Maintaining a Harassment & Discrimination-Free Workplace

A Guide for Managers & Employees
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purpose

This booklet is a companion to the Harassment and Discrimination-Free Workplace policy. Its purpose is to assist managers and employees to prevent and resolve harassment and discrimination in their workplaces.

policy

Recognizing the diversity of the Public Service of Newfoundland and Labrador, the employer is committed to a work environment that treats all individuals with dignity and respect.

A respectful workplace recognizes and welcomes differences, encourages communication and employee engagement, offers feedback and recognition, supports collaboration and team work, provides a safe and healthy environment for all and promotes diversity.

Individuals who have been harassed or discriminated feel humiliated, ashamed and degraded. The situation may lead to deterioration in the person’s physical and/or psychological health. Harassment will also affect their job performance, lower morale and decrease job satisfaction for the individual and his/her co-workers. It may lead to increased absenteeism and high staff turnover.

Consult the Public Service Secretariat website for the Harassment and Discrimination-Free Workplace Policy or contact your Strategic Human Resource Management Unit for more information. [www.exec.gov.nl.ca/exec/pss/working_with_us/policies.html](http://www.exec.gov.nl.ca/exec/pss/working_with_us/policies.html)
understanding harassment and discrimination

**Harassment**—comments or conduct which are abusive, offensive, demeaning or vexatious that are known or ought reasonably to be known to be unwelcome. Harassment may be intended or unintended. Examples of harassment include, but are not limited to:

- unwelcome comments or jokes
- spreading rumours or gossip
- displaying or sending sexist, racist or other offensive pictures or emails
- actual or threatened physical assault
- threatening or bullying
- insulting gestures

**Sexual Harassment**—a form of harassment that involves unwanted and unwelcomed behaviour of a sexual nature. It may include, but is not limited to, touching a person or other unwelcome physical contact, sexual innuendos, commenting on one’s body, asking questions about a person’s sexual relationships, telling sexual jokes in person or in emails, or displaying posters or other offensive materials of a sexual nature.

**Discrimination**—the refusal to employ or continue to employ, or to intentionally or unintentionally deny a right, benefit or opportunity on the basis of an actual or perceived prohibited ground of discrimination as outlined in the *Human Rights Act, 2010*. 

Creating a harassment and discrimination-free work environment is everyone’s responsibility. All employees can lead by example by demonstrating mutual respect and not participating in harassing or discriminatory behaviour.
what are not examples of harassment and discrimination?

Harassment does not include:

- opinions expressed that are different than someone else's
- a manager assigning work
- normal disagreements between co-workers
- a manager following up on absences
- legitimate feedback regarding work
- disciplining employees in an appropriate manner

Sexual Harassment does not include:

- a social or personal relationship welcomed by both individuals
- an office romance to which both parties willingly consent

Discrimination does not include:

- hiring someone with a disability under an employment equity program such as "Opening Doors"
- asking a female employee to join a workplace committee to ensure both genders are represented

creating a harassment and discrimination-free workplace

Employees:

Every employee has the right to be treated with respect and has a responsibility to treat others with respect.

As an employee, you can prevent harassment and discrimination by:

- refraining from actions that may offend or embarrass others
- remembering to treat people as they wish to be treated and not as you would like to be treated
- letting others know that you do not approve of disrespectful behaviours, such as offensive emails, inappropriate comments, derogatory cartoons and jokes, participating in learning opportunities related to the Harassment and Discrimination-Free Workplace Policy
If you experience harassment or discrimination:

- if possible, speak with the person about his/her behaviour; sometimes, people do not realize the impact of their actions on others
- if this is not successful in stopping the behaviour, or if you are not comfortable speaking with the person, talk with your manager or another person in authority
- consult the Designated Human Resource Manager with your SHRM
- contact the Employee Assistance/Respectful Workplace Program (EARWP)

If you become aware of or witness an incident involving harassment or discrimination:

- tell the employee(s) immediately that his/her actions are inappropriate
- talk with your Designated Human Resource Manager

If you are accused of harassment or discrimination:

- listen to the person and do not act defensively or minimize the person’s concerns. What may seem funny to you may be offensive or hurtful to someone else
- seek a resolution by discussing this with the person
- be open to meeting with your Manager to resolve the issue
- consult with your Designated Human Resource Manager
- contact the EARWP

Treat people as they wish to be treated, not as you would like to be treated. What one person may consider humorous or appropriate may in fact be considered offensive behaviour to another.
Managers:

Managers are encouraged to deal with incidents of harassment and discrimination at the onset. While conflict is inevitable and a normal part of working life, some conflicts can escalate to harassment or discrimination. You should aim to resolve conflicts as soon as they arise.

As a manager, you set the tone for a respectful work environment. The manager should lead by example by modeling respectful behaviours and not tolerating disrespectful and inappropriate behaviour.

Managers must monitor the atmosphere in their workplace. Pay attention to the tone of interactions and comments made between co-workers and the use of derogatory language or jokes, and check for increased absenteeism or staff turnover. The EARWP can offer conflict coaching services to assist managers in responding to situations of conflict.

If an employee tells you that he/she has been harassed or discriminated against:

- meet with the employee promptly
- listen to his/her concerns and do not pass judgment
- discuss the resolution options available, such as:
  - arranging an informal discussion with the other employee
  - meeting with the Designated Human Resource Manager
  - contacting the EARWP
  - contact your Strategic Human Resource Management Unit
- explain that you may be obligated to take further action

When agents of the employer (Ex. a Deputy Minister, a Manager or the Designated Human Resource Manager) become informed of situations involving harassment or discrimination, they are obligated to intervene.
resolution options

The Resolution Options outlined in this policy may not necessarily be used in the order presented below. It is likely that one or two of the options would be used to resolve an issue.

Individual Intervention:
The employee experiencing the harassing or discriminating behaviour may choose to approach the other employee, either in person or in writing, to advise that the behaviour is offensive and unwelcome and request that the behaviour stop. The problem may be resolved at this point and no further action will be required.

If you need help in how to approach the other employee, you may contact your Designated Human Resource Manager or the EARWP for assistance.

Direct Supervisor Intervention:
The employee experiencing the harassing or discriminating behaviour may decide to discuss the behaviour with either his/her direct supervisor or with another person of authority. They will discuss the situation and decide on an appropriate action. Strategic Human Resource Management, EARWP and/or the Public Service Secretariat may be consulted at this time for assistance.

At this point, the supervisor may help the employee resolve the issue, all the parties involved might sit down together to discuss the issues or it may be best for the supervisor to meet with the employee whose behaviour is the subject of complaint.

In circumstances when the employee requests that no action be taken, the direct supervisor is required to intervene. Further intervention may be required in cases such as when there is a real or perceived threat to the health and safety of employees, the alleged incident has impacted other employees or if there is evidence that the employee fears retaliation.

Designated Human Resource Manager Intervention:
The employee experiencing the harassing or discriminating behaviour may decide to discuss the behaviour with the Designated Human Resource Manager. This person is located in the Strategic Human Resource Management Division.

The Designated Human Resource Manager, in discussion with the employee, will determine the appropriate course of action, which may include, but is not limited to, mediation, conflict resolution, education, referral to the EARWP, or formal investigation.
Formal Investigation:

Depending on the nature of the case, it may be appropriate for a formal investigation to be initiated.

The Designated Human Resource Manager will explain the investigation process to all of the involved parties, including the sharing of information gathered. An investigation must be completed in a timely manner. Generally, the following steps would be involved:

Step 1: Referral for Investigation

The initiation of a formal investigation requires the approval of the departmental Deputy Minister and consultation with the Public Service Secretariat. The investigation may be conducted internally or contracted to an external investigator, at the employer’s discretion.

Step 2: Investigation Procedure

A formal investigation may involve interviewing and obtaining signed statements from complainants, respondents, and witnesses. The investigation may also include a review of physical evidence such as documents or emails.

The formal investigation process should demonstrate the principles of procedural fairness. The complainant and respondent should have the opportunity to review each other’s statements.

Step 3: Investigation Findings

Findings of a formal investigation would be presented to the Deputy Minister of the respondent. The findings should include a determination of whether harassment or discrimination has occurred.

Step 4: Investigation Review

The Deputy Minister is responsible for reviewing the findings of an investigation. He/she may consult with the respective Strategic Human Resource Management Unit, Public Service Secretariat (Collective Bargaining Division and/or Human Resources Policy and Planning Division), Department of Justice, or other entities, to develop the appropriate recourse.
Step 5: Recourse and Resolution

The Deputy Minister is ultimately responsible for ensuring that the restorative actions are monitored and effective. Intervention in the aftermath of a complaint may be required to restore a positive and respectful workplace. This may involve activities such as conflict resolution and debriefing sessions. As well, the Deputy Minister or designate is required to monitor and evaluate the recommended corrective actions after their implementation.

confidentiality

Complaints of harassment and discrimination will be received and managed in a confidential manner. Strict confidentiality cannot be guaranteed. Only those people involved in the process will have access to the information collected. This would include the complainant, respondent, witnesses and others involved in resolving the complaint. Further, they will receive only as much information as is required to facilitate their participation.

Other Recourse:

Depending upon the nature of the complaint, other recourse may be appropriate:

- any incident which involves a threat to cause harm, assault or sexual assault, may be reported to the police
- if the complainant is a bargaining unit employee, he/she may seek the assistance of the union
- the complainant may decide to contact the Human Rights Commission
resources

**Strategic Human Resource Management Units (SHRM)**

Resource Sector SHRM................................................................. 729-0386  
Social Sector SHRM..................................................................... 729-5750  
Executive Council SHRM .......................................................... 729-4767  
Transportation and Works SHRM............................................. 729-3292  
Justice SHRM ............................................................................ 729-4847  
Department of Child, Youth and Family Services SHRM........... 729-2343

**Public Service Secretariat**

Collective Bargaining Division.................................................. 729-2471  
Human Resource Policy and Planning Division ....................... 729-7170  
Centre for Learning and Development .................................... 729-3652/3653

**Public Service Commission**

Employee Assistance and Respectful Workplace  
Program (EARWP)........................................................................ 729-2290  
Toll free ....................................................................................... 1-888-729-2290
frequently asked questions

I tried to speak with my co-workers about their inappropriate behaviour but they said they were only joking and that I was being too sensitive. What should I do?

If you feel offended, it does not matter if someone says “I was only joking”. You have a right to ask them to stop and they have a responsibility to listen. If you need assistance, you may contact the Designated Human Resource Manager or EARWP.

What if the person harassing me is my manager?

Employees have a right to be treated with respect in the workplace. If you are in this situation, speak with another manager or higher level of authority or consult with the Designated Human Resource Manager or contact EARWP.

Will the person who harassed me be disciplined?

If it is determined that an employee engaged in harassing or discriminatory behaviour, he/she may be disciplined. For confidentiality reasons, the person who made the complaint may not be informed of the nature of the disciplinary action.
frequently asked questions

In our monthly staff meetings, my co-worker will frequently make rude comments about my personal life in front of the team. She also makes untrue, disparaging remarks about my work. Is this bullying?

These behaviours are not appropriate in any setting. Repeated behaviours that are intended to embarrass or intimidate are examples of workplace bullying. If you do not feel comfortable discussing this directly with your co-worker, speak with your manager, the Designated Human Resource Manager or EARWP.

What should I do if I witness workplace harassment or discrimination?

If you are capable of doing so, let the person know that his/her behaviour is inappropriate. You may choose to do this in private or consult with the Designated Human Resource Manager or contact EARWP.

A co-worker has accused me of harassment because of a joke I made in a meeting. What should I do?

If someone tells you that he/she is offended by your words or actions, you have a responsibility to listen to his/her point of view. What you and other people find humourous may be offensive to others. You should take your co-worker’s statement seriously and stop the behaviour immediately.

When would the police have to be contacted?

If the allegation involves a possible violation of the Criminal Code, actual or threatened physical or sexual violence, the police may be contacted.

What are my rights as a respondent to a complaint?

A respondent has a right to know the nature of the complaint, including the name of the complainant(s). As a respondent, you may contact the Designated Human Resource Manager to discuss the process. You may also contact EARWP for support. If you are a bargaining unit employee, you may seek the assistance of your union.
Should the people involved be separated in the workplace during an investigation?

This may occur depending on the situation.

How does my workplace move forward after a complaint has been resolved?

The Designated Human Resource Manager can offer advice to managers to help restore the workplace in the aftermath of a complaint. Managers are encouraged to reinforce the importance of being respectful in the workplace and having open communication. It may be necessary to re-establish how the group works together and new ground rules. Managers should also continue to watch for the signs of ongoing or unresolved conflicts. EARWP may be contacted to assist with the workplace restoration efforts.
public service secretariat

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