant requested that the Commissioner conduct a formal investigation into MHA Joyce in accordance with s.36(1) of the HOAIA for an alleged violation of the Member's Code of Conduct. The Complainant indicated that further information would be provided at a later date.

On June 28, 2018 a copy of the letter was sent to counsel for MHA Joyce requesting a written response to the complaint.

On July 3, 2018 an interview was conducted by the Commissioner with the assistance of the investigator with the Complainant. At that time, the Complainant provided the completed submission.

On July 13, 2018 a letter was sent to counsel for MHA Joyce with the balance of the submission.

On July 19, 2018 a written response was received from counsel for MHA Joyce.

Witnesses were interviewed on the following dates:

- July 19, 2018
- July 20, 2018
- August 29, 2018
- September 18, 2018
- September 24, 2018

On August 28, 2018, the Complainant responded in writing to MHA Joyce's response.

THE INVESTIGATION

The complaint raised by the Member dealt with six specific issues. These are as follows:

- a) Placentia Wellness Centre;
- b) Argentia Access Road Composting Facility;
- c) Capital Works - 2018;
- d) Occupational Health and Safety (OHS) Management Job;
- e) Social Policy Committee Meeting; and
- f) April 26th Meeting.

In this report, I have included the written submissions of the parties in italics and have included evidence provided to me during interviews in regular font. I have grouped the evidence in the same manner that the Complainant grouped the allegations in the original complaint.

I have not made factual findings relating to every piece of information provided by the Complainant and outlined below. In some sections, the information did not identify specific behaviours which, even if true, would amount to harassment or otherwise violate the Code of Conduct. For example, the information relating to Placentia and Argentia seems primarily relevant as context for the Complainant's subsequent concerns about retaliation following her alleged interactions with MHA Joyce relating to the hiring process which is discussed in detail in section (d). I have also relied on the fact that evidence of the Complainant, as well as several witnesses, suggests that it was that the hiring process concerns were the primary basis for the Complainant bringing the complaint. Given the scope of this process, I did not feel that it was necessary to interview witnesses about topics relating to how funding decisions were made or how consultations occurred, particularly in light of the impact such interviews would have on the confidentiality of the process.

Lastly, in some cases I note that the Complainant described seemingly benign interactions with MHA Joyce, for example their trip to Freshwater, or interactions in which MHA Joyce was not directly involved, for example some of the meetings and events that occurred after April 8, 2018. I have not made factual findings regarding these interactions, but have included the information both for context and completeness.

a) Placentia Wellness Centre

i. The Complainant wrote:

When funding was announced by the Department of Municipal Affairs and Environment (MAE) in 2016, 2017 and 2018 my district did get funding each time, but I had to ask and message Minister Joyce many times to get details about funding in 2018 and Minister Joyce clearly didn't like that. He said I was bugging him and had to give it up. It was very difficult to get a clear response from Minister Joyce. Once we argued from the west block elevator to the cabinet room in the east block over the Placentia Wellness Project during a walk that took approximately 10 to 12 minutes. The Town of Placentia had told me that VALE had informed them that the money as announced in October 2015 had been given to government. Minister Joyce said that government had received zero funding from Vale when I asked him on numerous occasions.

This funding had been announced in an October 2015 media release and the Premier had confirmed that he would support the announcement at an event in Placentia, at my campaign headquarters, when asked about it by a constituent in November 2015. While another Minister had indicated that they thought it was received by government, to this date I do not know how much money was received by government or when it was received from VALE as announced in 2015 for this project. This intentional withholding of relevant information affecting my constituents does not assist me in serving the public interest.

When I was the Minister of Children, Seniors and Social Development I was not informed by the Department of MAE about the announced VALE funded projects, even though a number of the announced projects would be through this department for which I was responsible as Minister.

The funding for the pool/Wellness Centre in Placentia was a huge issue during the 2017 municipal election. Many times Minister Joyce blamed the fact that the pool funding was not reconciled on the Town of Placentia and said he didn't have time to deal with the same issue over and over yet I could not get a straight answer from Minister Joyce about the funding. Minister Joyce seemed to get along with the past mayor and the present mayor yet I had difficulty getting clarity (information) from Minister Joyce on this project.

When I met with Minister Joyce and the Chief of Staff on Wednesday April 11th just after 08:30 a.m. Minister Joyce had a copy of the relevant information, including the financial contribution breakdown on the Wellness Centre project with him. Getting to this point had taken 2 and ½ years. The cost submitted by the town had changed a number of times as they were trying to adopt a model to meet operational needs, but they had difficulty getting clear answers from the Dept. of MAE also. Minister Joyce reminded me of the town's cost changes numerous times and would say "they don't know what they want, come back to me when they know." He would be dismissive of me and I felt like he was using this as a stalling technique, yet I could not get a clear answer as to why he wanted to stall a project that had \$4.5 million committed to it from VALE INCO.

There was a rumor that Minister Joyce had used the VALE funding to leverage Federal funding for the west coast and that was why it was tied up. I could not verify this rumor to be true or false. If I tried to ask him about the pool money and rumors instead of giving me a straight answer he would taunt me by saying that I was going on rumors again and that I should ask him. Yet asking him yielded zero success. When I repeatedly brought up the VALE funding announcement he would get upset with me. He would wave his arms at me, tell me to "give it up", threaten that he couldn't work with me, and walk away from me. His actions towards me regarding this project were dismissive, belittling, demeaning and disrespectful, and not in the best interests of the public.

When an offer was drafted that saw the Town of Placentia contributing about \$1.6 million to a \$9 million dollar project he said he was done with the Wellness Centre and they could take this offer or leave it.

During the interview, the Complainant provided some similar information relating to this allegation but also noted that around the time of some of the incidents described above, she was staying in the same building as Minister Joyce and had regular access to him, saying that they would message each other and have friendly conversations. She said that they got along, and that Minister Joyce was a good mentor. Noting that the Complainant referred to a positive working relationship with Minister Joyce and asked when the relationship with Minister Joyce changed. She said that it changed with the hiring issue, which occurred in April 2018 and is discussed in detail below.

ii. MHA Joyce's Response:

In reply to these allegations, the background to this issue involves an announcement, by the previous administration, on October 29, 2015, before the 2015 Election: The funding was provided through amendments made by the Provincial Government to the Voiseys Bay Development Agreement, which included a \$30 million commitment for community initiatives in Newfoundland and Labrador. Of that \$30 million, \$4.5 million was allocated for the new pool in Placentia. Despite this announcement, post-election, when the Liberal administration assumed power, the VALE funds still had not been received into government's treasury. It became clear that the previous administration's announcement was made prior to having received the VALE funds and the first installment was not received by government's Treasury until 2017.

The Member denies saying the Complainant "was bugging him and had to give it up". He further denies that "it was very difficult to get a clear response from [him]" and they "[o]nce we argued from the west block elevator to the cabinet room (...) during a walk that took approximately 10 to 12 minutes." The Member always kept the Complainant informed about the status of the project. In fact, the Member had many meetings and discussions, not arguments, with the Complainant, whenever she requested, about the status of funding for the Placentia Wellness Centre: she just did not accept the information the Member provided even though it was consistent with the information the Complainant had received from MHA Siobhan Coady, Minister of Natural Resources on February 18, 2016: ie, that funds had not been transferred from Vale for the initiatives and that VALE was seeking direction on how to transfer the same. Since the Department of Natural Resources was administering this fund, it was the responsibility of that department to keep Ministers informed, not the Department of Municipal Affairs.

Despite the previous administration not securing firm installment dates for receipt of VALE funds, the current administration committed to proceeding with the Placentia Pool and did so after departmental budget reviews. The Complainant knew about this because she was copied in correspondence, on June 17, 2016, from the Member to the Mayor of Placentia, advising "that the Province remains committed to moving the project forward" and that "it is anticipated that cash flow funding will begin in 2017/ 18". The Complainant was also aware that on September 21, 2016, the Town of Placentia had unanimously approved moving forward with the construction of the Placentia Wellness Centre. As to discussions the Complainant had with constituent Jamie Neville in November 2015 and MHA Siobhan Coady in early December 2017, the Member is not able to comment upon the same as he was not present for those discussions.

The Member specifically denies that "to this date [the Complainant] do[es] not know how much money was received by government or when it was received from VALE as announced in 2015 for this project". Given the foregoing, and without breaching the sanctity of Cabinet or Caucus discussions, as this issue has been raised for reply, and in that context only, the Member states the Complainant was fully aware of the status of the Placentia Wellness Centre because she was present at Cabinet and Caucus meetings for discussions on project budgets, financing, and timelines, including confirmation received by MHA Siobhan Coady from VALE that it had transferred \$9,166,667 as the 2017 installment payment. Furthermore, as recently as April 17, 2018, the Member provided the Complaint with an update and outline of the next steps for the Placentia Wellness Centre as she was copied on correspondence to the Mayor of Placentia relating to the same. Accordingly, the Member vehemently denies that his actions constituted an "intentional withholding of relevant information" and further denies that the Complainant "was not informed by the Department of MAE about the announced VALE funded projects". The Member submits that such allegations constitute a

serious, defamatory and slanderous misrepresentation of the facts and not supported by any evidence. The Member submits that these allegations should be dismissed as being without foundation.

As part of government's due diligence, the project partners (provincial government, municipalities and the federal government) were required to ensure all contractual obligations could and would be met prior to final project sign off, including confirmation of their respective funding commitments. The Town of Placentia was quite late in providing commitment of its funding for several reasons: the Council changed the nature and scope of the project from \$4.9 million to \$9 million and the previous Councils were reluctant to commit to borrowing more than it had initially committed. When Bernie Power was elected Mayor, however, the Council approved borrowing increased funds. Nonetheless, given the Council's lateness in confirming its share of the funding meant that the project could not be announced, on Budget Day, March 27, 2018. However, the Complainant was specifically made aware that Municipal Affairs and Environment had secured funding for the Placentia Wellness Centre. The Member always had a good working relationship with both the previous and current Mayors of Placentia and always kept them informed" as well as the Complainant"- . In fact, the Mayor of Placentia wrote to the Member, on January 2, 2018, to thank him for his "continued support of our municipal projects" . Therefore, the Member denies saying, "give it up", "they don't know what they want, come back to me when they know", or that he was "done with the Wellness Centre and they could take the offer or leave it". The Member also denies that he would "wave his arms at" the Complainant, "threaten he couldn't work with" her, or "walk away" from her". He also denies his conduct was "dismissive belittling, demeaning and disrespectful, and not in the best interests of the public." He further denies that he "wanted to stall" the Placentia Wellness Centre. With respect to the slanderous rumor that he "had used the VALE funding to leverage Federal funding for the west coast and that was why it was tied up", the Member denies the same as it is untrue and not supported by any evidence.

With respect to the allegations regarding to the Placentia Wellness Centre, the Member submits that they should be dismissed as being without foundation. A review of the substance of the Complainant's allegations demonstrates that they are characterized by an absence of any reliable evidence and a tendency to recklessly and irresponsibly exaggerate, overstate and mischaracterize the routine interactions the Complainant did have with the Member. As such, the Member submits that the allegations should be summarily dismissed.

iii. The Complainant's Response:

(The letter from counsel for MHA Joyce) states that the Member denies saying that the complainant was bugging him and had to give it up. MHA Joyce said those exact words.

I ask that the following people be requested to give their recollection of how the funding for the Placentia Wellness Centre evolved prior to and after November, 2015 - Jamie Neville, Wayne Power Jr. and Minister Siobhan Coady.

The document (11) referenced on page 7 of the letter from counsel for MHA Joyce simply confirms that I was doing my best to keep the process of working towards an agreement for the funding of the Placentia project moving – it doesn't by any means establish a "good working relationship" with the previous mayor of Placentia. It is important that the former Mayor, Wayne Power, Jr. be interviewed to give his perspective on the difficulties encountered in working on this project. Mr. Power may be contacted at [...]

b) Argentia Access Road Composting Facility

i. The Complainant wrote:

The residents of Whitbourne, Markland and Placentia Junction are opposed to the proposed location of this composting facility. This project has caused me a lot of frustration and disappointment with Minister Joyce. His department plays a huge role in the Environmental Assessment phase. Many times I tried to talk to Minister Joyce about this and he would dismiss me, walk away from me, wave his hand at me or just not answer me. At the meeting I had on April 11th I requested a meeting with his staff, without him. At my meeting with his staff on April 16th, I was somewhat stressed and I asked numerous questions and wanted to ensure they understood the importance of the information they presented to the Minister of MAE for a decision.

I support the concept of this type of composting facility but not on the Argentia Access road, only 3 kilometers from businesses and residents. Given that NL is behind in this process/technology I want to make sure that businesses in my district do not depreciate in value over the next ten years as we test the knowledge and capacity of this investor to deliver on this project.

The nearby volunteer fire department had made it clear to government in writing that they would not be responding to a fire at this facility as they did not have the resources, equipment or knowledge to fight a fire that would involve the proposed material at this facility. It was also brought to my attention by the municipality of Whitbourne that they understood from a legal opinion they had researched that, given the nature of the intent for the final product at the facility, a federal environmental impact study was required. I asked the MAE staff to look into this and confirm this for me. I also highlighted the impact of the wrong decision without due diligence on my constituents and our government as a whole. Minister Joyce did indicate that the fire department's decision not to respond would not be an issue. He also indicated that he had no choice but to continue on with requesting conditions as opposed to turning down the project regardless of the extreme opposition to it by residents.

During the interview, the Complainant spoke about this allegation in the context of having concerns about how the matter would be handled following the hiring issue which is discussed in detail below.

ii. MHA Joyce's Response:

The Member acknowledges that the proposed composting facility received some opposition from residents, including (former) Mayor Wayne Power who expressed his concerns that "users and cabin owners in the area will be exposed to the unwelcome irritants" and the effects upon the "pristine environment". Newly elected Mayor Bernard Power also wrote to the Member, on the Complainant's advice, advising that his Council "strongly object to the proposal. The Member took these objections seriously, however, up April 26, 2018, the Member still did not have all the necessary information to make a reasonable and informed decision with respect to the facility. In fact, the results of the supplemental analysis of the proposed sites were only provided on May 4, 2018, after the Member was removed from Cabinet and voluntarily stepped down from Caucus. Even after receiving this information, the successor Minister, Andrew Parsons, QC, on May 16, 2018, decided to order the proponent to complete an environmental impact statement under the authority of section 51(1)(b) of the NLEPA. Minister Parsons advised that he was "unable to accept the recommendation forwarded to release the project" because there was still public discontent and further information was required on the market for the composted product.

On May 17, 2018, Minister Parsons, QC advised the proponent that “in accordance with the Act, project activities may not proceed until the proposed undertaking is released from the Environmental Assessment process “. Therefore, the Member submits it would have been irresponsible to make a decision on the proposed composting facility without doing his due diligence, and that this is supported by the fact that Minister Parsons, QC, also was unable to approve the proposed composting facility without an Environmental Impact Statement.

As to the “nearby volunteer fire department” concerns, the Minister is aware of the same but advises that the Fire Commissioner was part of the review process and concluded that the chances of a fire at the proposed facility were minimal low and that the proponent’s proposed fire prevention measures were satisfactory. On April 16, 2018, at the meeting she requested with the Member’s staff “without him”, the Complainant was made aware of that the Fire Commissioner’s office had no concerns with the proposed composting facility. The Member cannot comment upon the Complainant feeling “stressed” and he was not at the meeting and can only address what information was provided to the Complainant. As to the legal opinion received by the Town of Placentia, he is not privy to the contents and, therefore, cannot comment upon the same.

iii. The Complainant’s Response

On page 8 of the letter from counsel for MHA Joyce it states that some opposition to the proposed composting facility was received from residents. Using the word “some” significantly downplays the true extent of the opposition of residents to this project. A review of every letter and email that the Department of Municipal Affairs and Environment, MHA Joyce as the Minister, the Premier, and myself as the MHA for the District of Placentia St. Mary’s received opposing this facility will reveal the extensive opposition to this proposal. You may have to retrieve some of these emails through the Office of the Chief Information Officer and off the government server. Minister Parsons confirmed in his letter of May 16th that he could not accept the recommendations of staff to move forward because of the public discontent. This is the exact point that I tirelessly tried to get through to MHA Joyce.

In his letter of support for MHA Joyce (item 8 of the attachments to the Response of MHA Joyce), current Placentia Mayor Bernie Power implies (if not directly states) that it was me who urged Placentia Council to oppose this project. This is not accurate. He also states that “neighbouring residents” (presumably adjoining communities) were opposed to this project. This also is a mischaracterization of the situation. Placentia went on record in May, 2017 (Item 15, attachments to the Response of MHA Joyce) as opposing this project. Mr. Wayne Power, former Mayor, signed the subject letter, and would be able to speak to this issue.

On page 9 of the letter from counsel for MHA Joyce there is an error. It was the Town of Whitbourne and Mayor Hilda Whelan, not Placentia, that was seeking a legal opinion about the composting facility.

c) Capital Works - 2018

i. The Complainant wrote:

My Executive Assistant had sent over information from me to MAE regarding capital works as requested by Minister Joyce yet he asked me to sit down with him in the caucus room regarding the same projects. He had just finished talking to MHA Scott Reid when I sat down. He appeared to be already slightly frustrated and flustered. I looked at the information and asked maybe 2 questions; at that point he got upset with me, jumped up from the table, waved his arms at me and said: "I can't work with you if you keep asking the same questions over and over." At that point I said: "I replied to you already; you have this information, I sent it over to the department and I am not tolerating you getting on like this". I quickly marked off the 3 projects I had already sent over to MAE and left. I still did not really understand the process or what it meant in the long term, and rather than trying to assist me in getting the necessary information Minister Joyce engaged in demeaning and belittling behaviour towards me in front of other caucus members.

I knew my district and what was truly a priority based on information I had acquired from meetings with the municipalities within the district. I felt like Minister Joyce didn't want me to understand the process. I felt like he was manipulating the process and yet I didn't have it in me to get into an argument with him once again to face being belittled in front of my colleagues who were in the room. I felt frustrated and that if I was asked by my municipalities about these projects I would not be able to answer them, and I was a minister and expected to be able to provide an explanation to the people I serve! I couldn't imagine how the other MHA's felt. It was a guarantee that he would talk about this incident in the House with my other colleagues. I had experienced this before and had listened to him make fun of others. I just had to remove myself from this. I left and went back to the House.

The projects were announced — St. Joseph's received funding and I contacted him because I needed to know why only St. Joseph's received funding. His answer was "that's who you picked". I didn't understand and he was too animated for me to continue to push. Later in the House when I passed by him and others sitting on the side he talked about me not understanding and laughed. I ignored it, and proceeded to my chair. A number of MHA's were bewildered by the process and later an email came out to all caucus MHA's with an explanation of what had happened regarding the announcement.

Minister Joyce would joke and carry on with you one day and be rude, bullying and harassing to you the next by saying just loud enough for others to hear that you were bugging him, sending him too many messages, asking too many questions. We all got used to saying: "that's Eddie" but it was getting worse for me as I often questioned him if I wasn't knowledgeable about his decision or direction. Minister Joyce didn't seem to appreciate when I attempted to stand up for my constituents and my responsibilities.

About 3 months ago Minister Joyce and I drove out to Freshwater to have supper with the Powers. Wayne Power Sr., the Fire Chief and his wife had invited Minister Joyce to supper. Wayne Power Jr. was the past Mayor, he had lost to Bernie Power during the municipal election and the Wellness Centre had been a heated topic during this election. The Powers are really nice people, and Wayne Jr., I consider a friend; someone I trust.

I felt a little uncomfortable contacting the Powers for Minister Joyce regarding this invitation, but I did it because I knew Wayne Jr. would understand. The supper meeting was set up and we went to Freshwater in my vehicle, at my request. Minister Joyce drove out - I drove back. It all went really well. Discussions were had regarding fire and emergency services and it was a productive evening as I got clarification on some

questions I had from Wayne Sr.

On the way out to Freshwater I said to Minister Joyce that I really should let the present mayor know that we were in the area out of courtesy and because he wouldn't be very happy with me for not letting him know that the Minister of MAE was there with me. I texted Bernie, as Minister Joyce was driving and agreed to check back with him after supper. This is how we ended up meeting with Mayor Bernie Power and Deputy Mayor Keith Pearson at the Legion. Minister Joyce wanted to meet somewhere where he could have a beer; the mayor and I were okay to accommodate that if it meant getting some answers on the Wellness Centre for the town of Placentia. I drove back to town. I acknowledge that this visit, while it was amiable and yielded results, should have been conducted differently, with due recognition to currently elected officials of the Town of Placentia.

During the interview, the Complainant described the time that she and MHA Joyce were discussing which projects in her district could be funded. She said that MHA Joyce told her to make a choice and she told him that he did not understand what he was asking for. She said that he did not answer her questions and told her that she could not have everything, and then just walked away. She said that she picked three projects that she had selected previously.

The Complainant said that this occurred in a large room and that other people knew what MHA Joyce was doing. She said that he was in a bad mood all day. She said that she did not know who would be getting money at end of day.

ii. MHA Joyce's Response:

In reply to these allegations, it is necessary to understand how funding requests submitted by MHAs for funding are approved. The government passes a budget for the upcoming fiscal year which sets out the exact amount of money each Department has available to spend. The Member gave a copy of what projects were eligible for funding to each MHA, including the Complainant, and invited them to meet with him to discuss their respective funding priorities. The Member denies that the Complainant "still did not really understand the process or what it meant in the long term" because he followed this same process with the Complainant for her proposed projects for fiscal years 2016-17, 2017-18 and 2018-19.

Given the foregoing, and without breaching the sanctity of Cabinet or Caucus discussions, as this issue has been raised for reply, and in that context only, the Member states the Complainant was fully aware of this process because the Member distributed the list of eligible projects to MHAs at Caucus meetings, most recently on February 12, 2018, where the Complainant was in attendance, and the Complainant made notes on her list, identifying her capital works priorities and additional Canada Building Fund projects she wanted to discuss with the Member. If MHAs still had questions, they would contact the Member directly or his Deputy Minister, Jamie Chippett. Therefore, the Complainant's allegations that she "still did not really understand the process or what it meant in the long term" or that the Member "didn't want me to understand the process" and "was manipulating the process" or "belittled" the Complainant "in front of other caucus members" or "made fun of others" are untrue and not supported by any evidence. In fact, on May 2, 2018, in the House of Assembly, MHA Lisa Dempster publicly applauded the respectful manner in which Cabinet and Caucus discussions are conducted:

"I want to mention for a moment being in Cabinet, which I've experienced since July 31. When you're in Cabinet, Mr. Speaker, that can be a difficult job. You have your constituency to represent still as an MHA. You have your ministerial portfolio. You have a tremendous responsibility at that table, Mr. Speaker, to make decisions that will impact the entire prov-

ince. Sometimes you might have a little to and for, but, Mr. Speaker, it always must be done in a respectful manner. The same thing at the caucus table. I am very pleased, Mr. Speaker, with those tables that I've sat at and my experiences to date."

As to the allegation that the Member appeared to be "already slightly frustrated and flustered" after talking to MHA Scott Reid, this is untrue and is disputed by MHA Scott Reid. With respect to the allegation that the Member "got upset with me, jumped up from the table, waved his arms at me and said: "I can't work with you if you keep asking the same questions over and over". At that point I said: I replied to you already; you have this information, I sent it over to the department and I am not tolerating you getting on like this. I quickly marked off the 3 projects I had already sent over to MAE and left", the Member states that this is a complete fabrication. It simply did not happen. Furthermore, the Member submits that even though MHAs submit their lists of funding project requests, MHAs know that there is a limit to the amount of funds available in the Capital Works Funding Allocation and that not every project request will be funded. Also, approximately 2 weeks before the Budget is announced, allocations for Departmental funding is finalized in Cabinet during discussions chaired by the Premier which the Complainant attended.

In reply to the allegation that the Complainant "had experienced this before and had listened to him make fun of others" which, according to the additional documents supplied by your office on July 13, 2018, refers to the Member "taunting" Derrick Bragg, the Member states that this is a complete fabrication, not supported by the evidence, and contradicted by MHA Derrick Bragg:

"I am completely appalled to find myself mixed up in these allegations between you and [the Complainant. Her indication of any issue between you and I are completely false."

The Complainant referred to contacting the Member, at an unspecified date and time, when the projects were announced. While the Member has a very good memory, he does not recall being contacted by the Complainant as alleged. However, if such contact occurred, the Member denies being "too animated" and also denies he "talked about [her] not understanding and he laughed" in the House of Assembly.

The Member vehemently denies the allegations he would conduct himself in a manner that was "rude, bullying and harassing": it simply is not true. As to the allegation that the Member "did not seem to appreciate when I attempted to stand up for my constituents and my responsibilities", the Member states this is simply not true. Any issue that the Complainant brought to him, or his current and/or former deputy minister, executive assistant, or staff, was always promptly addressed in a professional manner.

In reply to the allegation that the Complainant felt "uncomfortable contacting the Powers", the Member submits this is inconsistent with the Complainant's repeated requests to the Member that he accept an invitation to Jiggs Dinner at the Powers' house. As to the inflammatory remark that the Legion was specifically chosen as a venue for the meeting with the current mayor so he could "have a beer", the Member denies the same and states that it was chosen at Mayor Bernie Power's request as the Mayor and the deputy mayor were still in their office at the building next door to the Legion and, therefore, meeting at the Legion was convenient. As the Complainant acknowledged she drove back to St. John's, the fact that both the Mayor and the Member had a beer is irrelevant as the informal meeting was conducted in a professional manner; not every meeting has to be an official, formal meeting. The Member denies that choosing a licensed establishment was leveraged in return for "getting some answers on the Wellness Centre" as the Mayor already had the information he needed about the pool. The Member states that at, that time, he was trying to arrange for \$1 million in additional funding for the Placentia Wellness Centre, about

which the Complainant was already aware. The Mayor was delighted to hear of the Member's efforts in this respect.

With respect to the allegations regarding to the Capital Works -2018 (March-April), the Member submits that they should be dismissed as being without foundation. A review of the substance of the Complainant's allegations demonstrates that they are characterized by an absence of any reliable evidence and a tendency to recklessly and irresponsibly exaggerate, overstate and mischaracterize the routine interactions the Complainant did have with the Member. As such, the Member submits that the allegations should be summarily dismissed.

iii. MHA Reid's Evidence:

The Complainant identified MHA Scott Reid as a potential witness. She wrote to me on August 28, 2018 that:

MHA Scott Reid spoke to MHA Joyce in the caucus room about the selection of capital works projects for his district. I then spoke to MHA Joyce in the caucus room. When I returned to the House of Assembly I sat in my seat and turned around to MHA Reid who was behind me. I mentioned MHA's Joyce's unacceptable behaviour and MHA Reid confirmed that MHA Joyce did and has in fact behaved in a way that was unacceptable.

MHA Reid said that he sent an email to MHA Joyce because MHA Joyce contacted him, described the "situation" to him over the phone, and told him that he was mentioned in the complaint. MHA Reid said that MHA Joyce did not show him the complaint. MHA Reid said that his email to MHA Joyce summed up the situation as he saw it. MHA Reid later said that MHA Joyce asked him to send an email.

MHA Reid said that there were many meetings to discuss Capital Works Projects. He said that he did not recall a specific meeting in March or April. He said that he could generally remember meeting with him. He said that the meetings often were under deadline, and MHA Reid was seeking to make the right decisions for his District. He said that he would have asked questions and MHA Joyce would have been trying to get things done quickly. He said that they might have had a heated discussion then, and on other occasions. He said that he did not think this was unusual in the context of politics. He also said that he did not think that the situation was specific to MHA Joyce, as he had similar conversations with others, although those might be less heated.

MHA Reid then reiterated the information contained in his email to MHA Joyce. He said that both of them were working to resolve the situation quickly. MHA Reid said that he would be asking his questions and sometimes MHA Joyce did not have the answers. He said that there could be disagreements and that he was not always happy with the answers that he was given. He also said that sometimes he was trying to make a point for next time. He said that they might talk a little bit louder, but that it was never personal. He said that they both realized that they were trying to do the best that they could.

MHA Reid did not recall seeing the Complainant when he came out of the meeting with MHA Joyce. He said that it was possible that he expressed some frustration to the Complainant in the HOA, but he did not recall any specific conversation that they had. He said that the Complainant may have put more significance on the interaction than he did. He said that he did not recall responding to any comment made by the Complainant about MHA Joyce's behaviour. He said that he might have been frustrated and said it was unacceptable, but looking at the whole picture, it was not unusual.

MHA Reid said that he sent the email to the Complainant to offer support. He said that he did not have a clear understanding of the actual complaint she had made, but he noted that the Complainant felt like she had to bring forward

a complaint and it seemed like she was having a lot of anguish. He said that she was going through a rough time and he wanted to say that she did the right thing by coming forward. He said that he thought that by there being a discussion about bullying and harassment in the political culture, it would be good for democracy in the province. I asked if he thought there was a problem, and he said that he was disappointed that it all had become public. MHA Reid said that he felt that it was necessary to have a discussion about how they do things and treat each other in the HOA and within caucus, but added that he was making a general comment and was not talking about anything specifically.

MHA Reid said that he had many disagreements and discussions with MHA Joyce, but felt that it was never to the point of bullying or harassment. He said that he never felt that he could not go to MHA Joyce and make a case for something.

iv. MHA Bragg's Evidence:

The Complainant also identified MHA Derrick Bragg as a potential witness to Minister Joyce's behaviour. She wrote to me on August 28, 2018 that:

MHA Derrick Bragg was visibly upset with MHA Joyce in the House of Assembly. It was in relation to a district related municipal affairs matter or a fire and emergency services matter. It may have been pertaining to Fogo Island. MHA Bragg mentioned the incident to his colleagues who sat around him. At one point he gathered his belongings and left the House saying that he was sick of MHA Joyce's behaviour.

MHA Bragg said that he was made aware of the complaint and MHA Joyce asked him if they had had any conflict. As a result, he provided MHA Joyce with an email that MHA Joyce attached to his response. MHA Bragg said that he was shocked when he was contacted, and would have thought that the Complainant would have told him that she was using his name. He said that no one spoke to him about naming him in their complaint. MHA Bragg said that he was asked to provide an email backing up the accused and had no issue providing it.

MHA Bragg said that he felt thrown into a situation that he did not want to be part of. He also said that he stands by his email, he does not feel intimidated in any way and that to argue for your district is the job that you have to do. MHA Bragg said that backbenchers are forever going after a Minister for things, and do not always get what they want and when they do not get it, they are not happy.

MHA Bragg said that he did not recall any incident of being taunted by MHA Joyce or being spoken to in a way that he felt was inappropriate. He said that they have argued, but it was always a two-way situation.

MHA Bragg said that he had no memory of telling any colleague that he was sick of MHA Joyce's behaviour. He said that he has been "pissed off" with Ministers over the years when he could not get what he wanted. He did not recall gathering up his things and leaving the HOA because he was upset. MHA Bragg said that he never would have used bullying or harassment to describe his experiences in the HOA, but might have used the word "arsehole."

v. Former MHA Cathy Bennett's Evidence:

The Complainant identified Ms. Bennett "as an individual who can confirm that MHA Joyce's behaviour was one that exhibited a negative and harassing pattern towards his colleagues."

I met with Ms. Bennett and she spoke about fear among her colleagues of speaking up but said that it was not the result of a single individual's action, but rather was rooted in the culture more broadly and what was allowed to occur within government. Ms. Bennett spoke eloquently and at length about her personal experiences and systemic concerns, some

of which she has previously shared with the government. Ms. Bennett also spoke critically about this investigation and its focus on the actions of individuals, rather than the system as a whole. While I note that it remains within the power of the government to look into the broader workplace culture, such an inquiry is outside the scope of my mandate.

vi. The Complainant's Response:

I confirm that I made notes on the Capital Works sheet. This is the same sheet that I returned to MHA Joyce through my EA to MHA Joyce's EA Randy Simms. It shows that I was of the understanding that four projects could be potentially covered under Capital Works and three could potentially be covered under the Canada Build Fund. When the projects were announced one was under Capital Works and two under the Canada Building Fund. MHA Joyce asked me for my priorities as the MHA, then omitted Point Lance and proceeded to give Placentia funding (Mayor Bernard Power) even though Placentia had received significant funding in 2017. All communities identified need funding and I do advocate for all communities. I am very well aware of the fiscal reality of our province. What frustrated me was Minister Joyce's intentional lack of an explanation as to how this funding was going to be allocated. When I do not clearly understand the process I cannot transparently relay it to those whom I represent.

vii. Factual Findings

In this report, I have made my findings on the balance of probabilities standard. Essentially, I have determined, based on the available evidence, whether it is more likely than not that the incident occurred. The onus to establish that the evidence supports a finding that an incident occurred rests with the complainant. Upon a review of the evidence in its entirety a decision is then made as to whether or not the evidence establishes that MHA Joyce violated the Code of Conduct.

In this section, I have limited my findings to the allegations relating to the selection of capital works projects. The parties agree that in or around March and April of 2018, decisions were being made relating to capital works projects. As part of this process, the Complainant provided MHA Joyce with information regarding her priorities in writing and then subsequently was invited by MHA Joyce to meet in person to discuss her priorities further.

Based on the evidence of MHA Reid, whom both parties identified as a relevant witness and whom I found to be a candid and credible witness, I find that these meeting can be "intense" or "heated", in that the timeline for decision making is tight and MHAs are seeking to advocate for projects in their districts in the face of budgets that do not allow for all projects to be funded. In this context, I accept that the Complainant may have felt that not enough time was devoted in their meeting to a discussion about the process itself, and rather the focus was on making decisions quickly. That said, MHA Joyce provided compelling evidence that the Complainant received information about the process and had the opportunity to seek additional information about the process, as required.

In her reply, the Complainant narrowed the focus of this allegation to feeling frustrated about MHA Joyce's "intentional lack of an explanation as to how this funding was going to be allocated." I do not find that MHA Joyce intentionally withheld information about this process from the Complainant.

Based largely on the witness evidence of MHA's Reid and Bragg, again identified by both parties as witnesses, I accept that these meetings could be animated in nature, but I do not find that MHA Joyce's behaviour in these meetings rose to the level alleged by the Complainant. As noted, the Complainant ultimately defined this allegation as relating to a lack of information.

d) Occupational Health and Safety (OHS) Management Job

i. The Complainant wrote:

This is the incident that seemed to bring an already dysfunctional working relationship to the breaking point, and which resulted in Minister Joyce becoming even more difficult to work with.

On Sunday, April 8th at 4:05 p.m. when I was at home I received an email from Minister Joyce requesting that I call him. It read:

From: Minister Joyce To: Can you call me, 634-7884. Thanks, Minister Joyce

I waited for approximately 20 minutes after receiving the email before I phoned him. I didn't want to phone him. My husband was in the kitchen with me; I told him who had emailed me and I said: "he is mad with me, I know he is, but I got to phone him — he is a Minister, God help me". I remember this and how I felt with clarity. I was very nervous and anxious about having this conversation with Minister Joyce for fear it was about what I thought it was going to be about, and it was. My husband went to the living room and I phoned Minister Joyce on my personal phone from the kitchen.

Minister Joyce has a friend that had applied for the OHS Management position on the west coast and Minister Joyce wanted me as the Minister of Service NL responsible for OHS to make sure that he got that job. The Deputy Minister (DM) is responsible for hiring as per the Public Service Commission (PSC) policies, not the Minister. It was useless to tell Minister Joyce this. He didn't want to hear it. I did tell Minister Joyce that I would check on the status of this position when he approached me first. I went to the DM a number of times over four weeks or more, asking about this job as Minister Joyce continued to ask me about it. He said: "the crew "over there" would get their buddy in; who they wanted, and that (the applicant) was qualified for the position and he should get it".

The harassing and bullying behaviour of Minister Joyce regarding this matter caused me a great deal of anxiety. I have had four Deputy Ministers since Dec. 2015 and my present DM has been the most supportive, sincerest DM. He follows the rules, allows me to make my own decisions as the Minister, yet he advises and informs me using jurisdictional scans, data and his lived experience as a senior bureaucrat. Our working relationship is good and we have moved many Service NL files together since July 31st. Government Staff as a whole are good but the staff under this DM's guidance are a team.

When I went to the DM he said the job was posted, interviews would be completed, and the board would advise him on their recommendation. Eventually after repeatedly asking the DM about this posting (in response to repeated requests of Minister Joyce) he said the recommendation had come forward, he was accepting it and the individual would be contacted and it was not the applicant I was enquiring about because he was not recommended as he was not qualified. I told Minister Joyce that the applicant was not qualified for the position. Minister Joyce was not happy about this and he was very persistent by saying go back and tell him that's who you want, yes you can do that, you're the Minister. I told him I would go back the DM and get the proof that the applicant was not qualified if that's what it took to prove that he wasn't. I went to the DM and the DM gave me a sheet with the requirements — I was told that the applicant had 2 out of the 6 requirements. He was clearly not qualified.

When Minister Joyce was back in his district he found out that another person had been given the position and this is when he emailed me to phone him. On April 8th I phoned Minister Joyce back and he was really mad with me on the phone. I was on my phone in the kitchen of our house in North Harbour. My husband was close by in the living room. Minister Joyce was upset with me for not getting the DM to hire the applicant. I felt intimidated by him when he said: "that's fine I'll be following the rules too from now on". I would expect a Minister to always "follow the rules". He said this a couple of times and he also said: "don't you worry", not in a comforting way but in an intimidating tone. I continued to try to explain that the applicant was not qualified and the proper protocol for hiring was followed. The conversation got a little heated as he continued to argue that I should have hired the applicant. I couldn't take any more of this harassment so as my husband was entering the kitchen I hung up the phone on Minister Joyce. My husband was a little taken aback by what he had heard and witnessed and asked me what had happened. I said: "that's Minister Joyce — he wanted me to hire someone who was not qualified and my Deputy Minister cannot do that".

I was upset and I didn't want my husband, my daughter or my son to see this so I went into my bedroom. My son is an individual with autism. When I am upset he gets upset and I could not let him see me. I was really worried about the files in MAE for my district that Minister Joyce had control over as the Minister — my concern was that Minister Joyce would retaliate against me, to the prejudice of the people in my district. I composed myself, put Visine in my eyes so my husband would not notice that I was upset and returned to the kitchen.

I picked up my phone and told my husband that I was messaging Greg Mercer about what had just happened. I said if I don't message him right now I won't and God knows what will happen to my district. As the Chief of Staff for the Premier I figured Greg could help with this issue between colleagues. I seldom messaged for help but when I did in the past he had addressed my concerns swiftly and successfully. I wanted this resolved. I wanted Minister Joyce to stop behaving in this manner. He was bullying me, harassing me and intimidating me. I messaged Greg from my personal phone to his personal phone. I didn't want to bother the Premier with this.

On April 11th at 12:48 a.m. I told another MHA that I had contacted Greg about Minister Joyce and that I was meeting with Greg and Minister Joyce that morning. I met with Greg and Minister Joyce as scheduled. It was not an official meeting but a meeting between colleagues. It was not successful. I made it clear that it was evident that Minister Joyce did not understand that his behaviour was inappropriate. I told Greg this. Minister Joyce was manipulative and threatening in his behaviour in the meeting, and spoke about messages between him and myself where I was nice to him and using smiley face icons. He said he had every message between us and would show them all to Greg. He talked low and kept asking for me to tell him of one incident where he had kept monies from my district. He would put his finger up as "one" and say "tell me one, tell me one". He said I had embarrassed him by him finding out that someone else had gotten the job while home in his district. He did not appear to remember that I had repeatedly told him the process that had to be followed, and that I could not cause his friend to be hired. I had the information with me showing that the applicant was not qualified. Greg glanced at it but Minister Joyce would not look at it even though I offered it to him. Minister Joyce didn't care if the applicant wasn't qualified; according to Minister Joyce he was. When Greg asked if everything was going to be ok I said: "No, because Minister Joyce doesn't see anything wrong with his behaviour".

I left the 8th floor and went back to work in the Department. I told two people about the attempt to address my concerns regarding Minister Joyce's behaviour and that I had been up to the 8th floor. I was still

hoping that Minister Joyce would stop behaving this way.

Trying to influence the hiring of a friend into an executive government position is wrong and illegal. It breaches at a minimum, items number 3, 6, 7 and 10 of the Code of Conduct.

During the interview, the Complainant reiterated that this incident was the “number one reason” why she put forward her complaint. She called it the final straw and said that the behaviour was against the Code. As noted above, during the interview the Complainant also said that this was when her relationship with MHA Joyce changed. The Complainant said that early on, MHA Joyce told her that there was a management position posted on the west coast, and he had somebody for that job. The Complainant said that at first she just ignored it, and said it was conversation in passing. The Complainant said that she could not just put someone in that position. She said that MHA Joyce told her that she was the Minister and asked, “What is wrong with you girl? You can do that.”

I asked where these conversations were occurring and she said, “...in the House, in the Caucus room, in the elevator, whenever he got chance to speak with me. But that’s what we do, try to get our points across whenever we have moment in front of the person.” The Complainant said that she would not listen to him, and would walk away to not have a conversation about this position. The Complainant said that MHA Joyce would ask her if the position was filled and so she would ask her Deputy Minister. The Complainant said that the Deputy Minister would tell her the position was not yet filled. The Complainant said that “technically” a Deputy Minister should not be telling her, and she should not be asking about the process. She said, “Ministers don’t put people into jobs.”

When asked, in 6 weeks, how many times did MHA Joyce talk to her about the position the Complainant estimated that it was at least four times, “all in passing.”

The Complainant said that MHA Joyce sent her the message noted above when she was home on April 8, 2018. She said that she felt like she had to call a Minister back as soon as possible to show respect. She called Minister Joyce on her private phone, and he “was not happy.” The Complainant said that MHA Joyce had found out that the other person had been hired. She said that MHA Joyce felt that she had embarrassed him.

When asked what Minister Joyce said to her on the phone that night, she said that he told her that she could have intervened and done something about the decision. She said that she told him that she could not. The Complainant said that Minister Joyce belittled her. She said that the feeling was that she was a junior politician who did not know what she could do, what opportunity she had as a Minister. She then said that she could not remember specific things MHA Joyce had said, just that he was just going on at it.

She said that MHA Joyce spoke about following the rules and she responded to him that they should all follow the rules. The Complainant said that MHA Joyce kept pressuring her to hire the person he wanted and to ask the Deputy Minister for information on the hiring process. The Complainant said that she feels that she put the Deputy Minister in jeopardy. She asked the Deputy Minister to give her something to show that MHA Joyce’s candidate was not qualified, and he gave her the competition details and said there was screening criteria and the candidate only had 2 out of 6 criteria, and so did not qualify.

The Complainant said that the day that MHA Joyce called her at home about the Occupational Health and Safety position, she got upset, which she said that she never does. She said that she knew then that she was defeated. She went to her bedroom, and then to the kitchen where she told her spouse that she would message Greg Mercer [Premier’s Chief of Staff]. The Complainant said that she felt the only way to handle the situation was to go through him. She said that she was concerned that she had not hired his buddy, as MHA Joyce had control over the pool and compost facility projects,

discussed above.

The Complainant said that she messaged Mr. Mercer on her private phone and told him she had an incident with MHA Joyce about a position that he wanted to hire somebody for and she felt that he might withhold money for the Placentia Pool and direct a decision on the compost facility. Mr. Mercer replied to her and then arranged a meeting between the three of them.

The Complainant said that she met with MHA Joyce and Mr. Mercer in the boardroom on the 8th floor. She had with her the information that she got from the Deputy Minister on why the individual was not qualified. She said that she was “pretty frank.” The Complainant said that MHA Joyce did not realize that his behavior was inappropriate. The Complainant said that she said that he had no right to interfere in a hiring process. She said that MHA Joyce told her that she had embarrassed him.

The Complainant was asked if she talked about bullying and harassment at the meeting, and she said that she talked about being worried that MHA Joyce would withhold funds. In response, she said that MHA Joyce kept repeating, “Tell me one time I did it.”

ii. MHA Joyce’s Response:

In reply to these allegations, the background to this issue involves a job competition for the position of Manager, Occupation Health and Safety, within the division of Service NL and the Complainant’s portfolio. It is very common for ministers to submit resumes of potential candidates to fellow Ministers for consideration for interviews for upcoming job competitions or part-time 13 weeks positions filled at the Minister’s discretion, a practice with which the Complainant is well familiar given her Department’s recent request, on July 11, 2018, that the Member’s Department provide a resume of a potential candidate for their consideration for a 13-week position. In fact, this is a practice that the Premier actively encouraged and expected that Ministers would give each other a heads up if senior positions are filled in their District.

The Member takes offence at the Complainant’s suggestion that their working relationship was “dysfunctional”. In prior months, the Complainant had received funding approval for projects under the Municipal Capital Works Programs, Small Communities Funds and under Community Enhancement Program (CEEP) and she was aware that the Member went to the Infrastructure Committee to seek an additional \$1 Million for the Placentia Wellness Centre as well as many grants for fire fighting equipment and special assistance funding in her District in April 2018. Furthermore, the Complainant asked the Member to attend, and he accepted, fundraising dinner at the Wilds Gold Resort, Salmonier Line, on November 15, 2017, and to introduce the Premier. The Member submits that this does not support the Complainant’s allegation that their working relationship was “dysfunctional”.

The Member agrees that he sent an email requesting that the Complainant call him to discuss 3 issues: 1) OHS Management Job and ask why she hasn’t given him a heads up about the successful candidate; 2) Timing for her proposed meeting with the Placentia Town Council to discuss the announced \$9 Million funding announced in the 2018-19 Budget; and 3) Argenticia Composting Facility which was subject to an ongoing environmental assessment review. The Complainant makes several comments about how this email made her feel, however, the Member was not present when she received the email and cannot comment upon her emotional state save and except to say that the Complainant did not appear to be “nervous” or “anxious” when they spoke that night. The Member also cannot comment upon what, if anything the Complainant and her husband discussed with each other before or after the call as he was not present in their house at the time of the call. The Member denies threatening, intimidating or harassing the

Complainant during that call, or at any time before, after or since.

The Member vehemently denies that he wanted the Complainant “as the Minister of Service NL responsible for OHS to make sure that he got that job.” This is untrue: the successful candidate was appointed on February 13, 2018; the Member only wanted to ask the Complainant why she hadn’t given him a heads-up about the successful candidate because he would be dealing with in the course of his MHA duties. The Member denies saying “the crew over there would get their buddy in; who they wanted, and that (the applicant) was qualified for the position and he should get it”. The Member vehemently denies saying “go back and tell him that’s who you want, yes you can do that, you’re the Minister”: this is simply not true. The Member admits that the candidate about which he enquired is indeed a friend who he thought was qualified for the job and who should have been selected for an interview. However, the Member agrees that the successful candidate is the best person for the OHS Management Job. The Member did not interfere in any manner with Competition Number SNL.17.18.R0734. In fact, that competition was conducted by the Public Service Commission and the Chair and C.E.O., Bruce Hollett, confirmed, at the Member’s request, that as of July 16, 2018, “the PSC has not received a complaint regarding that Competition.”

Given the foregoing, the Member denies that he was “really mad” with the Complainant on the phone and states that he was misquoted: the Member said to the Complainant: Sherry, we have to find a date to go down to Placentia to meet with the Town Council to talk about the funding for the Wellness Centre. When it comes to the composting facility, we got to play by the rules”, meaning that the Complainant had to stop trying to interfere with the independent environmental assessment that was already underway.

The Member submits that (there) was an official meeting and Greg Mercer, Chief of Staff, took notes of the same. The Member denies that he was “manipulative and threatening” in the meeting: this is completely false and not supported by the Chief of Staff’s notes. The Member denies being “embarrassed” by finding out someone else was selected for the OHS Management job while he was home in his district because he had known since January 2018 that his friend was selected for an interview and the Member did not receive the customary courtesy call from the Complainant to advise who was the successful candidate.

With respect to this allegation that his conduct violated the enumerated Principles of the Code of Conduct, this allegation, if proven, would clearly impute very serious misconduct on the part of the Member as a politician. Specifically, the Complainant is alleging that the Member’s conduct renders him guilty of political corruption, of improperly arranging his financial affairs thereby eroding public confidence and trust in government, and that he is in a conflict of interest position, and that his working relationships are not professional or based upon mutual respect, and having participated in unethical political practices, that he acted unlawfully and that he engaged in conduct that placed him in a conflict of interest.

In response, the Member categorically denies that there is any evidence that his conduct violated the Code of Conduct in the manner alleged, or in any manner, and even if the allegations were proven, he denies that such conduct could violate Principles 3, 6, 7 and 10 of the Code of Conduct. Based on our review of the current state of the law, the facts as alleged by the Complainant relate to an allegation of workplace bullying and harassment and would have no application to allegations of political corruption, unethical political practices, improperly arranging private financial affairs, conflict of interest, unlawful conduct or to conduct suggestive of unprofessional working relationships. The attempt by the Complainant to conflate an allegation of harassment in the workplace, itself a serious and important matter, into an allegation of corrupt and unethical conduct suggests either an animus towards the Member or irresponsible behaviour that is difficult to reconcile with the high standards expected of members of the House of Assembly in the

discharge of their legislative and public duties. On that point, the Member submits that the following text message exchange between the Complainant and the Mayor of Placentia on March 21, 2018 is suggestive of an animus toward the Member:

March 21st, 2018:

Bernie Power: Hello. Any discussion on the Wellness Centre or Dunville Water?

[The Complainant]: Yes. But FFS until he delivers...I can't believe him! (...)

Bernie Power: What about pool???

[The Complainant]: Ya well that's another pot. He told me yes but F...I thought all would be announced today and if I gets mad with him he'll just say I am not listening.

Bernie Power: Will the budget reveal good news

[The Complainant]: JMJ...its not a bad budget but with just under a billion-dollar deficit its not a party either.

Bernie Power: I know you are working hard. Most don't realize the time and commitment You put into it but I know you never stop

[The Complainant]: It's never ending and when Eddie pulls these we stunts I'd sooner smack him up side the head but I have to smile because I still need 'millions' from him. But I can okay his game and once I get the money...I'll give him a smack then.

With respect to the allegations regarding to the Occupational Health and Safety (OHS) Management Job, the Member submits that they should be dismissed as being without foundation. A review of the substance of the Complainant's allegations demonstrates that they are characterized by an absence of any reliable evidence and a tendency to recklessly and irresponsibly exaggerate, overstate and mischaracterize the routine interactions the Complainant did have with the Member. As such, the Member submits that the allegations should be summarily dismissed.

iii. The Complainant's Response:

Mr. Greg Mercer, the Premier's Chief of Staff, did not take notes during the meeting among me, Mr. Mercer and MHA Joyce as indicated on page 14 of the letter from counsel for MHA Joyce. There were no notes recorded at this meeting, as I was well aware of what transpired at this meeting. If notes were made by Mr. Mercer, they had to be made after I left the meeting. When I left the meeting Mr. Mercer and Mr. Joyce remained on the eighth floor. This was an informal meeting that I agreed to in an effort to work things out with MHA Joyce. My request for this meeting was precipitated by the incident involving the position that was being filled in OHS, and for which MHA Joyce was lobbying hard to have his friend hired in the position. Indeed, Mr. Mercer's statement confirms that MHA Joyce was "advocating" for his friend in this respect.

I stand firm by my complaint that MHA Edward Joyce asked me to hire, not just interview, his friend as the Occupational Health and Safety Manager on the west coast. I know we as Ministers are not to interfere with the hiring process for permanent positions within government. I understand the difference between a

13 week temporary position and a management position.

I did not have an “animus” toward MHA Joyce as indicated on page 15 of the letter from counsel for MHA Joyce. The portion of the text messages exchanged between me and Mayor Power unfortunately does not include the full context of communications on the subject under discussion. I also will acknowledge that the wording of some of my text messages could have been better, and did not reflect any intention to harm MHA Joyce, but rather was a light-hearted (and perhaps inappropriate) reflection of my frustration at the continuous stonewalling that I was experiencing from MHA Joyce on this subject.

If you were to ask 37 sitting MHA’s (exempting myself, MHA Joyce and MHA Kirby) if they ever witnessed me behaving inappropriately towards MHA Joyce, the answers received would reflect my consistently professional and respectful behaviour towards him.

I have attempted to recover all my text messages between me and Mayor Bernard Power to further show the full content of our conversations as they relate to MHA Joyce, however, I do not back my phone up on iCloud and thus I am of the understanding that they can only be recovered with a court order to Bell Mobility. I confirm that a number of conversations took place between me and Mayor Power via text and via phone about the Wellness Centre. When I texted “I would sooner smack him up the side the head” I had absolutely no intent to harm MHA Joyce, but I was serious when I texted “It’s never ending...” This indicates my frustration with the past Minister’s behaviour and my fear that if I did not do exactly as he wanted he could/would not approve funding for the district that I represent.

Mr. Mercer said that: “EJ then said to SW that he willingly attended a recent heated public meeting with her in efforts to ensure the MHA is not being subject to the pressure and frustration from some in her community.” That is not correct. MHA Joyce did not say that, and to my knowledge such a meeting never occurred. The time spent in the car was to go from St. John’s to Freshwater and to Placentia and back to St. John’s to attend the supper at the Powers’ and meet with Mayor Bernard Power and Deputy Mayor Keith Pearson at the Legion (their offices are not “next door” to the Legion as claimed by Mayor Bernard Power). I confirm the tone between us was friendly and respectful – I had agreed with Mr. Joyce to accompany him on this trip to visit with the Powers, who reside in my District.

I confirm that I did not offer up any other incidents with MHA’s other than MHA Perry in this meeting with Mr. Mercer and MHA Joyce. I was not willing to expose my colleagues to MHA Joyce. I confirm that I did say that I did not want to proceed any further with my bullying allegations as long as MHA Joyce would stop behaving this way, and if we had another system in place that did not require me to interact daily with MHA Joyce. My intent for this meeting was to work toward a resolution. As the Chief of Staff, Mr. Mercer had successfully assisted me with issues in the past, and I had hoped that he would be able to assist us to come to a workable resolution of the difficulties being caused by MHA Joyce’s behaviour.

A comment put forward by Mr. Mercer as coming from MAE officials is not correct. At no time did I say: “it does not matter as the Tories will be in anyways.” My EA Kelly White was also in attendance for this entire meeting and took notes. She is available to be interviewed. I am submitting those notes. I did say that if this is not done right that the Premier will wear it – this is a reflection of the political reality of the situation and my concern that the Premier not bear the consequences of a flawed process relating to a project that was opposed by many affected residents. As a Minister it is my job to ensure the work of the bureaucrats is completed thoroughly on behalf of the citizens of the province. I was elected by the people of my district to represent them, and as a Minister appointed by the Premier, I have a responsibility, and the Premier expects me, to be diligent and thorough. I did not say to Mr. Mercer that I indeed understood that EJ’s

hands were tied. I may have said that I understood the process better after the meeting with staff, however, Mr. Mercer's comments in this regard are not accurate, as they indicate that I was in agreement with MHA Joyce's approach to this project and this simply is not and never was the case. While Mr. Joyce may indeed not have had any control over certain aspects (eg, Environmental approval) of the project, this fact does not justify or explain satisfactorily his apparent attitude towards and approach to this project, and his inappropriate approach towards me as regards the project.

iv. Deputy Minister Dutton's Evidence:

Deputy Minister Dutton said that when a managerial position in the Occupational Health and Safety Division in Corner Brook came available, they began a merit-based process under the Public Service Commission Act, which involved a request for a staffing action form to be filled out, which the Minister approved in order to begin recruitment. DM Dutton said that normally he would not hear anything more about the process until the Board recommendation report with ranked candidates came to him as Deputy Minister. He said that under the PSC Act it is his decision to select from the short list. He said that it was important to preserve neutrality so that when he makes a decision at the end it is based on who is most suitable. He said that he is not supposed to engage with the Minister to make a decision but rather is expected to make the decision alone.

DM Dutton said that after the process was ongoing, MHA Joyce provided the Parliamentary Secretary with the resume of an individual whom he felt would be good candidate, and the Parliamentary Secretary passed it to DM Dutton. He recalled MHA Joyce saying something to the effect of expecting the Parliamentary Secretary to deliver the resume, and maybe saying that he hoped the individual was qualified.

DM Dutton said that he contacted the Director about the competition and then sent the resume to him. He said that this initial conversation would have been around September or early October 2017. DM Dutton said that this was his only interaction with MHA Joyce on the status on this matter throughout this competition. He said that Minister Joyce did not follow up with him directly, but the Complainant approached him a couple of times regarding the status of the competition. He said that she made it clear that MHA Joyce was asking her. He said that their interactions left him understanding that the Complainant "was under some pressure."

DM Dutton said that eventually he received the Board report and there was only one qualified person on the list, and it was not MHA Joyce's proposed person. He said that MHA Joyce's candidate did not even make the shortlist of candidates to be interviewed. DM Dutton said that he signed the report approving the hire and sent it to the Human Resources Secretariat for processing. He said that there was a delay between when he signed the report and when the offer was made to the successful candidate. He said that throughout this period, the Complainant continued to ask him about the status of the process. He said that the Complainant told him that MHA Joyce was arguing that his person was eminently qualified for the job and should have been successful or at least considered. As a result, DM Dutton asked the Board Chair and Director to review the file again just to verify for him the basis for MHA Joyce's candidate being screened out. He was told that he lacked four of the six mandatory requirements.

DM Dutton said that he eventually gave the Complainant documents relating to the competition in advance of her meeting with Minister Joyce at the Premier's office about the matter.

When asked if the Complainant told him about the meeting. He said that she did in general terms. When she returned, DM Dutton said that the Complainant indicated that when she laid out the facts to MHA Joyce, there was not continued argument. DM Dutton said that he saw MHA Joyce following the meeting and he told him that he had no problem with decision but would have appreciated a heads up.

When asked why he thought that the Complainant was feeling pressure. He said that there were frequent requests of him for status updates about the competition. He said that it was persistent to the point that he felt he had to get the documentation. He said, "We went to additional lengths to demonstrate and give her the ability to argue that process was followed." He estimated that she came to him five or six times.

DM Dutton said that the candidate would have been screened out between December and February and he thought the candidate would have been notified that he had been screened out, or could have found out by accessing a portal.

v. Chief of Staff Mercer's Evidence:

Mr. Mercer said that the Complainant contacted him with concerns about interactions with a colleague. He said that some of the Ministers are "rookie ministers, first time in politics. Seasoned politicians are seasoned for a reason."

Mr. Mercer said that the Complainant contacted him with specific concerns about projects in her district that she felt could be jeopardized due to her interactions with MHA Joyce. He said that MHA Joyce felt there was a person who was qualified for a position in open competition, and expressed that to the Complainant, who took that to her Deputy Minister who determined that the person was not in fact qualified.

Mr. Mercer said, "Where it may have broke down between them two was that MHA Joyce didn't hear back until he heard it on street. MHA Joyce called the Complainant to say he was disappointed that he had to hear it elsewhere."

Mr. Mercer said that he contacted MHA Joyce, who told him that there was a guy who he thought was qualified for that position so MHA Joyce asked the Complainant to look into it and next thing he heard was that someone else was hired. Mr. Mercer said that he asked MHA Joyce if he raised his voice, used profane language, or threatened her projects. He said that MHA Joyce said absolutely not, and asked for a meeting with the Complainant.

Mr. Mercer said that he arranged a meeting the next day. He said that it was not an official mediation meeting, as he is not a mediation expert. Mr. Mercer said that the Ministers agreed that it was moot point, as a person was already hired in that position. In terms of the pool project, based on information brought to the meeting by MHA Joyce, the Complainant was fine that the project was not in jeopardy. He said that the Complainant mentioned another project, a compost project undergoing an environmental assessment, and MHA Joyce told her that he was the Minister, and the project would have to go through an environmental assessment phase. Mr. Mercer said that the Complainant believed that MHA Joyce could stop the process if he wanted to. On that point, Mr. Mercer said that the Ministers agreed that she would receive a briefing from his officials without MHA Joyce present.

Mr. Mercer said that the Ministers also agreed that in terms of future projects in her district, their two executive assistants would handle issues and interact more regularly. Lastly, he said that they agreed that as ministerial colleagues they would treat each with respect going forward.

When asked how the meeting ended, Mr. Mercer said that he asked the Complainant if she was ok, and she said not really. He said that she kept bringing up harassment. Mr. Mercer said that MHA Joyce jumped in and said, "[Complainant] did I raise my voice?" and the Complainant said no. He asked if he swore and again she said no. Mr. Mercer said that he asked the Complainant what MHA Joyce did that made her feel harassed and she said that when she tried to raise issues with him, he turned his back on her. Mr. Mercer said that MHA Joyce responded, "Sure that's what I do. I can confront you face to face, or I can just leave, give it to me in writing. That's the way I am as opposed to getting into a confrontation." Mr. Mercer said that the Complainant said this was rude. Mr. Mercer said that he put a stop to the conversation because he is "no HR expert" and did not want to get in "too deep."

Mr. Mercer said that he did not think that the situation was serious. He said, “It’s a minister advocating for project in her riding from a MHA perspective. Why would MHA Joyce be jeopardizing a project that’s already approved in budget and he had supported up to that point? MHA Joyce apparently called the mayor on budget day. Normally projects in a district do not reach our table.”

Mr. Mercer said that the Complainant had a briefing with the two environment officials about the compost facility, during which she made statements that were more political in nature. For example, she was said to comment as follows:

- “If this is approved, the Premier will wear it”
- (In response to a comment about an EIS taking 2-3 years) “It does not matter as the Tories will be in anyways”
- “Minister Joyce and I are not on speaking terms”

Mr. Mercer said that the officials went to their Deputy and Mr. Mercer was subsequently informed. He said that he told the Complainant that she could not have political discussions with officials.

I asked about the tone of the conversation between the Ministers at the meeting, and Mr. Mercer said, “At times cordial, at times tense. MHA Joyce felt he was being unfairly backed into corner.” He said that it was as if MHA Joyce was looking for apology and the Complainant felt intimidated by his actions. He said that they talked about a trip together a couple of weeks back that they both agreed was an enjoyable trip.

vi. Kelly White’s Evidence:

Ms. White said that she did not attend the April 11 meeting with the Complainant, but knew that she was going to the meeting and why. She said that when the Complainant came back she told Ms. White that communication between the Ministers was to go between Ms. White and the EA for MHA Joyce. She said that the meeting had been about a safety job, and the individual being put forward by MHA Joyce not being qualified. She said that the meeting was about what happened on a phone call on Sunday April 8, and the position that MHA Joyce wanted the Complainant to hire someone for who was not qualified. Ms. White said that the Complainant told her that MHA Joyce said, “Fine, I can follow the rules too.” She said that the Complainant described MHA Joyce as angry and intimidating. Ms. White said that she had not been involved in discussions between the Complainant and MHA Joyce. She said that she knew about the situation because the Complainant told her about it. She said that the Complainant dealt directly with DM (Dutton) about the position.

Ms. White said that there is a difference between the process for a job posted through the Public Service Commission and a thirteen –week temporary job. She said that the latter are short-term, and sometimes Ministers will share those opportunities with other Ministers and collect resumes for those positions and provide them to Human Resources. Ms. White said that the email that Ms. White sent to Janice Doyle, referenced in Minister Joyce’s response, was related to a “13-weeker.”

Ms. White said that she attended the April 16, 2018 meeting with Joanne Sweeney. She said that the Complainant requested the meeting to discuss Waste Management submission going in for Argentia. Ms. White confirmed that she took notes of the meeting. She said that things might have been said that were not put in her notes, but she wrote down what the issues were, where they were going, and what the response was. The three comments were reviewed with Ms. White that the Complainant was said to have made at the meeting and Ms. White said that the Complainant did not make any of them.

vii. MHA Bernard Davis's Evidence:

MHA B. Davis recalled a day, although he was unclear when, that the Complainant said she had to go for a meeting. He said that when she returned she seemed "a little off." He said that she seemed dejected or upset. MHA B. Davis said that she told him she had met with MHA Joyce and Mr. Mercer about "an issue that had happened prior to their meeting. He said that she did not provide specifics but may have said that they were trying to find common ground. MHA B. Davis said that in the Complainant's opinion, the meeting had not worked.

viii. Factual Findings

I find, based on the evidence of DM Dutton and MHA Joyce's own evidence, that MHA Joyce submitted the resume of a friend for consideration for a managerial position that was posted as per Public Service Commission policies. The parties agreed, and I therefore find, that MHA Joyce followed up with the Complainant about the hiring process. The Complainant said that this happened on several occasions, which Minister Joyce did not dispute. Based on the actions of the Complainant in following up with DM Dutton on more than one occasion about the process, to the point that DM Dutton sought out information that he would not normally review, I believe that MHA Joyce spoke to the Complainant about the posting on more than one occasion. The evidence indicated that the friend of MHA Joyce was not qualified for the position, and was not ultimately the successful candidate.

The parties agreed that on April 8, 2018, MHA Joyce asked the Complainant to call him, which she did. During the call, the parties discussed the job competition and MHA Joyce expressed some displeasure with her. MHA Joyce suggested that he merely asked why he had not been given a heads-up about the successful candidate while the Complainant suggested that MHA Joyce was mad at her for not getting his friend the position and intimidated her by stating that he would be "following the rules now on too," which she thought related to how he would deal with the projects in Placentia and Argentia, noted above.

Based on the actions taken next by the Complainant, specifically her reporting the interaction to Mr. Mercer, I find that the Complainant was genuinely intimidated by her call with MHA Joyce. I find that her account of the call has the ring of truth, whereas had it occurred as described by MHA Joyce I do not believe that the Complainant would have taken the significant step of elevating this matter to Mr. Mercer.

I find that MHA Joyce was upset with the Complainant about how she handled the job competition and expressed this to her. I find that his comment about needing to play by the rules in relation to the composting facility was in response to their discussion about the job competition, and not an unrelated secondary topic. Again, the Complainant's account of this account seems more probable based on these individuals' own accounts of how to communicate with each other, and particularly in light of the actions taken next by the Complainant.

I note two things. First, the conversation on April 8th occurred after both parties were aware the hiring decision had already been made. Second, there is no evidence that MHA Joyce took any action to actually retaliate against the Complainant or any projects in her district.

e) Social Policy Committee

i. The Complainant wrote:

On Tuesday April 24th we had a SPC meeting. Six Ministers and staff comprise SPC. There were 2 items on the agenda. My department was responsible for one of the items that we had gone through in detail the week before, but I had to return to SPC with clarification on a couple of items. Minister Joyce was absent the week before. All Ministers receive the materials prior to all meetings. My item was a long, complicated item, however, there were five points left to be addressed. I started to report on them and Minister Joyce stopped me. He asked about a chart that all Ministers had received the week before. He didn't care that we had gone through it in detail the week before, he wanted the chart.

We decided to go through the five items and I did but again Minister Joyce wanted what we had been given the week before. I turned to another Minister and asked if this piece of legislation was going into the House of Assembly the next week and the Minister said: "no", so I turned to a staff member and said we can leave this item until next Tuesday and get Minister Joyce the chart.

Staff left the room and we held a short in camera session. Minister Joyce was not happy with me and proceeded to say that "we were not all on the same team" as he looked at me. I ignored him and went out to my staff. I asked my staff to wait as I did not want to go on the elevator with Minister Joyce. I told them that Minister Joyce was not in a good mood today and that I wanted to wait until he was gone. Minister Joyce's behaviour in this meeting was designed to embarrass and bully me in front of our colleagues, most likely in retaliation for the incident involving the OHS position.

That afternoon the Opposition brought up bullying in the House of Assembly. I knew another MHA had written an email to our party about Minister Joyce's behaviour. I witnessed a scene in the House of Assembly where Minister Joyce had belittled another MHA and then that MHA had passed me outside the House with their coat on going outside for a break. The MHA was visibly upset and said that they had had enough as they passed by me. I stopped but the MHA proceeded down the hall that day and I went into the caucus room. There was a witness — one of the House staff but I cannot remember who it was.

On April 25th the MHA showed me the email that the MHA had forwarded in the fall of 2017. The MHA knew I knew something about the scene that had unfolded with them earlier that fall. When the Opposition brought bullying up in the HOA the Premier said that no formal complaint had been lodged with him. He was correct - I had not directly lodged a complaint with him. The night of April 24" I messaged Greg and asked for a meeting with the Premier. Greg responded and the meeting was scheduled between myself and the Premier. Joy Buckle attended the meeting.

I lodged a verbal complaint against Minister Joyce on April 25 and Joy Buckle recorded it. I explained the hiring incident to the Premier and Minister Joyce's overall behaviour and I asked him to deal with Minister Joyce's behaviour. I told him about another MHA and what I had seen and what I knew. I told him about an incident between MHA and Minister Joyce in the HOA last year. I told him about what Minister Joyce had done when MHA was running for speaker. I told him that MHA and MHA had complained about Minister Joyce's behavior and that this had to stop. That I wanted him to stop this.

The Premier agreed to address Minister Joyce's behavior. I left to attend a caucus meeting.

During her interview, the Complainant reiterated that at the Social Policy Committee, after MHA Joyce had missed the previous two meetings, he asked about a list of changes, and she said that the Committee had seen it the previous week. She said that MHA Joyce then went on about the list. The Complainant said that she asked if the legislation on the table could go to Cabinet later, so that MHA Joyce could get the list. After they went in-camera, she said that MHA Joyce stood up and said that they were not all playing together on the same team. The Complainant said that she gathered up her stuff and walked out of the meeting. She said that she told her staff that MHA Joyce was not in a good mood that day, she did not want to deal with him.

ii. MHA Joyce's Response:

In reply to these allegations, without breaching the sanctity of Cabinet or Caucus discussions, as this issue has been raised for reply, and in that context only, the Member states the piece of draft legislation under discussion had been brought back to the Committee for further discussion.

At the first of the two meetings in question, both of which the Member attended, the Chair of the SPC requested that of staff that prepare a chart of all the changes between the current Act and the new draft be prepared in an easier to read paper format as the electronic version was harder to follow and required too much time scrolling up or down to compare the changes.

The Chair directed that the Committee's support staff liaise with Service NL on the preparation of the chart.

At the second meeting, a second chart was produced, but it did not provide all the necessary information on the changes proposed by the Committee to enable the Committee to reach consensus. With staff out of the room, the Member admits that he said to everyone, not just the Complainant, "Guys, we are not all working together. We're not on the same team" meaning that the Committee it was counter-productive to have requested a chart that did not contain the necessary information they needed in a timely manner. It unnecessarily slowed down progress on an important piece of legislation. It was frustrating for all Members present because it was clear that the Complainant neglected to follow up and direct her staff to follow up and ensure the chart contained the necessary information requested by the Chair. In that sense only, the Member felt that the Committee members were "not on the same team".

The Member denies that he was "not in a good mood" on the day of the second SPC meeting April 24, 2018. The Member further denies that "his behaviour in this meeting was "designed to embarrass and bully" the Complainant "in front of our colleagues". The Member states that he was polite, professional and, when staff left the room, light hearted. The Member states that as he was not in a "bad mood", and as the OHS position had been a moot point since January 2018, it is obvious that the Complainant is fabricating a non-issue.

As to the balance of the Complainant's allegation on page 13 of her June 7, 2018 letter to your office, they relate to remarks she made to other persons and to meetings which the Member did not attend. Accordingly, and as he was removed from Cabinet on April 26, 2018 and stepped down from Caucus thereafter, he is not able to comment upon the same.

With respect to the allegations regarding to the Social Policy Committee (SPC), the Member submits that they should be dismissed as being without foundation. A review of the substance of the Complainant's allegations demonstrates that they are characterized by an absence of any reliable evidence and a tendency to recklessly and irresponsibly exaggerate, overstate and mischaracterize the routine interactions the Complainant did have with the Member. As such, the Member submits that the allegations

should be summarily dismissed.

iii. The Complainant's Response:

I note that counsel for MHA Joyce has submitted a letter from Minister Haggie in relation to the Social Policy Committee meeting. I request that you ask staff member Karen Stone, who was in attendance for the conversation, what unfolded at that meeting as it pertains to MHA Joyce's behavior in relation to me and my departments agenda item that day. Karen was not in the room when MHA Joyce made the comment that "we are not all on the same team" but she was when the discussion took place.

I would like to correct, and confirm, some points put forward by Mr. Greg Mercer in the letter he submitted. I did not suggest that MHA Joyce phone Mayor Bernard Power. MHA Joyce suggested that he would do that to help me. I confirm that I did say I was okay with the fact that the Placentia pool was proceeding because MHA Joyce presented at the April 11, 2018 meeting a departmental document outlining clearly the funding arrangement.

I wish to confirm that I met with the Premier and Ms. Joy Buckle on April 25, 2018 in the Premier's boardroom on the 8th floor of the East Block of Confederation Building. During this meeting Ms. Buckle took handwritten notes on a 5 x 7 tablet [...] It was at this meeting that I informed the Premier that MHA Joyce had requested that I hire his friend in the OHS management position on the west coast – indeed it was this matter that had prompted me to take measures to try to cause this behaviour to stop.

The statement submitted by counsel for MHA Joyce on page 4 of the letter of response "It is noteworthy, however that none of these allegations were communicated to the member by the Premier and Joy Buckle" is puzzling, as those allegations were provided by me to the Premier and Ms. Buckle in my meeting with them on April 25. I would expect that Ms. Buckle would have taken notes of the meeting of the Premier and Ms. Buckle with MHA Joyce[.]

Ms. Joy Buckle was the individual who I phoned and asked advice from as to how to address the media when I believed that MHA Joyce had leaked my name and MHA Perry's name to the public as being the individuals involved in the scenario that was unfolding in the House of Assembly. MHA Bernard Davis, and my Executive Assistant Kelly White were in my office in the West Block when I spoke to Ms. Buckle on the phone. [...] Ms. Buckle asked me what I wanted to do and I informed her that I wanted to tell the truth. She advised me to tell the truth. It is reasonable to believe that this, along with the fact that Ms. Buckle was in the room with me and the Premier on April 25 places Ms. Buckle in conflict in providing a letter of support for MHA Joyce. [...]

iv. Assistant Secretary to Cabinet Stone's Evidence:

Assistant Secretary Stone was said to have been in the SPC meeting by the Complainant. When I interviewed Ms. Stone, she confirmed that she does indeed attend Social Policy Committee meetings. I asked if she knew what the investigation related to, and she said that she knew it related to a complaint about MHA Joyce.

That said, Ms. Stone said that no SPC meeting from April 2018 stood out to her. Even as limited details were provided relating to the context for this incident, Ms. Stone was unable to recall the meeting. Ultimately Ms. Stone said she had a vague recollection about a chart that MHA Joyce had not received, but could provide no specific information about the meeting.

Ms. Stone said that she recalled an occasion following an SPC meeting in which the Complainant and another Minister came to her to reassure after someone, she believed it was MHA Joyce, had been sharp with her. She did not recall feeling any offense to any comment.

I asked if “sharp behavior” was common on the Committee, and Ms. Stone said that the Committee was full of passionate people who care about issues. She said that there is vigorous debate but she did not “know whether (she) would say sharp.”

v. Minister Andrew Parsons’s Evidence:

Minister Parsons was said to have been at the meeting by the Complainant. He said that he recalled the April 24 SPC meeting specifically because he had an argument with another Minister, Minister Kirby, during the meeting, which he described as normal. Minister Parsons said that he had received information needed for the meeting late, and was not prepared to move forward, whereas Minister Kirby wished to proceed. He did not recall any disagreement between anyone else at the meeting.

vi. Joy Buckle’s Evidence:

Ms. Buckle said that she attended the April 25 meeting with the Complainant in order to take notes and to make her feel comfortable in the room as well because they had a good working relationship.

She said that the Complainant came in and said that she had eight points on a little piece of paper that she was holding, and then went through them one-by-one, her concerns about MHA Joyce.

Ms. Buckle was asked what she understood the Complainant’s complaint to be by the end of the meeting, and she said that it was that MHA Joyce was manipulative, intimidating, degrading – old boy’s club behaviour, and that the work environment was difficult for her. Ms. Buckle said that the Complainant brought in other people’s complaints as well. Ms. Buckle said, “She felt that his behaviour was a manipulative, non-verbal behaviour, so I think that was the essence of the complaint.”

Ms. Buckle said that the Complainant spoke about: MHA Tracey Perry’s experience with MHA Joyce; MHA Joyce lobbying against MHA Pam Parsons; MHA Joyce’s interaction with MHA Davis about the June convention; and the SPC meeting referenced above.

Ms. Buckle said that the Premier and the Complainant then discussed his availability to receive complaints. She said that the Complainant then said that she was “done with Eddy,” and that she “would work with Eddy – but will not sit and tolerate his behaviour.”

I asked if any other specific examples of behaviour by MHA Joyce were provided by the Complainant and she said no, and that if there were other examples, she would have written them down to the best of her knowledge. Ms. Buckle said, “I knew this was a very important meeting.” She said that the Complainant did not discuss Placentia, the composting facility, or the OHSa job competition.

Ms. Buckle said that she did not attend the meeting at which the Premier communicated the allegations to MHA Joyce. She said that she did not prepare any allegations for him based on her notes.

vii. Factual Findings

The parties agreed that during an in-camera meeting, MHA Joyce made a comment to the effect that they were not “all on the same team,” and that this comment related to some information that was gathered and shared at a SPC meeting. The evidence of the Complainant did not disclose any other behaviour at any SPC meeting that could, even if true, rise to the level of harassment. The witnesses that the Complainant identified did not disclose any such behaviour either. As such, I make no additional findings relating to this allegation.

f) April 26th - Cabinet

i. The Complainant wrote:

I had told caucus that I had met with the Premier at the caucus meeting but not that I was the one who had lodged the formal complaint. At the cabinet table one of the Ministers let everyone know it was me. I was very upset when I left cabinet but composed myself quickly. I put my hand up to the Minister who had done it as the Minister approached me, and I walked over to my Department office with two other Ministers. I could not believe what had happened. I was very taken aback at the events that had unfolded, as it had been my intention to, if possible, have the deteriorating working relationship with Minister Joyce be dealt with internally. I had hoped to maintain as good and efficient a working relationship as possible, in the interests of my constituents — I did not intend this issue to become public, or to go beyond the bare minimum number of people who were already aware.

Later that morning a friend messaged me and said the mayor of Placentia had told him it was me that had lodged the complaint and that he had heard it from an internal source. When I asked the mayor he said he had heard it as a rumor. Another friend messaged me and said he had heard from a MHA that the minister had said it was me and another MHA. That our names were “out there”. I contacted the Premier’s office as the media were in the East Block waiting for the MHA’s. After speaking to Joy Buckle I decided it was in my best interest to be proactive and to tell the media that it was me who lodged the complaint against Minister Joyce.

That day, as a result of Minister Joyce having been removed from cabinet, a number of seat and position changes were made. It had not occurred to me that MHA Joyce would be in the House that day, but he was, as was his right as an elected MHA. When I was talking to the media MHA Joyce passed behind me; the media saw him and called out to him. He grinned at me as he walked towards the media than joined us in the HOA after his interview. I was supposed to present a Ministerial statement but I could not do it. His presence in the House had a very negative impact on me that day. I was shaken and could not concentrate. I felt numbed by his presence.

QP that day was extremely difficult. The third party asked for a recess and we ended up closing the House after the Opposition called for division and we had to vote to close the House. The Premier passed in front of me and left the House. People were coming towards me. I started to get upset and another MHA led me out of the House on the opposite side. I went into the bathroom with that MHA and I broke down. My EA went for her car and security led me out the back door away from the media. My EA brought me home and went back for my car and things. When I came into my house I went to the bedroom and broke down. My daughter was home and she tried to console me. I remember texting my husband and lying down on the bed with an ice pack behind my head. I never really came around to myself until about 6 or 7 pm — 4 or 5 hours after the QP incident. I felt like I had felt after a Motor Vehicle Accident that I had in the 90’s.

Hundreds of messages of support started flowing in through Facebook, Twitter, and Email. I also received a written card of support from another Deputy Minister in another province. I continued to receive these messages for days afterwards. On April 27th I sent out a media release about the incident.

The week of June 4th a MHA told me that Minister Joyce had reached out to him about a conversation I had with Minister Joyce as we drove to Freshwater about three months ago. It was a conversation pertaining to support for the Premier. It was evident that our caucus was in turmoil and had been for a while. I had already told the MHA the particulars of this conversation and what I had said about him yet here was Minister Joyce still trying to manipulate me and put a wedge between myself and this MHA.

All numbered documents and names protected throughout this statement will be available to the investigator(s) only to enable them to confirm my statement.

I am sincerely disheartened that the conflicts with Minister Joyce were not resolved internally. As MHA's we take an oath and we are to respect the law and the institution of the Legislature. We hold the trust, the confidence and future of every resident of Newfoundland and Labrador in our decisions. Our actions must always be taken in a manner that will withstand the closest public scrutiny. We must never bring the House of Assembly into disrepute. I feel that the actions of Minister Joyce have indeed been a violation of the Code of Conduct and have undermined the integrity of the House of Assembly, which we as elected Members are sworn to uphold and defend.

ii. MHA Joyce's Response:

It bears noting that the Member was not in attendance at this meeting as the Premier had removed him from Cabinet that day and, therefore, cannot comment upon what may have been discussed. Nor can he comment on discussions the Complainant may have had with other persons outside Cabinet, whether in person, by phone, text or email. As to the suggestion that

"When I was talking to the media MHA Joyce passed behind me; the media saw him and called out to him. He grinned at me as he walked towards the media th[e]n joined us in the HOA after his interview"

In reply, the Member states that he did not pass behind the Complainant; he walked his normal route to the House of Assembly which was off the elevator, left turn to the doors of the House of Assembly. He denies that he "grinned" at the Complainant; he spoke to her executive assistant, Bernie Davis, and asked him if he knew what the Complainant was saying to the media. The Member surmised that the media wanted to ask him for a comment on something, which is not unusual. The Member approached the media and was taken by surprise by questions about the Complainant's allegations and, admittedly fumbled through the interview. However, the Member cannot comment on the Complainant's emotional state or her powers of concentration in the House of Assembly that day.

iii. Kelly White's Evidence:

Ms. White confirmed that she was with the Complainant when she called Ms. Buckle. She said that they discussed what the Complainant could do if the media gets to her. She said that the Complainant said that she would that she had to respond and Ms. Buckle told her to go do it and tell the truth. Ms. White said that Ms. Buckle was not on speaker and so she could just hear what the Complainant said.

Ms. White said that the Complainant was very upset going into the HOA but wanted to go in. She said that after they closed the HOA, she looked for the Complainant and someone told her that two Members had taken her to the washroom. She said that the Complainant was inside with MHA Bennett and was very upset. She said that MHA Bennett was trying to calm her down. She said that they were in the bathroom together for about ten minutes and the Complainant was just crying. She said that there was no conversation. She said that she thought the Complainant was in shock. Ms. White grabbed security and they left out an alternate exit.

Regarding interactions between the Complainant and MHA Joyce that she had observed, Ms. White said that they always appeared cordial and said that the Complainant kept the interactions cordial.

iv. Joy Buckle's Evidence:

Ms. Buckle confirmed that on April 26, 2018, the Complainant called her to say that MHA Joyce had told the Mayor of Placentia that the Complainant and another member had complained about him. She said that the Complainant asked her what she should do when the media called, and Ms. Buckle asked her what she wanted to say. She said that the Complainant said that she would confirm she had complained but would not say more, and Ms. Buckle told her is that was what she felt was appropriate, "then go right ahead."

When Ms. Buckle was asked how she came to write a letter of support for MHA Joyce. She said that MHA Joyce came to her and asked her to write up a note about Placentia. She said that she then went to meet with MHA Joyce and his lawyer and they asked whether she could write about other topics, for example the SPC or the pool, and then also whether she could write about MHA Joyce as an individual and her experiences with him. She said that she agreed.

4. Code of Conduct

The relevant sections of the Code of Conduct for Members of the House of Assembly are as follows:

Code of Conduct

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.*

I have also considered specifically whether Minister Joyce engaged in behaviour that amounts to harassment. In doing so, I have relied on a definition of harassment as objectionable or offensive behaviour that is known or ought reasonably to be known to be unwelcome.

5. Analysis

Regarding the comment made by MHA Joyce at the SPC meeting that they were not all playing on the same team, I do not find this observation to be problematic on its face, and do not think it indicates a violation of the Code of Conduct or behaviour amounting to harassment. Similarly, my findings relating to the interactions between the Complainant and MHA Joyce relating to the capital works projects do not indicate a violation of the Code of Conduct or behaviour amounting to harassment.

While the discussion may have been animated, I do not find that MHA Joyce's actions were objectionable or offensive in nature, particularly because I did not find that he intentionally withheld information from the Complainant.

My remaining findings relate to the hiring process. I found that after submitting his friend's name for consideration for a managerial position, MHA Joyce contacted the Complainant on more than one occasion to enquire about the status of the competition and, when his friend was unsuccessful, he expressed his displeasure with the Complainant for how

she handled the situation. As part of that discussion, he suggested that he would need to play by the rules in relation to projects in her district. The latter conversation occurred after both the Complainant and MHA Joyce were aware that the position had been filled.

I considered whether these findings could support a conclusion of harassment in that MHA Joyce's action during the hiring process behaviour was unwelcomed by the Complainant. I found MHA Joyce's comment that he would follow the rules now too to imply a threat, even if he never intended to act on it, and as such is objectionable in nature.

However, I was struck by language used by the Complainant herself to describe many of their interactions on this matter, that such behaviour is what they do, trying to get their points across whenever they have a moment in front of someone. Accordingly, I'm not sure that MHA Joyce knew, or ought to have known, that calling the Complainant about the hiring process would have been unwelcome by her.

Instead, I think MHA Joyce's actions relating to the hiring process are better captured by language contained in the Code of Conduct. In the manner in which he dealt with the Complainant, and particularly during the call on April 8th, I do not think that MHA Joyce met the expectations of the Code of Conduct, that he perform his duties with "...accountability, courtesy, honesty and integrity." I think his attempts to influence the Complainant's actions, as well as his response when she failed to affect his desired outcome, were outside the "norm" of political interactions and were below the standards expected of persons in their role within government. 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.

I find that the conduct of MHA Joyce is a violation of principle 10 of the Code of Conduct. His behaviour during the hiring process fell below the standard expected of a member of the House of Assembly. I find that the manner in which he addressed this issue was unprofessional and showed a lack of mutual respect towards members of the public service by placing those individuals in the middle of a process that is supposed to be politically impartial. This type of conduct is not acceptable and must be discouraged.