

1. POLICY STATEMENT

The Government of the Northwest Territories (GNWT) recognizes the diversity of the Northwest Territories' public service and is committed to providing a work environment where every employee is treated with fairness, dignity and respect. Harassment can affect employee well-being and impact the workplace and the GNWT's reputation.

The Northwest Territories' *Human Rights Act* provides every person in the workplace the right to freedom from harassment that is related to their race, colour, ancestry, nationality, ethnic origin, place of origin, creed, religion, age, disability, sex, sexual orientation, gender identity, marital status, family status, family affiliation, political belief, political association, social condition or pardoned criminal conviction.

The Government of the Northwest Territories also recognizes other types of workplace harassment that affect an employee's dignity, not covered by prohibited grounds under the *Human Rights Act*.

Harassment in any form is unacceptable behaviour and will not be tolerated. The GNWT is committed to providing a work environment where there is respect amongst employees and to facilitating the resolution of workplace harassment complaints.

2. PRINCIPLES

The GNWT will adhere to the following principles when implementing this Policy:

- (1) All employees in the Northwest Territories' public service have the responsibility to respect the rights of others and prevent incidents of harassment in the workplace.
- (2) Nothing in this Policy reduces the responsibility of employees and managers to address inappropriate conduct in the workplace, regardless of whether or not a complaint has been made.
- (3) The existence and implementation of this Policy does not limit employees' rights to pursue other remedies. These may include private legal remedies, grievances, or complaints under applicable legislation. The



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GNWT will not be responsible for the provision of legal services to employees who pursue other remedies.

- (4) Nothing in this Policy restricts the legitimate exercise of a manager's authority.
- (5) Informal and formal processes are available to resolve workplace harassment. Every effort will be made by employees and management to resolve workplace harassment through open communication and co-operation. Informal resolution, including dealing with the issue one on one or facilitated discussion should, whenever possible, be used as the first course of action to resolve an issue and prevent a situation from escalating.
- (6) All persons share in the responsibility to maintain confidentiality necessary to the process.
- (7) The investigation process is conducted following the principles of procedural fairness and natural justice. This means:
 - (a) Only those complaints in which the complainant's identity is disclosed may be taken through the mediation and/or investigation processes. Anonymous complaints do not allow for due process.
 - (b) All parties will be advised of the provisions of this Policy and of the procedures available to them.
 - (c) All complainants and respondents will be given the opportunity to present evidence in support of their positions.
 - (d) The complainant and respondent have the right to be accompanied by a union representative or another person for support during all interviews related to the complaint and, if necessary, an interpreter.
- (8) Fabricated, frivolous, vexatious complaints and/or where false information has been provided will be subject to disciplinary measures including, but not limited to:
 - (a) warning or written reprimand;
 - (b) transfer or demotion, or both;
 - (c) suspension;
 - (d) dismissal.

3. SCOPE

- (1) This Policy applies to every employee in the public service of the GNWT, as well as volunteers and individuals or companies contracted by the GNWT, except the Northwest Territories Power Corporation. This Policy applies to workplace harassment that occurs at or away from the work place during or outside working hours within the context of the employment relationship.
- (2) This policy and resolution process does not apply to complaints from clients or the public. Deputy Heads are responsible for follow-up to complaints from clients or the public.

4. DEFINITIONS

The following definitions apply to this Policy:

Complainant - an individual who believes he/she has experienced harassment and makes a complaint.

Complaint - is a formal, written complaint against an individual or group of individuals whose alleged behaviour contravenes the Harassment Free and Respectful Workplace Policy.

Deputy Head - the deputy minister of a department, the superintendent of a divisional education council, the chief executive officer or president of a board, authority, agency or such person as may be appointed as deputy head.

Facilitated Discussion - is a problem solving session led by the manager, to which both parties are directed to participate, and from which the manager may provide direction on future behaviour.

Investigator - the designated person with investigation training and/or experience authorized by a Deputy Head to investigate a complaint.

Manager - an employee who operates in a supervisory or managerial capacity, regardless of employment title.

Mediation - is where a neutral third party facilitates communication between disputing parties to promote understanding and collaborative problem solving to promote a respectful workplace.

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Prima Facie – evidence that will establish a fact or sustain a judgement unless contradictory evidence is produced.

Respondent - is the person or persons whom a complaint has been made against.

Workplace Harassment - means any behaviour that satisfies one or more of the following definitions as defined in this Policy.

- (a) **Abuse of Authority** - occurs when an employee improperly uses the power and authority inherent in his or her manager position to endanger an employee's job, undermine the performance of that job, threaten the economic livelihood of the employee, or in any way interferes with or influences the career of the employee. It does not include the legitimate and proper exercise of a manager's responsibilities including disciplinary measures, distribution of work assignments, training, staffing decisions or performance evaluations.
- (b) **Harassment** - unwanted conduct that can be reasonably considered to have the purpose or effect of violating an individual's dignity and can reasonably be considered to result in creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual based on one or more prohibited grounds of discrimination listed in the *Human Rights Act*.

Prohibited grounds of discrimination listed in the *Human Rights Act* include race, colour, ancestry, nationality, ethnic origin, place of origin, creed, religion, age, disability, sex, sexual orientation, gender identity, marital status, family status, family affiliation, political belief, political association, social condition or pardoned criminal conviction.

- (c) **Personal Harassment** - unwanted conduct that can be reasonably considered to have the purpose or effect of violating an individual's dignity and can reasonably be considered to result in creating an intimidating, hostile, degrading, humiliating or offensive environment. Personal harassment does not have to be based on a prohibited ground of discrimination listed in the *Human Rights Act*.
- (d) **Sexual Harassment** - unwanted sexual conduct that can be reasonably considered to have the purpose or effect of violating an individual's dignity and can reasonably be considered to result in creating an intimidating, hostile, degrading, humiliating or offensive

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environment for that individual, whether on a one-time basis or in a series of incidents; or that an individual might reasonably perceive as placing a condition of a sexual nature on his or her employment or on an opportunity for training or promotion.

5. AUTHORITY AND ACCOUNTABILITY

(1) General

This Policy is issued under the authority of the Financial Management Board.

Authority and accountability is further defined as follows:

(a) Ministers

Government of the Northwest Territories Ministers are accountable for the implementation of this Policy in their Departments and Agencies.

(b) Deputy Heads

Government of the Northwest Territories Deputy Heads are accountable for the administration and implementation of this policy in their Departments and Agencies.

(2) Specific

(a) Minister of Human Resources

(i) Make recommendations to the Financial Management Board for amendments to this Policy.

(b) Department of Human Resources

(i) Make available information on prevention and resolution of workplace harassment.

(ii) Provide support, direction and advice on the mandate of the Policy and the process for filing a complaint.

(iii) Receive and assess written complaints to determine if there is *prima facie* evidence of workplace harassment.

(iv) Lead formal investigations or mediation resulting from formal written complaints.

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- (v) Arrange, either directly or through contract, for experienced persons to lead formal investigations or mediations resulting from formal written complaints.
 - (vi) Promote timely resolution of mediations or investigations.
- (c) Deputy Heads
- (i) Establish and provide a work environment that is free from all types of workplace harassment.
 - (ii) Ensure information on prevention and resolution of workplace harassment is available to all employees.
 - (iii) Ensure that all employees, volunteers, and contractors are made aware of this Policy.
 - (iv) Take appropriate action to resolve any complaints or claims brought to their attention.
 - (v) Ensure that all parties are aware that complaints are to be treated in confidence.
- (d) Managers
- (i) Promote and provide a work environment that is free from all types of workplace harassment.
 - (ii) Communicate the Policy to all employees under their supervision.
 - (iii) Take appropriate action to resolve any complaints or claims brought to their attention.
 - (iv) Monitor situations where complaints have been substantiated to ensure corrective measures have been successful.
- (e) Employees
- (i) Be aware of and comply with the Policy.
 - (ii) Treat all persons in the work place with dignity and respect.
 - (iii) Refrain from or refuse to participate in inappropriate behaviour or objectionable conduct that may constitute workplace harassment.
 - (iv) Cooperate with formal investigations, facilitated discussions and mediations conducted under this Policy.
 - (v) Treat complaints and the investigation or mediation process as confidential.

6. PROVISIONS

(1) Complaint Resolution – Informal Process

(a) Direct Response

- i. Where safe and reasonable to do so, an employee who believes that he or she is subject to workplace harassment should, as a first (direct) response, advise the other person that the behaviour is offensive and request that the behaviour stop.
- ii. Where circumstances do not permit this course of action or where a direct response has not prevented a recurrence of the workplace harassment, the employee should inform his or her supervisor. The supervisor will review the situation and, where necessary, take appropriate action. If the other person is the supervisor, the employee should inform the next level of management.

(b) Facilitated Discussion

- i. Managers may choose to use facilitated discussion as a resolution tool.

(c) Mediation

- i. Mediation is a process that allows the parties involved to discuss the behaviours, reactions and options for resolution in a non-judgmental way. Formal mediation requires the agreement of both parties and is facilitated by an outside party who is acceptable to both parties. Formal mediation can occur at any time during the process when agreed to by both parties.

(2) Formal Process

(a) Written Complaint

- i. A formal written complaint may be made to the Deputy Head. The complaint, at a minimum, will specify the details of the allegation, including:
 - Name, title and location of the respondent;

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- A description of the action/circumstances of the complaint;
 - Date(s) of incident(s);
 - Name of witnesses, if any.
- ii. If the complaint is against a Deputy Head, it can be filed with the Deputy Minister of Human Resources. If the complaint is made against the Deputy Minister of Human Resources, it can be filed with the Secretary to Cabinet.
 - iii. Deputy Heads acknowledge, in writing, receipt of a complaint.
 - iv. Deputy Heads send formal written complaints to the Department of Human Resources for an assessment on whether the complaint fits within the mandate of the Policy and for a determination on whether there is *prima facie* evidence to support the complaint.
 - v. Deputy Heads advise the Complainant and the Respondent, separately, in writing, of the result of the assessment and next steps, if necessary.
 - vi. Deputy Heads may take interim measures, such as separating employees or restricting contact pending the investigation of a formal complaint. These measures are not disciplinary and do not confirm the validity of the complaint.

(b) Investigation

- i. Investigations are authorized by Deputy Heads upon recommendation of the Deputy Head of the Department of Human Resources. An investigation is only recommended under this Policy if the complaint fits within the mandate of the Policy and it is determined that *prima facie* evidence exists.
- ii. The investigator determines and assesses the facts of the complaint. The investigation process is conducted following the principles of procedural fairness and natural justice. All investigations done under this Policy will be interpreted, administered and applied using a reasonable person standard. The reasonable person standard is whether or not a reasonable person, in roughly the same position as the complainant, would

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judge harassment to have occurred as a result of a behaviour or pattern of behaviour.

iii. The investigator provides a written report to the Deputy Head that includes findings. The report does not include recommendations.

(c) Outcome of an Investigation

i. Deputy Heads consider investigation findings and determine, if necessary, what appropriate action should be taken. Parties involved will be notified as required.

ii. Where workplace harassment is found to have occurred, possible actions include, but are not limited to:

- education and training;
- written reprimand;
- disciplinary suspension;
- dismissal;
- other remedial measures applicable to specific circumstances.

iii. Deputy Heads monitor the situation following resolution to ensure implementation.

(3) Retaliation

(a) Retaliation, reprisals or threats as a result of filing a complaint or being party to the investigation of a complaint are subject to disciplinary measures including, but not limited to:

- warning or written reprimand;
- transfer or demotion, or both;
- suspension;
- dismissal.

(4) Confidentiality and Records Management

(a) All matters and material relating to a workplace harassment complaint are to be treated with the utmost confidentiality by all participants involved and are subject to a strict need-to-know basis.

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Any employee who fails to comply may be subject to disciplinary measures.

- (b) Information provided during the course of the investigation may be disclosed in the event of an arbitration; a court case; an *Access to Information and Protection of Privacy Act* application; or if deemed necessary to allow for due process.
- (c) The investigation report and related documentation are retained in a secure location by the Department of Human Resources in accordance with the records retention schedule of the Department.
- (d) No reference to a complaint or investigation is placed on an employees' personnel file unless formal disciplinary action has been implemented.
- (e) Investigation files may be re-opened where:
 - i. new and relevant information is provided to the investigators or the Deputy Head that was not available to the investigators at the time of the original investigation; or
 - ii. retaliation is alleged to have occurred; or
 - iii. a similar allegation is made against the individual.

(5) Reporting

- (a) The Department of Human Resources is responsible for reporting on activity in administering this Policy and for relevant statistics in order to monitor and report on workplace harassment prevention and resolution activity in the GNWT.

7. TRANSITIONAL

Any formal written complaint made prior to the coming into force of this Policy shall be completed under the Workplace Conflict Resolution Policy. Any complaint made after the coming into force of this Policy, when the complaint relates to conduct occurring all or partly before the coming into force of this Policy, shall be dealt with under this Policy.



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8. PREROGATIVE OF THE FINANCIAL MANAGEMENT BOARD

Nothing in this Policy shall in any way be construed to limit the prerogative of the Financial Management Board to make decisions or take action with respect to harassment free and respectful workplaces.

Chair of the Financial Management Board