

The Joyce Report

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



October 19, 2018

Bruce Chaulk
Commissioner for Legislative Standards

EXECUTIVE SUMMARY

On July 3, 2018 a Member of the House of Assembly, (hereinafter referred to as the Complainant) wrote the Commissioner's Office 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.

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 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 did not violate the Member's Code of Conduct. It is recognized that the Speaker of the House of Assembly has jurisdiction over the conduct of actions that take place during proceedings in the House of Assembly. In this case, the actions took place after proceedings had concluded and at the outset included allegations regarding a pattern of conduct that the Complainant was alleged to have had with the Minister regarding CEEP funding, in that it was alleged that MHA Joyce was not responding to her. In light of the foregoing, my jurisdiction was engaged without intruding into the jurisdiction of the Speaker of the House of Assembly. While there was no finding of a breach of the Code of Conduct, it is important that the jurisdiction of the Speaker be recognized at all times.

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) of the Act.

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 July 3, 2018, a complaint was received from the Complainant requesting 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.

On July 3, 2018 an interview was conducted by the Commissioner with the assistance of the investigator with the Complainant.

On July 13, 2018 a letter was sent to counsel for MHA Joyce requesting a response.

On August 3, 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
- October 17, 2018

On September 21, 2018, the Complainant responded in writing to MHA Joyce's response.

THE INVESTIGATION

The complaint raised by the Member dealt with three specific interactions. These are as follows:

- a) August 8, 2017;
- b) October 19, 2017; and
- c) December 7, 2017.

In this section, I have included the written submissions of the parties in italics and have included evidence provided to me during interviews in regular font.

In her sequence of events, the Complainant included a list of 18 instances of communication or attempted communication between herself, MHA Joyce, his Deputy Minister, and the Town of St. Albans relating to funding for a specific project. The Complainant also described involving Mr. Loveless in these discussions “on behalf of the Town.” To consider whether MHA Joyce’s behaviour in terms of making funding decisions or communicating those decisions to the Complainant or the Town is outside the scope of this investigation. This information was all submitted to me and was available as context for this report.

I also acknowledge that the Complainant spoke about systemic concerns in both her written complaint and in-person interviews, as well as her desire for an outcome to her complaint that addressed her systemic concerns, specifically “enforceable legislation” that is stronger than Code of Conduct. 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.

This report focuses on three specific alleged interactions between the Complainant and MHA Joyce, on August 8, October 19, and December 7, 2017.

a) August 8, 2017

- The Complainant wrote:

(...During Special HOA sitting to elect Speaker) Minister Joyce approached me while I was speaking with another Minister on another district matter. He butted in to ask if I had the proof yet that I had called his office but got no response. Demanded that I produce my emails and phone records to show him then walked away.

During her interview, the Complainant said that this incident involved MHA Joyce butting into a conversation that she was having with Minister Gerry Byrne. She said that MHA Joyce demanded that she produce email and phone logs to support her assertion that she called his office and did not hear back. She said that MHA Joyce came over by himself. The Complainant said that MHA Joyce’s tone was nasty and his voice was raised. The Complainant said that after MHA Joyce left, she and Minister Byrne looked at each other and shook their heads.

- MHA Joyce’s Response:

The Member denies this allegation and states that it is another fabrication; it simply did not happen. The Member states that the Complainant and MHA Gerry Byrne had a conversation in front of his desk. When

that conversation ended, the Member politely asked the Complainant about the issue she wanted to discuss. The Complainant thanked the Member and indicated she would get back to him but never did follow up.

- Minister Byrne’s Evidence:

Minister Byrne said that he was aware through the media that the investigation pertained to harassment but only had a vague knowledge of the process. He did not know what incident he was said to have observed. Minister Byrne said that he did not recall any behaviour that would fall within the scope of such a process.

Minister Byrne said that he broadly recalled a special HOA sitting to elect the Speaker but did not recall involvement in any interactions with either the Complainant or MHA Joyce, or having observed any interactions between the two of them.

- 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.

The parties agree that there was an exchange between them on August 8, 2017 in the HOA, and I accept the evidence of the Complainant that the exchange pertained to her being asked to provide “proof” of her attempts to contact MHA Joyce at his office, as this was a request that MHA Joyce made of the Complainant in light of her raising concerns about not hearing back from MHA Joyce, as detailed at length in her complaint and confirmed by witness evidence described below.

That said, I do not find that MHA Joyce butted in to the conversation or spoke to the Complainant in a “nasty” manner, as alleged. I find that had such behaviour occurred, Minister Byrne would have recalled the interaction.

b) October 19, 2017

- The Complainant wrote:

*I have outlined in detail below my recollection of events on this afternoon as I had recorded them at the time. It is the day I refer to as “the Incident”, which I felt was a deliberate attempt by the Minister to embarrass and humiliate me, and was a clear statement of refusal to speak with me. This left me with a far more major dilemma and worry: **How was I ever going to do my job as MHA if the Minister of Municipal Affairs refuses to speak to me?***

“THE INCIDENT”...

*On this particular day, I arrived late to the HOA as I had a specialist appointment. Shortly after arriving, a little after 3 o’clock, I went over to see to the Minister of Municipal Affairs to discuss the districts CEEP allocation, **as we MHA’s often do cross back and forth to discuss matters of the various districts.** However, as I approached the Minister, he slammed his laptop cover down, stood up and said: “I don’t have time to talk to you”. He then proceeded to move back to the next row, sat next to member for Labrador West, and started laughing. He also heckled a few things like: “Have you got your proof of the phone calls yet?” ; “Tell her to go back to her own side, Mr. Speaker”.*

I immediately felt upset, humiliated and frustrated, and the longer I thought about how I was being treated and would most likely continue to be treated by this person (or worse), I became very upset and concerned (i.e. the district's historical CEEP allocation had been cut \$81,000; down from an average closer to \$150,000).

I spoke to the Speaker in the hall outside the Chamber, still feeling very upset. Telegram James walked by and was very respectful, saying he would like to ask me about what had happened, but appreciated that it wasn't perhaps the best time.

I had asked the Speaker how a situation of bullying from a colleague could be addressed, and he replied that he would "need some guidance" on that. I told him I would address the situation myself and return if I needed to.

I then went on to speak to Minister Parsons, Mr. Elvis Loveless, and other colleagues on both sides of the house. I showed them a draft email I was going to send to the Premier to report the incident, and asked their advice. Some said to be careful. Some said go for it. One said sleep on it first..... "But then, as women, that's what we always do and we never act"That sticks with me. In fact, it helped to guide me in my decision to report my concerns when my colleagues expressed their own concerns in April, 2018.

Ultimately, I decided not to send an email to the Premier, but instead, I sent one to the Minister directly, then I forwarded a copy of that email to the Premier's Assistant, Mr. Elvis Loveless, who I had been speaking with throughout the afternoon as an FYI. (Note: My rationale for this is that we were both involved, given that the Minister was mad I had contacted him in August, and I needed the Premier to know as background information in case I continued to experience problems in the future).

(Example 4: Glaring and Intimidation)

During the last 10 minutes of the HOA that night (Oct. 19), Minister Joyce stared at me straight, belligerently and glaringly.

(Note: Several of my colleagues say they have witnessed this at various times in the Spring 2018 session as well, as verified during an interview with myself and a colleague with Mr. Bruce Chaulk on Tuesday, May 29, 2018)

Having since done basic Harassment Training (May 1, 2018), I now know it was at this juncture that some type of meeting should have been arranged and some type of mediation endeavoured. Instead, we continued on, and although we could communicate by email, the relationship remains very strained.

During her interview, the Complainant said that the October 19 incident was her "big issue", and referred to MHA Joyce having a deliberate intention to embarrass and humiliate her.

The Complainant said that typically once question period is over, the MHAs relax a bit, and can go to the other party's seats. She said that it is an opportunity to have closer access to the Ministers.

The Complainant said that she walked over by herself to MHA Joyce to ask about CEEP funding for her district. She said that as she walked over, MHA Joyce is on his laptop. She said that MHA Joyce stood up and indicated that he did not want to talk to her. She said that he said, "I don't have time to talk to you. You know that I can't talk to you."

- MHA Joyce's Response:

...the Member categorically denies the allegation that the incident involved an effort to embarrass or humiliate the Complainant and states that he has always tried to politely and respectfully respond to the Complainant, whether orally or in writing.

In fact, on October 19th, 2017, at approximately 3p.m., while the House of Assembly was still in session and matters were actively being debated, the Complainant crossed the floor to make repeated verbal requests for additional CEEP for her district, and the Member asked the Complainant to put her requests in writing. He did not raise his voice, nor change his tone, nor use any gestures; he was patient but firm and clear in communicating his Department's protocol for written funding applications. The Complainant clearly understood the Member; she just did not want to accept his answer.

Following a number of requests that the Complainant put her requests for additional CEEP funding in writing, and out of respect for his colleagues who were still publicly debating matters in the House, the Member states that he chose to calmly walk away as there was nothing more to say at that point. That exchange was witnessed by Mr. Graham Letto, MHA Labrador West and by Mr. Randy Edmunds, MHA Torngat Mountain. Both members corroborate the Member's recollection of events. The Member walked toward the Caucus room which is adjacent to the House of Assembly and took a right hand turn to go up to the next level, by the second row of benches. The Complainant was observed grabbing the Member's jacket and pulling him back sideways to face her and repeated her verbal request for additional CEEP funding. It bears noting that such conduct is prohibited by law, but the Member, however, did not at any time touch or threaten the Complainant. This physical encounter was witnessed by Ms. Betty Parsley, MHA Harbour Main, and heard by MHA Edmunds, both of whom corroborate the Member's recollection of events. The physical encounter was inappropriate and unprovoked, and it prompted MHA Parsley to tell the Complainant to, "Leave the man alone and go back to your seat". While this may have been embarrassing to the Complainant it was due to her own overreaction.

The Member then pulled away from the Complainant's grasp and asked, "What are you doing?" He continued to walk toward the door which leads to the hallway outside the House of Assembly. The Complainant again approached and stopped the Member and began to repeat her verbal requests for additional CEEP funding. The Member calmly repeated, "Put it in writing" and walked out the door. That exchange was witnessed by Mr. John Finn, MHA Stephenville- Port au Port, and he corroborates the Member's recollection of events.

Later in the evening, on October 19th, 2018, upon returning to his office, the Member received an email from the Complainant at 5:10 p.m.: "I would like to request a meeting with you at your earliest convenience regarding ongoing concerns ." The Member understood this request to mean that the Complainant would now comply with Department of MAE's protocol requiring written funding requests and that she would provide such a written funding request at their next meeting. In fact, the Complainant complied with the requirement to put her request in writing and, between October 23 and 31, 2017, she provided the necessary details in support of her request for additional CEEP funding.

Regarding the allegation by the Complainant that:

"However as I approached, the Minister, he slammed his laptop cover down, stood up and said: "I don't have time to talk to you." He then proceeded to move back to the next row, sat next to the member for

Labrador West, started laughing. He also heckled a few things like: “Have you got your proof of the phone calls yet?”; “Tell her to go back to her own side, Mr. Speaker.”

- MHA Joyce’s Response:

The Member states that the only remark he made to the Complainant was, “Put your request in writing” and he denies the additional references to laughing at the Complainant or heckling her. It is noteworthy that the incident of “refusal to speak” with the Complainant, which is denied above, has been amplified to include “slamming” the Member’s laptop cover and heckling the Complainant. These allegations are denied. As to the conversations the Complainant may have had with other persons, the Member cannot comment upon the same as he was not present.

Regarding the allegation by the Complainant that:

“During the last 10 minutes of the HOA that night (Oct. 19), Minister Joyce stared at me straight, belligerently and glaringly.”

- MHA Joyce’s Response:

The Member denies this allegation; this is a clear example of misrepresenting the Member’s actions to buttress her Complaint. As can be seen in the photo appended to this Reply, the Complainant was sitting behind MHA Paul Davis, Leader of the Opposition, in the House of Assembly, and was focused on MHA Davis’ remarks. The Member, who was sitting approximately 30 feet across the floor in the House of Assembly, was also focused on MHA Davis’ remarks. The Member wears reading glasses and looked up from his materials and over his lenses, periodically, in the general direction of MHA Davis. The Member denies that he “stared at [her] straight, belligerently and glaringly.” The Member states that these allegations overstate and mischaracterize routine interactions the Complainant did have with the Member.

- MHA Graham Letto’s Evidence:

MHA Letto said that he was approached by MHA Joyce to be a witness on his account and, as such, provided to MHA Joyce the letter that MHA Joyce submitted with his response.

MHA Letto said that the Complainant came across the floor insisting that she get more funding from MHA Joyce. MHA Letto said that MHA Joyce kept insisting that she put her request in writing and said that he would have a look. MHA Letto said that he did not recall MHA Joyce saying anything else to the Complainant.

MHA Letto said that it was not unusual for a Member to come across the floor and said that he had done it several times himself. He said that what was unusual about this situation was that the Complainant was somewhat aggressive and insistent, and that she kept following MHA Joyce when he walked away. MHA Letto said that all he heard was “put it in writing.” He said that MHA Joyce was speaking to the Complainant no different than how he had heard MHA Joyce speak to others, or to MHA Letto himself. He said that MHA Joyce did not get mad or upset, but probably was losing a bit of patience because he kept having to repeat himself.

MHA Letto said that he did not know how far or to where the Complainant followed MHA Joyce. He said that they went past his desk.

- MHA Betty Parsley's Evidence:

MHA Parsley said that she witnessed the October 19, 2017 incident and when she heard about the complaints against MHA Joyce in April 2018, decided to put what she saw in writing and "let the chips fall where they may."

MHA Parsley said that she was at her desk in the HOA when she saw MHA Joyce standing in front of her having a confrontation with a member of the opposition. She said that the Complainant was tugging on his jacket.

MHA Parsley said that she heard MHA Joyce tell the Complainant to go back to her seat and "put it in writing" several times. She said that the Complainant eventually returned to her seat. MHA Parsley said that she might have told the Complainant to go back to her seat, as they need to have respect in the House of Assembly. I asked if she heard what the Complainant was saying, and she said that the Complainant was looking for something. She said that all she heard MHA Joyce say was "Put it in writing, go back to your seat," several times. MHA Parsley was unsure where MHA Joyce went after the exchange. She said that she thought MHA Joyce was frustrated, but declined to comment on the tone of either MHA Joyce's or the Complainant's comments.

- MHA Kevin Parsons's Evidence:

MHA Parsons said that he has observed MHA Joyce glaring and staring at the Complainant within the HOA. He said that he has discussed with a colleague that such actions were an attempt to intimidate the Complainant. He also said that such behaviour is not part of politics.

- Minister Andrew Parsons' Evidence:

Minister Parsons said that he recalled an interaction with the Complainant on October 19 and a follow-up email from the Complainant about the interaction. He said that the Complainant had gone across the floor and was talking to MHA Joyce. He said that MHA Joyce was saying, "Put it in writing." He said that he ran into the Complainant after the session and she was very upset. He said that she "started going on about having trouble with Eddie," and that he would not listen to her. He told the Complainant to email MHA Joyce. Minister Parsons said that later that day, the Complainant emailed him to tell him that she emailed MHA Joyce to request a meeting. He said that the remainder of her email, about the need for people to treat each other with respect, had not been a part of their discussion earlier that day.

Minister Parsons said that he did not hear anything that the Complainant said during her interaction with MHA Joyce in the HOA. He did not remember seeing MHA Joyce moving away from the Complainant, but said that he is known to move around. Minister Parsons said that he did not hear any inappropriate comments from MHA Joyce.

- Elvis Loveless' Evidence:

Mr. Loveless said that he and the Complainant "go back a long way and have a good relationship. He said that in August 2017, the Complainant had a brief conversation with him about the communication issues she was having regarding the town of St. Alban's, noted above. Mr. Loveless said that MHA Joyce was not involved at this stage.

Mr. Loveless said that in October 2017, while the HOA was in session, the Complainant asked to speak with him about an urgent issue. Mr. Loveless said that the Complainant told him that she was scared that her district would be blacklisted in terms of funding because MHA Joyce was giving her the cold shoulder. Mr. Loveless said that he told the Complainant that MHA Joyce wouldn't "blacklist" her district, regardless of whatever had transpired in the HOA. Mr. Loveless said that MHA Joyce is fair to everyone.

Mr. Loveless said that he spoke with MHA Joyce and he told Mr. Loveless that the Complainant had been casting the impression that the Municipal Affairs department was not getting back to her on issues, which MHA Joyce denied and said he would not allow her to do.

I asked if the Complainant told him specifically what had happened on the floor of the HOA, and he said that she just mentioned the cold shoulder. He said that the Complainant also referenced that MHA Joyce asked her to provide phone log to his office. Mr. Loveless thought that the Complainant could not provide it. Mr. Loveless said that the October incident was the first and only time that the Complainant came to him about MHA Joyce.

Mr. Loveless was asked if he spoke to the Complainant after he spoke with MHA Joyce, and he said that he did not because he made a judgement call that this was a normal day at work and that they are colleagues, even though they are from opposing parties. Mr. Loveless said that MHA Joyce came back to him the day after to say that he would lay off on the phone log requests, as Mr. Loveless had suggested.

Mr. Loveless was asked if he had observed any interactions between the Complainant and MHA Joyce, and he said that he had not.

- The Complainant's Response:

It is not disputed that there was an altercation as between [the Complainant] and Mr. Joyce in the House of Assembly on October 19, 2017 (although Mr. Joyce's counsel references, alternatively, October 19, 2017 and October 29, 2017 at page 5 of her correspondence, one of the more troubling incidents to which Ms. Perry was subjected occurred on October 19, 2017).

[The Complainant] disagrees with the characterization, at page 5 of said correspondence, "[...] on October 29, 2017, when the incident at the bottom of this entire Complaint occurred, the Member was advising the Complainant her requests for funding would have to be put in writing [...]". At best, this is a blatant oversimplification of Mr. Joyce's behaviour toward [the Complainant] on the day in question. Further, the statement made by counsel for Mr. Joyce, at page 6, paragraph 2, "Until this issue arose, the Member believed he always politely and respectfully responded to the Complainant, whether orally or in writing, and further believed that the Complainant had been very successful in obtaining funding for projects in her District" is, if an accurate representation of Mr. Joyce's perception, very telling of the lack of his lack of insight into the gravity of the distress and consequent trauma that he has visited upon [the Complainant].

Since in or around Fall 2017, Mr. Joyce has rejected any efforts by [the Complainant] to converse regarding the needs of the constituents that she serves in the district of [...]; any attempt to dialogue with Mr. Joyce has been fraught with hostility, causing immense and continued stress for [the Complainant], who fears that her representation of her constituents has been compromised by Mr. Joyce's inappropriate behaviours and failure to respect the position that she holds and the responsibilities that are incumbent upon her, particularly as a Member of the House of Assembly for a rural district. While Mr. Joyce may adamantly deny that he refuses to speak to [the Complainant], he has not provided any evidence of any discussions since the October 2017 incident

Mr. Joyce, in fact, is well known for his glaring and intimidating behaviours in the House of Assembly, particularly toward female colleagues. The majority, if not all, of [the Complainant's] colleagues in Opposition have witnessed Mr. Joyce's antics. In fact, a change to a seating plan for the Spring 2018 sitting of the House of Assembly resulted in Mr. Joyce being seated directly opposite [the Complainant],

which increased her exposure and vulnerability to his continued intimidation tactics. Following Mr. Joyce's departure from the Liberal caucus, as an Independent Member, he would normally sit adjacent to [the Complainant], but Mr. Joyce was granted leave to depart from this protocol. [The Complainant] believes that, in granting such leave, the Speaker had seen certain of the bullying tactics displayed by Mr. Joyce to [the Complainant]; such bullying tactics would have also been apparent to House of Assembly staff on a regular basis.

- Factual Findings:

Again, the parties agree that there was an interaction between them on the floor of the HOA on October 19, 2017. Specifically, they agree that the Complainant approached MHA Joyce to ask about CEEP funding. The evidence of several witnesses is that MHA Joyce did not engage the Complainant in a discussion of the funding but instead told her to put her request in writing. MHA Joyce's response suggests the same. I accept their consistent evidence and find that this occurred.

I find that in response to this reply from MHA Joyce, the Complainant continued to reiterate her request. I find that MHA Joyce, at some point, stood to walk away from the Complainant. MHA Joyce, in response to another issue, acknowledges that he sometimes stands and walks away from people in order to avoid conflict. I find, again based largely on the consistent witness evidence, that the Complainant followed MHA Joyce and continued to make her request. Given the Complainant's own evidence about her inability to get in touch with MHA Joyce, I find that she would have been persistent in trying to get information from him directly on this occasion.

I find that MHA Joyce was frustrated by the Complainant's actions, based on both the nature of her actions and the evidence of two witnesses whose statements he provided and to whom I spoke. I believe that he would have reiterated to her his request for proof of her efforts to contact him as part of this interaction. This aligns with the evidence of Mr. Loveless, who said that after this incident MHA Joyce agreed to lay off making such comments. Based on the witness accounts of this incident, I do not find that MHA Joyce "heckled" the Complainant. Given his frustration following the interaction, as well as the evidence of MHA Kevin Parsons whom I found to be candid and fair in his evidence, I find that MHA Joyce gave the Complainant a negative look once both had returned their seats.

c) December 7, 2017

- The Complainant wrote:

This was the last day of HOA for the fall session. As is custom, most of us shake hands, some even hug, as we part ways until the Spring. On this day, Mr. Kevin Parsons the MHA for Cape St. Francis went over to shake Mr. Joyce's hand. No problem. Kevin, being a very nice person who does not like conflict, asked Mr. Joyce to shake my hand. He dug in his heels, loudly refused, and left. He came back for a few minutes, hurled some vitriol at me that I could not quite pick out but it shocked even his colleagues as they raised their eyebrows. Most found it "not nice", but would not repeat what he had said.

During her interview, the Complainant said that on December 7, MHA Kevin Parsons went over to shake MHA Joyce's hand and then he told MHA Joyce to shake the Complainant's hand. She said that MHA Joyce would not move and then went into a tirade after she had left, although she said that no one would tell her what was said.

The Complainant said that she could not quite hear what was said and did not remember it clearly, but noted that MHA Joyce was red in the face.

- MHA Joyce’s Response:

The Member admits he did not shake hands with the Complainant but denies that he “hurled some vitriol at [her] or loudly refused to shake her hand.”

- MHA Kevin Parsons’ Evidence:

MHA Parsons said that he gets along really well with MHA Joyce and can go to his office or call him with questions. MHA Parsons said that one day he could feel the tension between the Complainant and MHA Joyce and so he tried to ease the tension. He said that he went over to shake MHA Joyce’s hand at the end of session and then encouraged MHA Joyce to shake the Complainant’s hand.

MHA Parsons said, “And he went ballistic.” He said that MHA Joyce said that he was not shaking her hand, and wanted nothing to do with her. MHA Parsons said that he had only been joking at the time to ease the tension, but he said that MHA Joyce was not joking, and was serious about not shaking the Complainant’s hand.

- The Complainant’s Response:

Mr. Joyce ... has, in fact, admitted that he has refused to shake [the Complainant’s] hand (as per page 16 of his counsel’s correspondence) in the House of Assembly, at a time when he readily shook hands with at least one other Member of the Opposition, Mr. Kevin Parsons.

- Factual findings

MHA Joyce acknowledges that he declined to shake the Complainant’s hand and, accordingly, I find that he did so. Based on the evidence of MHA Parsons, whom I found credible as noted above, I find that MHA Joyce spoke angrily about not wanting to have anything to do with the Complainant to another MHA.

Code of Conduct

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

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

I found the following:

- MHA Joyce, on one occasion, declined to speak to the Complainant about funding and, when she persisted on asking, walked away from her. As a result of this interaction, MHA Joyce became frustrated, made reference to the Complainant needing to provide proof of previous statements, and looked at her in a negative manner once they had returned to their seats.
- MHA Joyce refused to shake the Complainant's hand and spoke negatively about interacting with her to her colleagues.

I do not conclude that either of these findings describes behaviour that would meet the definition of harassment.

The actions of MHA Joyce on October 18, 2017 are not objectionable to the degree required to support a finding of harassment. MHA Joyce responded to the Complainant when she approached him initially, whether she liked his response or not, and then he walked away from her in the face of persistent and repeated questions. That he looked at the Complainant following the incident in a manner that indicated his frustration with what had occurred is unfortunate, but not harassment. I do not find that his response to the Complainant was offensive or disproportionate to what he was experiencing in the moment.

MHA Joyce's refusal to shake the Complainant's hand and comment about wanting nothing to do with her were unpleasant and petty, but as a single incident I do not find his actions were sufficiently objectionable or offensive to amount to harassment within the definition noted above.

