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**HARASSMENT-FREE WORKPLACE POLICY
APPLICABLE TO COMPLAINTS AGAINST
MEMBERS OF THE HOUSE OF ASSEMBLY
Effective April 1, 2020**

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1.0 INTRODUCTION

The House of Assembly of Newfoundland and Labrador is committed to a safe and respectful work environment for Members and employees that is free from harassment, bullying and violence. It is everyone's responsibility to foster a healthy work environment; to promote a culture of civility; to demonstrate respect; and to recognize every person's right to be protected and supported.

The Harassment-Free Workplace Policy Applicable to Complaints Against Members of the House of Assembly (the Policy) is the result of recommendations from the Standing Committee on Privileges and Elections to the House of Assembly, which was mandated to complete this work by an Order of the House. The Committee worked diligently to develop a policy applicable to complaints against elected officials that creates a clear process; provides options for resolution; is complainant-driven; and protects confidentiality. The Policy is intended to create a cultural shift; foster a better work environment; and hold elected officials to the highest standard of behaviour.

2.0 APPLICATION

This policy applies to complaints of harassment **brought against** a Member of the House of Assembly (MHA) by:

- a) Another Member of the House of Assembly;
- b) An employee of the Legislative branch¹; or
- c) An employee of the Executive branch².

¹ This means employees of the House of Assembly Service and Statutory Offices; constituency assistants of MHAs; political support employees in the caucus offices; and political support employees of independent MHAs.

² This means employees (including political support employees) of a department created under the *Executive Council Act*, or a branch of the Executive government of the Province; executive assistants of Ministers; and political support employees in the Premier's Office.

The **policy applies** to **interactions** that an **MHA** has with other **MHAs and employees** in the context of carrying out that MHA's **duties as an elected official**.

While it is recommended that the spirit and intent of this Policy be observed during debate, **parliamentary precedents, traditions, and the Standing Orders apply to proceedings in the House of Assembly and its Standing and Select Committees.**

3.0 HARASSMENT

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

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

Forms of **harassment** include:

- **Abuse of authority** – harassment that occurs through a use of authority serving no legitimate work purpose.
- **Discriminatory harassment** – harassment that is based on an actual or perceived prohibited ground of discrimination as outlined in the *Human Rights Act, 2010*, such as race, colour, nationality, ethnic origin, social origin, religious creed, religion, age, disability, disfigurement, sex, sexual orientation, gender identity, gender expression, marital status, family status, source of income, or political opinion.
- **Sexual harassment** – harassment which is gender-based or of a sexual nature.
- **Bullying** – a repeated pattern of abuse or mistreatment aimed at a specific person or group, including by electronic means.

4.0 DEFINITIONS

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

Complainant – any Member of the House of Assembly or employee who has filed a complaint under the Policy alleging harassment or bullying.

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

Employee – an employee of the Province of Newfoundland and Labrador as follows:

- a) Legislative Branch – employees of the House of Assembly Service and Statutory Offices; constituency assistants of MHAs; political support employees in the caucus offices; and political support employees of independent MHAs.
- b) Executive Branch – employees (including political support employees) of a department created under the *Executive Council Act*, or a branch of the Executive government of the Province; executive assistants of Ministers; and political support employees in the Premier’s Office.

Exceptional circumstance – circumstances beyond the control of the Intake Officer, the Citizens’ Representative, the Standing Committee on Privileges and Elections, and/or the Speaker, as the case may be, which affect their ability to comply with timelines outlined in the Policy.

Independent support advisor – a position independent of and external to the Legislature and its statutory offices, including the Office of the Citizens’ Representative, that is responsible for providing support, advice, and guidance to individuals involved in dealing with and resolving issues of harassment.

Intake officer – the position dedicated within the Office of the Citizens’ Representative that is the main point of contact for filing complaints of harassment under the Policy.

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

Member of the House of Assembly (MHA) – an individual elected (pursuant to the *Elections Act, 1991*) to one of the 40 seats established in the *House of Assembly Act*.

Parties – the complainant(s) and respondent(s) to a complaint.

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

Respondent – any Member of the House of Assembly against whom allegations of harassment are made under the Policy.

Reprisal/retaliation – any negative or inappropriate action taken against an employee or a Member of the House of Assembly as a result of an allegation of harassment, the filing of a complaint, or any participation in a resolution mechanism under the Policy.

5.0 RESPONSIBILITIES

5.1 Members of the House of Assembly & Employees

It is the responsibility of all Members of the House of Assembly and employees to:

- Act respectfully in dealings with all Members of the House of Assembly and employees;
- Respect the diversity brought to the workplace by others;
- Challenge inappropriate behaviour/objectionable conduct when it happens and refuse to participate in that behaviour;
- Report inappropriate behaviour/objectionable conduct to someone in authority;
- Be aware of the Policy for preventing and addressing harassment;
- Cooperate and share openly and honestly in investigations; and
- Respect the confidentiality of all processes under the Policy.

5.2 Caucuses

It is the responsibility of all Caucuses to:

- Monitor the caucus and watch for signs that harassment may be taking place;
- Encourage early and open dialogue before inappropriate behaviour escalates;
- Address instances of inappropriate behaviour that may occur in the caucus as soon as they are known, even in the absence of a complaint;
- Ensure all Members and employees of the caucus act appropriately in the context of harassment situations;
- Ensure Members and employees of the caucus are aware of the Policy for preventing and addressing harassment;
- Monitor situations where complaints have been made, including after corrective measures have been taken;
- Ensure Members and/or employees of the caucus are not subject to retaliation for their involvement in a process under the Policy; and
- Respect the confidentiality of all processes under the Policy.

5.3 Speaker of the House of Assembly

It is the responsibility of the Speaker of the House of Assembly to:

- Lead by example in promoting and fostering a respectful workplace for all Members of the House of Assembly and employees of the Legislature;
- Ensure all Members of the House of Assembly and employees of the Legislature are aware of the Policy for preventing and addressing harassment;
- Ensure applicable mandatory training as outlined in Section 15.0 is developed and delivered to all Members of the House of Assembly;
- Coordinate the attendance of Members of the House of Assembly at mandatory training;
- Notify the Citizens' Representative of any decision voted on in the House of Assembly under the Policy; and
- Respect the confidentiality of all processes under the Policy.

5.4 Independent Support Advisor

It is the responsibility of the Independent Support Advisor to:

- Support, advise, and guide individuals in dealing with and resolving issues of harassment;
- Provide advice and guidance to individuals on navigating the process and the options available;
- Counsel individuals in understanding and dealing with their feelings and concerns as they deliberate on the course of action best suited to them;
- Work to increase the comfort level of individuals as they navigate, deal, and cope with harassment issues; and
- Respect the confidentiality of all processes under the Policy.

5.5 Intake Officer (Office of the Citizens' Representative)

It is the responsibility of the Intake Officer to:

- Receive harassment complaints from Members of the House of Assembly and employees;
- Assist the Citizens' Representative in reviewing complaints and identifying whether allegations are within scope of the Policy;
- Advise complainants, making use of specialized skills, knowledge, and training, on the process and the options available (informal and formal) to address harassment complaints;
- Confirm, in writing, to the complainant the option selected to address his/her complaint;
- Advise the respondent of the complaint and outline the resolution process;
- Advise any party or witness related to a complaint on matters pertaining to the Policy;
- Coordinate aspects of the informal resolution process when informal resolution has been selected to deal with a complaint of harassment;
- Notify the Citizens' Representative when formal resolution (investigation) has been selected by the complainant;
- Maintain records of all harassment complaints and track progress through to resolution/conclusion; and
- Respect the confidentiality of all processes under the Policy.

5.6 Citizens' Representative

It is the responsibility of the Citizens' Representative to:

- Identify and retain the services required to establish the position of Independent Support Advisor;
- Oversee the work of the Intake Officer, and ensure the incumbent has the necessary skills, knowledge, and training to receive and provide advice on complaints of harassment;
- Review complaints with the Intake Officer to identify whether allegations are within scope of the Policy;
- Conduct investigations if/when a complaint proceeds to the formal resolution stage. In that regard, the Citizens' Representative has a responsibility to:
 - Inform the complainant, respondent, witnesses, and support persons of the process that will be followed and their roles in the investigation, including the process for disclosure of statements/evidence in accordance with the principles of procedural fairness;
 - Conduct the investigation in a fair and impartial manner;
 - Respect confidentiality at all times;
 - Interview the parties and witnesses and prepare written statements;
 - Review all statements and evidence collected in the investigation;
 - Prepare an investigative report that provides an analysis of the evidence gathered and findings as to whether harassment has occurred in accordance with the Policy;
 - Provide written notification to the complainant and respondent on the status of the investigation processes throughout the course of the investigation.
- Submit the final investigative report to the Standing Committee on Privileges and Elections, and be available to that Committee as necessary to discuss the report and its findings;
- Notify the complainant of any decision voted on in the House of Assembly under the Policy;
- Develop and administer documentation to support the Policy;
- Provide interpretation and guidance regarding the Policy;
- Act as a subject matter resource for the development of orientation, training, and information programs with respect to the policy; and
- Respect the confidentiality of all processes under the Policy.

5.7 Standing Committee on Privileges and Elections

It is the responsibility of the Standing Committee on Privileges and Elections to:

- Receive investigative reports from the Citizens' Representative;
- Review investigative reports and findings, and determine a recommendation for sanction (if applicable) against the respondent MHA;
- Prepare a report for the House of Assembly outlining the recommended sanction of the respondent MHA (if applicable), and any details of the final investigative report to provide rationale for the recommendation. **Note: While the respondent MHA will be named, the identity of the complainant and witnesses will not be disclosed in the report to the House of Assembly – see Section 9.2 for further details.**
- Provide an opportunity for the complainant and/or respondent to be heard by the Committee with respect to a recommendation for sanction;
- Table the report in the House of Assembly and provide notice of the proposed motion in the report with respect to a sanction recommendation (through the Chair);
- Conduct a review of the Harassment-Free Workplace Policy Applicable to Complaints Against Members of the House of Assembly once each general assembly (or as necessary), and make recommendations to the House of Assembly on revisions to the Policy as required; and
- Respect the confidentiality of all processes under the Policy.

6.0 RIGHTS & RESPONSIBILITIES – COMPLAINANTS, RESPONDENTS & WITNESSES

6.1 Complainants

Complainants have the **right** to:

- Access confidential support/advice through the Independent Support Advisor;
- Make a complaint under the Policy;
- Be notified of their options for resolution of the complaint;
- Be accompanied by a support person of choice (at own expense) during interview(s), provided the person is not a witness to the complaint, and provided the person selected is not in a potential conflict of interest position by virtue of involvement;
- Not be identified in the final report of the Standing Committee on Privileges and Elections to the House of Assembly; and
- Not be subject to retaliation for the reason of having made a complaint under the Policy.

It is the **responsibility** of Complainants to:

- Submit a complaint within 6 months following the last incident;
- Follow all requirements of the Policy;
- Cooperate with all those responsible for dealing with the informal resolution and/or investigation of the complaint; and
- Respect the confidentiality of all processes under the Policy.

6.2 Respondents

Respondents have the **right** to:

- Access confidential support/advice through the Independent Support Advisor;
- Be informed that a complaint has been filed and by whom;
- Be presented with the complaint and be afforded an opportunity to respond; and

- Be accompanied by a support person of choice (at own expense) during interview(s), provided the person is not a witness to the complaint, and provided the person selected is not in a potential conflict of interest position by virtue of involvement.

It is the **responsibility** of Respondents to:

- Follow all requirements of the Policy;
- Cooperate with all those responsible for dealing with the informal resolution and/or investigation of the complaint; and
- Respect the confidentiality of all processes under the Policy.

6.3 Witnesses

Witnesses have the **right** to:

- Access confidential support/advice through the Independent Support Advisor;
- Be accompanied by a support person of choice (at own expense) during interview(s), provided the person is not a witness to the complaint, and provided the person selected is not in a potential conflict of interest position by virtue of the person's involvement;
- Not be identified in the final report of the Standing Committee on Privileges and Elections to the House of Assembly; and
- Receive a copy of their statement only.

It is the responsibility of **Witnesses** to:

- Follow all requirements of the Policy; and
- Respect the confidentiality of all processes under the Policy.

7.0 SUPPORT

A position of Independent Support Advisor will be established, which is external to and independent of the Legislature and its Statutory Offices, including the Office of the Citizens' Representative.

This position does not receive formal complaints, but can provide advice, support, and guidance to individuals on navigating the process and the options available; and also in understanding and dealing with their feelings and concerns as they deliberate on the course of action best suited to them. The primary intent of this position is to increase the comfort level of complainants and other individuals as they navigate, deal, and cope with harassment issues.

8.0 COMPLAINTS

8.1 Submitting a Complaint

A Member of the House of Assembly or employee may contact the Intake Officer of the Office of the Citizens' Representative with respect to allegations of harassment. Contact with the Intake Officer does not mean that a formal complaint must be filed at that point (i.e. individuals may ask questions with respect to the process and options available, and seek advice on a particular situation before making a decision to proceed with a formal complaint under the Policy). No detailed records related to inquiries are captured, only a record for statistical purposes to track number of inquiries made.

If a Member or employee wishes to proceed with a formal complaint:

1. The complaint should be filed as soon as possible, but must be filed **no later than 6 months** after the **last incident of alleged harassment**; and
2. The complaint **must be in writing**, and include the following:
 - Signature of the complainant;
 - A description of the nature of the alleged harassment and the identity of the respondent; and

- Detailed information including, but not limited to, time, date, and location of alleged harassment, and identification of any witnesses.

8.2 Anonymous Complaints

Anonymous complaints will not be addressed under the Policy. Anonymity cannot be granted when complaints are filed, as respondents have the right to know and to respond to any allegations that have been made against them.

8.3 Bystander Complaints

Individuals who witness behaviour that contravenes the Policy have a responsibility to take appropriate action and report the behaviour to someone in authority. A bystander who reports behaviour which contravenes the Policy will not be considered as a Complainant. However, he or she may be interviewed as a witness in the event that there is an investigation into the concerns raised.

A bystander can report alleged harassment by contacting the Intake Officer of the Office of the Citizens' Representative to submit a bystander complaint. Where a bystander complaint is received under the Policy, the Intake Officer will contact the subject of the alleged harassment to discuss the bystander complaint, and offer to meet to discuss options for resolution under the Policy. If the subject of alleged harassment wishes to explore resolution options under the Policy, the process for submitting a personal complaint (as outlined in section 8.1) must be followed by the subject.

8.4 Complaint Process

The following outlines the steps and associated timelines once a formal complaint has been submitted under the Policy. Should **delays in the process** be unavoidable **due to exceptional circumstances** (as defined in the Policy), the complainant and respondent will be advised in writing by the Intake Officer or Speaker (as the case may be) of the reasons for the delay and the impact on the required timelines.

Step	Timelines
Intake Officer to determine, in consultation with the Citizens' Representative, whether the complaint falls within the scope of the Policy.	Upon receipt of complaint.
Intake Officer to acknowledge complaint (in writing), and schedule meeting with complainant to review resolution options under the Policy. Note: Following this meeting, written communication will be sent to the complainant to reiterate these options and confirm the option that has been selected for resolution of the complaint.	5 days following receipt of complaint.
Intake Officer to provide written notification of the complaint to the respondent, including the name of the complainant. A meeting with the respondent is also scheduled to review the complaint and outline the resolution process selected by the complainant.	5 days following meeting with complainant.
Intake Officer to notify the Speaker of the House of Assembly that a complaint has been filed under the Policy. Note: The Speaker will be provided with the name of both the complainant and respondent, but no other details of the complaint.	5 days following notification to complainant and respondent.
Speaker of the House of Assembly to notify the following of the complaint (the name of both the complainant and respondent will be provided, but no other details): <ul style="list-style-type: none"> – Leader of the caucus to which the complainant is affiliated, if any (if the complainant is an MHA). If the complainant is the Leader of a Caucus, notification is given to the caucus House Leader; OR – Clerk of the House of Assembly, if the complainant is an employee of the Legislative Branch; OR 	5 days following receipt of notification from the Intake Officer.

Step	Timelines
<ul style="list-style-type: none"> – Clerk of the Executive Council, if the complainant is an employee of the Executive Branch; AND – Leader of the caucus to which the respondent MHA is affiliated. If the respondent is the Leader of a Caucus, notification is given to the caucus House Leader. <p>Note: As outlined in Section 10.0, while confidentiality must be respected to the extent possible, there may be circumstances where a Caucus Leader and/or Clerk will be required to disclose limited information, if necessary, to arrange any special accommodations (e.g. alternate work assignments, alternate seating/office arrangements, etc.) that may be required for complainants and/or respondents.</p>	

8.5 False Allegations

Accusations that are found to involve a falsehood, malicious intent, or made in bad faith will not be tolerated and will be considered a violation of the Policy. A complaint will not be deemed to be false, malicious, or made in bad faith solely because it is unfounded.

Members of the House of Assembly who have made such accusations may be subject to appropriate disciplinary action. If it is determined by the Citizens’ Representative that a false accusation has been made by an MHA, the Citizens’ Representative will notify the Standing Committee on Privileges and Elections, who will review the matter and recommend any sanctions (if necessary) available to the House of Assembly to be brought forward to the House for debate and vote.

Employees who have made such accusations may be subject to appropriate disciplinary action. If it is determined by the Citizens’ Representative that a false accusation has been made by an employee, the Citizens’ Representative will notify either the Clerk of the House of Assembly (if the employee is from the Legislative Branch) or the Clerk of the Executive Council (if the employee is from the Executive Branch). Human Resources and the employee’s supervisor/manager will be engaged to determine appropriate disciplinary action (if necessary) by the employer.

9.0 RESOLUTION PROCESS

Complainants can choose to resolve their complaint through informal or formal resolution options. Informal resolution refers to mechanisms by which complaints can be resolved by means other than investigation, such as self-resolution, facilitated discussions, or mediation. Formal resolution refers to the investigative process which involves an impartial investigator (Citizens' Representative) determining whether there has been a breach of the Policy. **Selection of the formal resolution option does not preclude complainants from later deciding to pursue informal resolution or vice versa.**

9.1 Informal Resolution

There are several options available for informal resolution as follows **(the informal resolution process will be coordinated by the Intake Officer through engagement of external expertise):**

- **Individual Intervention:** The complainant may choose to approach the respondent, either in person or in writing, to advise that the respondent's behaviour is objectionable and unwelcome and request that the behaviour cease. The matter may be resolved at this point and no further action required.
- **Facilitated Discussions:** These are typically less formal and less structured than mediation, but provides a safe environment for a constructive conversation. The process is conducted by an impartial facilitator who assists the complainant and respondent in reaching a resolution in a respectful manner. The facilitator will first meet individually with each person involved to assess readiness and provide information on the process. If deemed appropriate, a facilitated discussion will be scheduled.
- **Mediation:** The mediation process is conducted by an impartial mediator who assists the complainant and respondent in reaching a resolution in a respectful manner. The mediator will first meet individually with each person involved to assess readiness and provide information on the mediation process. If deemed appropriate, mediation will be scheduled.

Once the informal resolution option has been selected by the complainant, the process **must be initiated by the Intake Officer within 15 days**. Timelines for the informal resolution process will **vary by situation** (determined by experts involved in consultation with the complainant and respondent).

9.2 Formal Resolution (Investigation)

The complainant may choose to pursue resolution through a formal investigation, which involves an impartial/independent investigator (the Citizens' Representative) determining whether there has been a breach of the Policy. The investigator will ensure that the **right to procedural fairness** of all persons involved in an investigation is respected, including the complainant, witnesses, and respondent.

Once investigation has been chosen as a resolution option by the complainant, the investigation **must be commenced within 5 days**, and **completed within 90 days** (i.e. investigative report presented to the Standing Committee on Privileges and Elections).

Should **delays in the process** be unavoidable due to **exceptional circumstances** (as defined in the Policy), the complainant and/or respondent will be **advised in writing** by the Citizens' Representative of the reasons for the delay and the **impact on the required timelines**.

Suspension of Investigation

The investigator is not required to investigate a complaint, and may cease an investigation where the investigator is of the opinion that:

- a) the complaint reveals allegations that are frivolous or vexatious, or the complaint has not been made in good faith;
- b) the complaint does not provide adequate particulars about the alleged harassment as required under Section 8.0 of the Policy; or
- c) there is another valid reason for not investigating the complaint.

9.3 Referral of Final Investigative Report to Privileges and Elections Committee

Once the final investigative report is completed, the Citizens' Representative refers it to the Standing Committee on Privileges and Elections (PEC).

In the event the complainant or respondent is a member of the PEC, the Citizens' Representative will notify the Speaker, who in turn will notify the Government House Leader requesting the Committee member (who is either the complainant or respondent) be replaced with another Member of the House of Assembly within 5 days. The replacement is for the purpose of dealing with the report only.

The final investigative report of the Citizens’ Representative is a report prepared for a Committee of the House. Parliamentary privilege extends to Committees of the House; therefore releasing the final investigative report publically by any individual provided with a copy of the report in accordance with the Policy may be considered a violation of that privilege.

The following outlines the steps and associated timelines of the Committee in reviewing the final investigative report. Should **delays in the process** be unavoidable **due to exceptional circumstances** (as defined in the Policy), the complainant and respondent will be **advised in writing** by the Committee Chair of the reasons for the delay and the **impact on the required timelines**.

Step	Timelines
Chair sets initial meeting date for the Committee to review investigative report. Note: meeting(s) will be held <i>in camera</i>.	Initial meeting must be held within 30 days following receipt of final investigative report by Chair (or within 30 days of a substitution if the complainant or respondent is a member of the Committee).
The Committee (through the Chair), contacts the complainant and respondent, inviting them to appear in person before the Committee and/or provide a written submission on an appropriate sanction (if any), further to the findings outlined in the final investigative report. Note: Complainant and respondent may be accompanied by a support person (at own expense).	Chair to contact complainant and respondent (in writing) within 10 days of receipt of final investigative report. Complainant and respondent to notify the Committee (in writing, through the Chair) of their intention to appear or provide written submission within 10 days of notification from Chair.

Step	Timelines
<p>The Committee reviews final investigative report; hears from complainant and/or respondent (if required); and recommends any sanctions (if necessary) available to the House of Assembly of Newfoundland and Labrador to address its findings. A report is prepared to be referred to the House of Assembly which includes:</p> <ol style="list-style-type: none"> 1. Name of the respondent Member; 2. A recommendation with respect to sanctions (if any); 3. A summary of the reasons for any conclusions or recommendations; 4. A motion prepared in accordance with the Standing Orders of the House of Assembly that outlines the recommendation of the Committee for consideration of the House of Assembly. <p>NOTE: The report to the House of Assembly will not disclose the identity (or any identifying information) of the complainant or witnesses in the process.</p>	<p>Within 90 days following receipt of final investigative report by Chair.</p>
<p>The Committee provides a copy of their report to the House to the complainant and respondent.</p> <p>Note: The report is privileged and the complainant and respondent <u>MUST</u> keep it confidential until it is tabled in the House of Assembly.</p>	<p>Within 5 days following completion of Committee’s report to the House of Assembly.</p>

9.4 Referral to House of Assembly

Once the final report of the Standing Committee on Privileges and Elections is ready for presentation to the House of Assembly, the Chair tables the report and gives notice of the proposed motion in the report. If the House is sitting, the report **must be tabled and notice of the motion given within 5 days**. If the House is not sitting, it **must be tabled and notice of motion given within 5 days of the beginning of the next sitting**.

Once notice of the motion is given, the House must deal with/dispose of the matter **within six months**.

Statements in debate regarding a matter related to the Policy **must respect the confidentiality of processes** under the Policy, as well as the **privacy of the complainant and witnesses**.

Once the House of Assembly has voted on a matter related to the Policy, the Speaker of the House of Assembly shall immediately notify the Citizens' Representative who will then notify the complainant and respondent of the decision of the House.

10.0 CONFIDENTIALITY

Respect for privacy is an important aspect of a respectful work environment, and any person directly or indirectly involved in a situation governed by this Policy must adhere to the principle of confidentiality.

However, the obligation to maintain confidentiality to which the Policy refers is not absolute. For example:

- People with responsibility for processing the files may disclose information if necessary in that context and in accordance with the provisions of the Policy; and
- Complainants, respondents, and witnesses called as part of the complaint process have the right to consult the support person of their choice. Although disclosure is permitted under the Policy, it must occur with the greatest possible discretion, respect, and without unjustly tarnishing people's reputations.

Information about a complaint, including the identities of the complainant, respondent, and witnesses, must be kept confidential by all parties, including those involved in the complaint process. **The complainant, respondent, and witnesses must sign a confidentiality agreement at the beginning of the process.**

The final investigative report of the Citizens' Representative is a report prepared for a Committee of the House. Committees of the House are subject to parliamentary privilege; therefore releasing the final investigative report publically by any individual provided with a copy of the report in accordance with the Policy may be considered a violation of that privilege.

The final report of the Standing Committee on Privileges and Elections to the House of Assembly is also subject to parliamentary privilege; therefore releasing the final report publically before it is tabled in the House may be considered a violation of that privilege.

10.1 Breaches in Confidentiality

Members of the House of Assembly and employees who breach confidentiality throughout a process under the Policy may be subject to disciplinary action.

If it is determined that confidentiality has been breached by an MHA during the investigation process, the Citizens' Representative will immediately notify the Standing Committee on Privileges and Elections. If it is determined that confidentiality has been breached by an MHA during another process under the Policy, it should be brought to the attention of the Speaker of the House of Assembly, who will immediately notify the Standing Committee on Privileges and Elections. In either case, the Committee will review the matter and recommend any sanction (if necessary) available to the House of Assembly to be brought forward in a report to the House for debate and vote.

If it is determined that confidentiality has been breached by an employee during the investigation process, the Citizens' Representative will immediately notify either the Clerk of the House of Assembly (if the employee is from the Legislative Branch); or Clerk of the Executive Council (if the employee is from the Executive Branch). If it is determined that confidentiality has been breached by an employee during another process under the Policy, it should be brought to the attention of the Speaker of the House of Assembly, who will immediately notify either the Clerk of the House of Assembly or the Clerk of the Executive Council. The applicable Clerk will engage human Resources and the employee's supervisor/manager to review the matter and determine appropriate disciplinary action (if necessary) for the employee.

11.0 REPRISAL/RETALIATION

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

12.0 REPRESENTATION

12.1 Support Person

Complainants, respondents, and witnesses may be accompanied by a support person of their choice when attending meetings regarding a complaint (at own expense), provided the person is not a witness to the complaint, and provided the person selected is not in a potential conflict of interest position by virtue of involvement.

The support person shall not interfere with the proceedings in any way, as his/her primary role is to provide support and guidance to the person being interviewed. Support persons must also comply with the confidentiality requirements of the Policy.

12.2 Legal Costs

Any reimbursement of legal expenses for Members of the House of Assembly and employees of the Legislative Branch under this Policy is subject to a policy decision of the House of Assembly Management Commission. Any reimbursement of legal expenses for employees of the Executive branch under this Policy is subject to a policy decision of Treasury Board.

13.0 EFFECT OF DISSOLUTION & RESIGNATION

The processes outlined in the Policy may be impacted by the resignation of a Member and/or the dissolution of the Legislature, as follows:

- If the complainant's seat (if the complainant is an MHA) becomes vacant as a result of resignation or dissolution, there is no impact on the resolution process (sanctions, if any, can still be imposed as the respondent is still an MHA).
- If a respondent's seat becomes vacant as a result of resignation or dissolution, the Committee's report to the House of Assembly will only report on what the sanction recommendation would have been if the respondent was still an MHA (the

recommendation cannot be voted on or enforced by the House as the respondent is no longer a Member).

Any of the procedural steps of the Policy may be postponed during a period of dissolution at the discretion of the Citizens' Representative. The Chair of the Standing Committee on Privileges and Elections cannot be presented with an investigative report during a period of dissolution. Dissolution will not affect the standing of any case under the Policy if the respondent is re-elected to the House of Assembly.

If a complainant who is an employee resigns/leaves prior to conclusion of the resolution process, it will not affect the standing of any case under the Policy if the respondent is still a Member.

14.0 RESTORING THE WORK ENVIRONMENT

When allegations of harassment are made, all efforts must be taken to re-establish a respectful and productive work environment. Early engagement in the restoration process is an important responsibility of management and/or leadership within a respective caucus. Restoring the workplace will also require cooperation of Members of the House of Assembly and employees. Management and/or caucus leadership may consult with the Office of the Citizens' Representative regarding appropriate actions, which may vary dependent on specific circumstances and could include interim measures pending resolution of a complaint. Resources will be made available should it be deemed that professional expertise is required to provide group/team support and intervention.

15.0 TRAINING

15.1 Members of the House of Assembly

All Members of the House of Assembly are required to complete **mandatory respectful workplace training**, which includes such elements as:

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

- Supportive communication;
- Conflict management;
- Stress management;
- Team building;
- Power and influence management.

The training is to be developed and delivered by expertise that is external to the Legislature (including its Statutory Offices) and the provincial government; and can be up to **three (3) days** in length. It must be completed by all **MHAs elected** to the House of Assembly for the **first time within 6 months of election**. All Members who have **previously completed the training** will be required to complete refresher training **once each general assembly**.

In addition to the respectful workplace training noted above, **mandatory training** on the Harassment-Free Workplace Policy Applicable to Complaints Against Members of the House of Assembly will be delivered to all MHAs as part of the orientation and training following a general election or by-election.

The Speaker of the House of Assembly will be responsible for coordinating the delivery of all mandatory training for MHAs under the Policy.

15.2 Employees

Respectful workplace training for employees can be arranged through the Respectful Workplace Division, Public Service Commission.

Training for employees on this Policy and its processes can be arranged by contacting the Speaker of the House of Assembly.

16.0 ACCOUNTABILITY

All Members of the House of Assembly will be required to **annually sign a declaration** confirming they have **read and understood the provisions of this Policy**. The declaration form must be submitted to the Clerk of the House of Assembly by **January 31 of each year**.

17.0 REVIEW OF POLICY

Once in each general assembly (or as required), the Standing Committee on Privileges and Elections will review this Policy and its processes, and make any recommendations (as necessary) for amendments.

Recommendations of the Committee will be brought forward in a report to the House of Assembly for debate and vote.

18.0 EFFECTIVE DATE

This Policy and its related processes will come into effect on April 1, 2020.