



DEPARTMENT OF FINANCE

HARASSMENT FREE WORKPLACE POLICY

POLICY STATEMENT

The Government of Nunavut (GN) endeavors to provide a workplace free from all forms of harassment.

The GN is committed to the guiding principles of Inuuqatigiitsiarniq, reinforcing the Inuit value of respecting others, relationships and caring for people

PRINCIPLES

This policy is guided by the following values and principles:

- Ujjiqsuittiarniq – Public service employees must perform their work in a courteous and conscientious manner and be respectful of the needs and values of co-workers.
- Qanuqtuurungnarniq - The concept of being resourceful to solve problems, through innovative and creative use of resources and demonstrating adaptability and flexibility in response to a rapidly changing world, are strengths all should develop.
- Harassment is a serious violation, which will provide grounds for disciplinary action up to and including dismissal.
- All harassment complaints shall be dealt with in a fair, confidential and expeditious manner.
- The GN shall actively promote an atmosphere of mutual respect, fairness and concern, and provide a framework for responding to harassment complaints through a consistent harassment policy with procedural directives documented in the Human Resources Manual (HRM).
- The Department of Finance shall provide departments and public agencies with the appropriate tools or materials, procedures, advice and training for maintaining a program for a harassment free workplace.

APPLICATION

This policy applies to all employees of the Government of Nunavut and public bodies.

The policy covers all forms of harassment that detrimentally affect the work environment or lead to adverse job-related consequences for the victims of the harassment. Further details regarding application of the policy and guidelines for the resolution of complaints are contained in *Directive 1010 of the HRM*.

DEFINITIONS

Workplace Harassment is defined as including inappropriate comment or conduct based on a prohibited ground listed in the *Human Rights Act* (Nunavut) that is known or ought reasonably to be known to be unwelcome, sexual, and or personal harassment. The prohibited grounds set out in the Act are: race, colour, creed, religion, sex, sexual orientation, age, disability, ancestry, ethnic origin, place of origin, citizenship, marital status, family status, pregnancy, lawful source of income, and a conviction for which a pardon has been granted.

Any verbal, physical, communicated or otherwise perpetrated incident of harassment towards another is magnified greatly and potentially has a greater probability of being a criminal offense for additional grounds when that incident also is a violation of a human rights ground.

In most cases more than one act or comment is needed in order to constitute harassment. Taken individually, this act or comment need not constitute harassment. It is the repetition in such cases that constitutes the harassment. Each act or comment, when viewed individually, may seem minor or inoffensive; it is the synergy and repetitive characteristic of the behaviours that produce harmful effects. However, a single incident *can* constitute harassment when it is demonstrated that it is severe and has an important and lasting effect on the complainant.

The legitimate and proper exercise of management's authority or responsibility does not constitute harassment. A manager may provide regular feedback regarding performance, and take fair and adequate measures to rectify performance and or attendance issues. Such measures will not typically constitute harassment. Similarly, disciplinary measures that are fair and proportionate and are taken in response to wrongdoing by an employee will not typically constitute harassment.

Sexual Harassment is any unwelcome conduct of a sexual nature that detrimentally affects the work environment or leads to adverse job-related consequences for the victim of the harassment. This can be physical contact, verbal comments, or non-verbal actions. A person behaving in such a way may sometimes consider it good natured behaviour, but it is harassment if the person on the receiving end considers it unwelcome. Examples of sexual harassment can include not welcome social invitations with sexual overtones or combined

with flirtatious behaviour and showing or sending sexist, racist, or offensive text or images.

Personal Harassment is not based on any of the prohibited grounds under the human rights legislation. It is a form of behaviour that demeans or embarrasses a person. Personal harassment can occur between individuals and groups of employees. It includes workplace bullying which is a pattern of behaviour that is intended to intimidate, offend, degrade or humiliate a particular person or group of people¹. Examples of personal harassment can include intimidation, threats, violence and aggression such as a near miss (striking out, but missing the target), or retaliation and rude or degrading remark such as an insulting description of a person's physical appearance and or health condition.

Harassment creates for those affected a hostile and abusive or poisoned work environment.

Personal harassment does not include an isolated incident of a minor nature for which a person has promptly apologized; strongly expressed opinions that are different from others; or free and frank discussion about issues or concerns in the workplace without personal insults.

It is recognized that conflict occurs in the workplace from time-to-time. To re-establish positive working relationships, conflict situations must be promptly addressed and resolved.

Conflict in the workplace can include private verbal disagreements and yelling and shouting. It can result from personality differences or from a lack of communication skills, including the inability to understand different points of view.

Conflict and harassment are not synonymous terms. Workplace conflict and harassment may exist independently, together, or one can lead to the other. The exact nature of each situation will depend upon its own facts and circumstances.²

Workplace conflict will be addressed through *Directive 1018 of the HRM*.

A Complaint is a formal allegation of harassment, submitted in writing. Although timeliness is encouraged, a harassment complaint may be filed up to six (6) months after the last alleged incident of harassment occurred. This policy only applies to harassment perpetrated by individuals employed by the GN. Personal service contractors however must comply with this policy and *Directive 1010 of the HRM* as well as a condition of their contract. When the harassment is

¹OSHA Answers, *Bullying in the Workplace*, online: Canadian Centre for Occupational Health and Safety <http://www.ccohs.ca/oshanswers/psychosocial/bullying.html>.

² Canada, Canadian Forces Personnel Support Agency, *Harassment Prevention and Resolution Guidelines*, (2006) 6.

perpetrated by other individuals outside of the employment of GN, the GN shall, where applicable:

- Support an employee who has been subjected to such harassment through a referral to the RCMP when an action of a criminal nature occurred.
- Make a formal complaint to a third party organization where one of its agents perpetrated the alleged harassment in the workplace or while the employee was performing their work duties.

Workplace conflict complaints will be addressed through *Directive 1018 of the HRM*.

Malicious or bad faith complaint means a complaint made under this policy that the person making the complaint knew was untrue. Such an untrue complaint would be a violation under this policy. The insufficiency of evidence to prove a complaint does not mean that the complaint was submitted in bad faith. A person, who submits a complaint in good faith, even where the complaint cannot be proven, has not violated this policy.

Mediation is an informal process aimed at resolving disputes between two parties with the help of an independent, impartial, and respected third party. Unlike an arbitrator the mediator has no power to force acceptance of his or her decision but relies on persuasion to reach an agreement.

PROVISIONS

- The GN will work toward the prevention of any conduct in the workplace that violates the fundamental rights, personal dignity and integrity of any person subjected to such conduct;
- The GN will provide information to managers and employees regarding the prevention of harassment in the workplace;
- The GN will provide direction for handling complaints of harassment;
- The Department of Finance shall promote harassment free workplace training materials that will be available for public service employees. Training will be periodically offered by the Department of Finance to departmental and public body representatives who can then deliver training to their staff. The Department may also reach agreements with the Union or Association to offer training individually or in partnership.

ROLES AND RESPONSIBILITIES

The Government of Nunavut (employer) has an obligation to create a harassment free workplace. The employer will put in place the processes aimed at the prevention of harassment in the workplace.

Where, despite all preventive steps, harassment occurs, the employer will allow for support for the complainant and take disciplinary measures against the harasser. Where the harassment is minor, such measures may include referral for counseling or other measures aimed at preventing a recurrence of the associated behaviours.

Secretary to Cabinet shall receive any complaint which relates to a deputy head.

Deputy Heads are responsible for keeping the workplace free of harassment and for appropriate intervention should harassment be alleged.

Management will act promptly to resolve harassment complaints and strive to maintain a harassment free workplace.

Finance Department will assist departments and public agencies upon request in assessing harassment complaints and educate departmental and public agency representatives on maintaining a harassment free workplace.

A Complainant Alleging Harassment must inform the harasser of the unwelcome conduct and where they perceive it would be safe to do so request that it stop. Witnesses and details of events shall be documented.

Anyone (manager/supervisor or employee) alleging or being accused of harassment should, if able, record conversations, identify dates of occurrences, provide details and witnesses and provide evidence supporting the harassment complaint. However the duty to provide a harassment free workplace resides with the employer, along with the duty to investigate and seek out evidence.

Human Resource Managers or designate inform employees and managers of their rights and responsibilities under these guidelines. In addition they may assist employees with the filing of a complaint. The deputy head will receive a copy of all complaints upon their initiation. Alleged harassers who feel they have been unfairly accused can also submit a complaint.

If the harassment complaint is minor and resolution can be accommodated then a Human Resources Manager or designate may suggest a meeting with the victim, alleged harasser and related supervisor to see if a resolution can be reached.

If the incident is serious but the victim wants to resolve the issue informally and the harasser also is in agreement with this approach then the matter will be referred to an investigator who will identify if the issue can potentially be resolved through a mediator or if it necessary to discipline the harasser. The mediator will inform the Human Resources Manager or designate if resolution has been achieved.

An incident of criminal wrongdoing will be referred to the RCMP. The investigator will make their report to the Human Resources Manager or designate who will facilitate appropriate action.

Unions and Associations may also assist employees, where members, in preparing their complaint or in supporting a member who feels they have been unfairly accused. A Union or Association may participate in a joint cooperative investigation of a complaint if mutually agreeable to the GN, the Union or Association representing the complainant, and the complainant.

An Investigator, who is a specially trained person from either within or outside the department or the government, carries out a formal investigation. The investigator determines first whether or not the complaint has arisen from the actions of a supervisor providing appropriate direction further to the harassment definition in this policy, second if the complaint may be resolved through a mediator, or third should be dealt with through disciplinary measures against the harasser or referred to the RCMP.

A Mediator works with the parties to resolve conflict through achieving a mutually acceptable solution.

PREROGATIVE OF EXECUTIVE COUNCIL

Nothing in this policy shall in any way be construed to limit the prerogative of the Executive Council to make decisions or take action respecting the provisions of the Harassment Free Workplace Policy, outside the provisions of this policy.

RELATED LEGISLATION AND AUTHORITIES

Public Service Act

Canadian Human Rights Act

Human Rights Act (Nunavut)

Collective Agreement - Nunavut Employees Union

Collective Agreement - Nunavut Teachers Association

Handbook – Excluded Employees

Handbook – Senior Managers

Access to Information and the Protection of Privacy Act

Human Resources Manual

Section 701 – Grievances and Complaints

Section 801 – Employee Discipline

Section 1010 – Harassment Free Workplace

Section 1609 – Indemnification

Section 1018 – Workplace Conflict Management

SUNSET DATE

This policy will be effective until February 11, 2021.