



**Responsible Officer Guide
to Harassment Prevention and Resolution
Policy**

July 15, 2004

Canada 

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1. *Purpose*
- 1.1 The aim of this Guide is to outline the roles and responsibilities of the Responsible Officer within the context of the DND/CF Harassment Prevention and Resolution Program.
2. *Role of the RO*
- 2.1 The Responsible Officer (RO) has the primary leadership role in the prevention of harassment within his/her unit and for dealing with complaints of harassment when they occur.
3. *Background*
- 3.1 The *Canadian Human Rights Act* provides every person in the workplace the right to freedom from harassment based on 11 prohibited grounds: race, national and ethnic origin, colour, religion, age, sex, marital status, family status, disability, pardoned conviction, and sexual orientation. In the *Harassment Prevention and Resolution Policy*, the Canadian Forces (CF) and Department of National Defence (DND) have extended the definition of harassment to include other types of workplace harassment (i.e. abuse of authority and hazing).
- 3.2 The *Harassment Prevention and Resolution Policy*, DAOD 5012-0, and the *Guidelines* were approved in December 2000 and replaced CFAO 19-39 and CPAO 7.18. They incorporate the requirements of all related legislation and policies such as the Treasury Board's Harassment policy. They are also consistent with and support the Defence Ethics Program.
- 3.3 DAOD 5012-0, *Harassment Prevention and Resolution Policy*, introduced a fundamental change in philosophy from one of find, investigate and punish harassers to the prevention and early resolution of harassment issues.
- 3.4 The *Policy* applies specifically to CF and DND employees but complaints from other individuals, including non-employees, should be treated in accordance with the same principles. Communications Security Establishment, and Canadian Forces Personnel Support Agency employees and members of the Canadian Cadet Movement are covered by policies governing their organizations. If either party to a complaint is from one of these organizations, the appropriate policy should be consulted.
- 3.5 The *Harassment Prevention and Resolution Policy* and *Guidelines* are the core documents which will guide ROs in carrying out their duties. Don't wait until you have a harassment situation arise to read them thoroughly. This Guide will walk you through your responsibilities but it must be used in conjunction with the *Policy* and the *Guidelines*.

4. *Guiding Principles*

- 4.1 The *Guidelines* outline a process to follow but allow for some RO discretion in individual circumstances. Some underlying values and principles, inherent in the policy, should assist the RO in decision-making. They include:
- a) Creating and maintaining an ethical, positive, supportive working environment is key to preventing harassment.
 - b) The ideal foundation for a supportive work environment is one of respect for the rights and dignity of others; creating this foundation is an obligation of leadership.
 - c) Any manager who is aware of harassment or discrimination, whether there is a complaint or not, should deal with the situation immediately.
 - d) Harassment prevention will reduce the number of harassment complaints which have to be dealt with.
 - e) The RO's decision-making responsibility for both harassment prevention and complaint resolution cannot be delegated.
 - f) All workplace conflicts and complaints need to be taken seriously and addressed immediately. However, only allegations that meet the harassment definition should be dealt with under the *Harassment Prevention and Resolution Policy*. An early situational assessment will allow for the timely resolution of complaints under the appropriate policy.
 - g) In most cases, alternative dispute resolution (ADR) should be considered prior to conducting an administrative investigation because of ADR's success in creating lasting resolutions that are satisfactory to all the parties of a conflict.
 - h) All parties to a complaint deserve to be treated fairly and with respect.
 - i) All individuals involved in resolving a complaint must set their biases aside and approach the complaint in a fair and impartial manner.
- 4.2 There are no cookbook solutions for resolving harassment complaints. Each complaint is different and needs to be assessed on its own merits. As with other interpersonal problems, judgment and common sense are critical to successfully resolving

5. *The RO's
Harassment
Prevention
Responsibility*

- Self -
Assessment

a complaint.

5.1 As the unit leader for harassment prevention, the RO has the overall responsibility for creating a harassment-free workplace. The Harassment Advisor (HA) can assist by coordinating harassment awareness and prevention initiatives such as briefings, poster campaigns, etc.

5.2 The following questions can help an RO evaluate their unit's current prevention status and plan new initiatives:

a) What profile does harassment prevention have in your unit today?

b) Have you appointed one or more HAs, after verifying that they meet the skills and attitude profile defined in Section 3.2.2 of the *Guidelines*?

c) Has your HA attained the HA qualification by attending and passing the HA training before being asked to carry out the duties?

d) Does your HA(s) have the time available to carry out HA duties?

e) Have you clarified your expectation of the HA role in your unit through a TOR or other means? (A sample TOR is attached as Annex A to assist you in thinking through your expectations.)

f) Is there a backup resource or HA network agreement in place in case the HA is absent for an extended period? Does your headquarters maintain a list of HA-trained resources?

g) Do you have clear directives to be followed for harassment complaints in your unit? Is the role of the supervisor in complaint resolution defined?

h) Have you reviewed your unit procedures following every complaint to ensure that lessons learned are incorporated?

i) Do members and employees in your unit have a resource to go to if they have questions about the *Policy* or specific harassment situations - in accordance with Section 3.8 of the *Guidelines*? (Note: This role cannot be assigned to the HA to avoid conflicts of interest.)

j) Are the rights and responsibilities of all individuals under the *Policy* and *Guidelines* included in your unit welcoming remarks, welcoming packages, and/or orientation programs for new members and employees?

k) Are your supervisors aware of the unit procedures for dealing with harassment complaints and do they understand their role in the process?

l) Are you including harassment prevention and awareness issues as agenda items for your regular unit meetings?

m) Are you setting an example by participating in unit harassment awareness activities yourself?

n) Are you and your supervisors setting an example of appropriate workplace behaviour?

o) What harassment awareness campaigns or training are planned for the current year? Have you requested your HA to prepare a training plan and provided a budget to support it?

p) Are you and your supervisors on the lookout for and intervening promptly in all conflicts and possible harassment situations to address problems early and prevent complaints? Have you considered asking your HA to design appropriate awareness/educational interventions, even if they were not included in the current year plan? Unresolved problems do not go away; they only fester and grow.

q) Are you (or your HA) using the Harassment Complaint Tracking System (HCTS) to analyze your unit's harassment complaint trends?

r) Are you ensuring that any initiation rites are personally authorized by you and that they meet the criteria defined in the DAOD and Section 2.6 of the *Guidelines*?

s) Do the contracts you issue for contracted services include a clause-requiring adherence to the *Policy*?

6. RO's Complaint
Handling
Responsibility

6.1 The RO's second major responsibility, complaint handling, begins when a harassment complaint is received. Part 4 of the *Guidelines* outlines the process to be followed. A flowchart of the process is also found in Annex B of this document. In addition to

complaint submission, the process provides for harassment issues to be resolved by the parties, using ADR, without a complaint being made; you will not likely be aware of these.

6.2 The only instances in which the RO would normally withdraw from dealing with a unit complaint would be if he/she were the Complainant or Respondent or, if the rank of the RO is the same or lower than the Respondent.

6.3 Harassment complaints can be made orally or in writing to you, to one of your supervisors or to your HA. All complaints should be brought to your attention immediately. They should be dealt with and resolved as soon as possible, and normally within six months, because they are stressful to the parties. For the duration of the resolution process, they can have a significant negative impact on individual and unit morale. Only in exceptional circumstances, such as when one of the parties is on sick leave, should resolution take longer.

6.4 A complaint may have one or multiple Respondents. This and other possible complexities are covered in Section 4.7 to 4.11 of the *Guidelines*.

6.5 If the complaint received is related to an issue for which a grievance or a complaint to the Canadian Human Rights Commission has also been submitted, only one complaint mechanism will apply. Refer to Section 4.10 of the *Guidelines* for guidance. If the issue is already the subject of a police investigation, that investigation will take precedence. Only after it has been determined that there is insufficient evidence to support a charge and that the allegation meets the harassment criteria, will the provisions of the *Harassment Prevention and Resolution Policy* be applied.

6.6 The *Guidelines* include two initial RO responses to receiving a complaint - Initial Action and Situational Assessment. They are separated for clarity but, in fact, should happen concurrently. The exact order of the action taken will vary with the circumstances and requires the exercise of judgment.

7. RO's Initial Action

7.1 When a complaint is received, listen or read it carefully. If the complaint is not sufficiently clear to act upon, ask the Complainant for additional clarification. An Assistant can be helpful to the Complainant in helping to write an oral complaint or rewrite an unclear one to include the essential elements. You likely will also want to consult with your HA or other advisors

relevant to the case. If you suspect that the complaint may be a criminal offence such as assault, sexual assault, stalking or uttering a threat, or a breach of the NDA, consult with your appropriate police agency or legal advisor.

7.2 When reading a complaint, it is important not to read between the lines, put interpretations on the alleged actions, or make assumptions about the motives of the Respondent. At this point of the complaint process, the complaint must be taken at face value to avoid compromising the principles of fairness.

7.3 Action to address any health or safety issues evident from the complaint should be taken immediately.

7.4 You must acknowledge receipt of the complaint and notify the Respondent of the complaint within five (5) working days, if possible. It is best to notify the Respondent in person and as quickly as possible to prevent him/her first learning about the complaint through the grapevine. Then the written allegations (i.e. the complaint or a severed complaint in the case of multiple Respondents or a statement of allegations created from a verbal complaint) should be forwarded to the Respondent as soon as possible. The Respondent must also be offered the opportunity to reply to the allegations. Only in the case of a clear criminal offence or breach of the NDA would you omit notifying the Respondent.

7.5 In your communications to the parties, ensure they are both informed of their rights and responsibilities under the harassment policy. Sample letters are attached in Annex C. If you have completed your Situational Assessment, you could also include in your letters whether or not you will be addressing the complaint under the harassment policy. Remember that the situation requires resolution whether it lies within the realm of harassment or interpersonal conflict.

- Separating the Parties

7.6 In some cases, you will want to assess whether the parties should be physically or hierarchically separated from each other. Such a decision should be considered carefully, rationalized in writing, and included in the file for reference in the event that that action becomes the substance of a new complaint. Situations where separation could be considered include those where a high level of hostility exists between the parties such that unit productivity will be significantly affected or where one party is experiencing significant levels of fear of the other. However, this action should not be taken unless absolutely necessary because:

8. *Situational Assessment*

- a) Removing the Respondent from the workplace creates the appearance that he/she is being treated as “guilty” without proof. It appears to be retaliation;
- b) Removing the Complainant from the workplace results in an impression that the individual has been victimised twice. Even if he/she requests, volunteers, or agrees to removal, the end result is often feelings of having been penalized for making a complaint; and
- c) Separating the parties will likely make ADR options less likely to succeed.

8.1 A Situational Assessment is a preliminary review of a harassment complaint to determine an appropriate course of action.

8.2 The Situational Assessment is critical to ensuring that an alleged harassment issue is dealt with expeditiously and under the appropriate policy. Many complaints are submitted and labelled harassment but do not meet the criteria of harassment. A careful analysis up front will permit you to sort out which allegations, if proven, would meet the criteria and which would not. This will allow you to address them all in the most appropriate manner. Only allegations which meet the harassment definition should be dealt with using the harassment policy process. The Complainant needs to be informed about how each allegation will be handled.

8.3 The RO should conduct a Situational Assessment for every complaint. This responsibility cannot be delegated but the HA is available to advise you and should be consulted. If in doubt, seek assistance through the chain of command.

▪ Elements of a Complaint

8.4 In completing a Situational Assessment, first determine if the complaint contains all the elements:

- a) name of Respondent(s);
- b) alleged behaviour including approximate time, date and location of incidents;
- c) witnesses if any; and
- d) Complainant’s perceptions (e.g. feelings, reactions, perception of Respondent’s motive, etc.)

8.5 You must have a clear picture of what is alleged in order to

proceed. At a minimum, the Respondent's identity and the alleged conduct are necessary to apply the harassment test and to inform the Respondent about the complaint. If you decide on ADR, completeness is not so essential but, before proceeding with an administrative investigation, you will need all the elements.

▪ Harassment
Test

8.6 Second, apply the Harassment Test, that is, determine if the allegations, as stated, meet the definition of harassment included in Section 1.3 of the *Guidelines*. Do not assume that, because you do not find the alleged behaviour offensive, it is not harassment. It may well be and only through applying the definition can you be certain. Also it is inappropriate to make assumptions about the likelihood of the allegations having occurred or the possible motives of the Respondent; assess the allegations at face value.

Harassment is:

improper conduct (i.e. any objectionable act, comment or display or any act of intimidation or threat) by an individual that is **directed at** and **offensive to** (i.e. demeans, belittles or causes personal humiliation or embarrassment) another person or persons **in the workplace** and which the individual **knew or ought reasonably to have known would cause offence or harm.**

8.7 For improper conduct to be considered **directed at** another person, that person must both be the subject of the conduct and personally experience the conduct and/or the repercussions of it.

8.8 Although abuse of authority falls within the definition of harassment, the proper exercise of responsibilities or authority related to the provision of advice, the assignment of work, counselling, performance evaluation, discipline, and other supervisory/leadership functions **does not** constitute harassment.

8.9 If the harassment criteria are not met, you should inform the parties to the complaint of your assessment and of how the matter will be dealt with. If the Complainant is not satisfied with your assessment, you may want to seek advice from the chain of command to ensure your conclusion is in line with the policy. The Complainant has the right to file a grievance.

8.10 If the allegations involve a criminal act or a breach of the

NDA, you should inform the appropriate military or civilian police authorities.

8.11 Sometimes, during discussions with the parties at any stage of the complaint process, the allegations will be changed or new ones added. If new information makes it clear that the situation may no longer be harassment, then the Situational Assessment should be revisited. If there is a change in the harassment test result, then consideration should be given to suspending the harassment process or refocusing the TOR, if an investigation is in progress. The parties must be notified of the new course of action to be followed.

*9. When the
Allegation meets the
Harassment Test*

9.1 If the allegations meet the harassment criteria, then Assistants must be appointed for both military Complainants and Respondents to provide them with moral and administrative support through the often-stressful resolution process. A sample Assistant TOR is included in Annex C. HA-trained individuals, other than your unit HA, and chosen by the affected parties would make ideal Assistants. Civilian employees are responsible for finding their own Assistants although they may sometimes seek your help. This is most likely the case for employees who are not represented by a union (for example, casuals or employees who are excluded from union membership because of the nature of their jobs such as PEs and OMs). If the Assistants are not HA-trained, the HA can provide them with information about their role and the *Policy*.

9.2 Throughout the process, the RO must be alert to the possibility of retaliation against either of the parties to a complaint or against witnesses. Appropriate action should be taken to prevent or curtail retaliation.

*10. Alternative
Dispute Resolution*

10.1 To resolve a complaint, **Alternative Dispute Resolution (ADR)** options are preferred because of the speed and success rate for lasting resolutions. Unless you determine that it is inappropriate in a given situation, ADR should always be offered to the parties. ADR includes a range of options that are useful in addressing any conflict. Options include but are not limited to:

- **Self-help** where the Complainant attempts to work out the problem directly with the Respondent through a meeting (preferred) or by expressing his/her concerns and expectations in writing,
- **Supervisor intervention** where the supervisor gets involved and coaches the parties to identify the issues and solve the problem within the team environment, and

- **Mediation** where a trained mediator helps the parties to come to a mutually satisfactory resolution of an issue. Trained mediators can be accessed through your regional Dispute Resolution Centre or through EDCM in Ottawa.

10.2 Unless inappropriate, ADR options should be attempted before embarking on an administrative investigation. Not only should the parties be offered ADR but they should be informed of the benefits so that they understand the process. ADR participation is always voluntary. Your HA will be familiar with the advantages and disadvantages of each option.

10.3 There are only a few situations where ADR may not be appropriate. These include:

- (a) Cases which are so horrendous, complex or systemic that you will want to get to the bottom of the issue and not simply satisfy the parties;
- (b) Cases where there is a large difference in power between the Complainant and Respondent and/or where one party is intimidated by the other to an extent such that they would not be able to negotiate a solution and one party might agree to an unsatisfactory solution out of fear; and
- (c) Cases where one party is traumatised and would be unable to represent their concerns.

11. Administrative Investigation

11.1 If ADR fails or the parties refuse to participate or, in your judgment, an administrative investigation is the only viable option, you would convene an investigation (refer to Part 4 of the *Guidelines*). For harassment cases, Boards of Inquiry and Summary Investigations will not normally be convened and a Board of Inquiry should not be utilized in the case of a civilian Complainant or Respondent. An investigation can be suspended at any time if both parties and the RO subsequently agree to an ADR process.

11.2 There may be exceptional cases where you are completely satisfied that all the evidence has been presented, the parties heard, and the spirit and principles of the *Guidelines* met. In such a case, you can reach a decision without undertaking an administrative investigation. However, the decision and your reasoning must be well documented on the harassment file.

- HI Selection

11.3 For an administrative investigation, you need a trained, impartial Harassment Investigator (HI) or an investigation team

that meets the competency profile in Annex B of the *Guidelines*. For investigations involving civilian Complainants or Respondents, the HI experience standard is stricter than for military members (see *Guidelines* Annex B 5.) and must be upheld.

11.4 Selecting an HI is covered in Section 6.2.1 of the *Guidelines* and addresses additional case-specific criteria such as language, rank or classification, race, gender, disability, etc. To secure an internal investigator, contact your harassment subject matter experts within the chain of command or alternatively contract for an external investigator in accordance with the contracting regulations. If you have an HI in your unit you would like to assign, ensure that he/she will be perceived to be impartial in addition to meeting all the other selection criteria. Selecting the right HI is critical to ensuring that the investigation is conducted carefully, thoroughly and independently in an expedient, impartial and sensitive manner.

11.5 The investigation shall be based on Terms of Reference (TOR) that you prepare. A TOR template is found in Annex C. Tailor it to deal with the specifics of the case at hand. The HI needs sufficient time to conduct the investigation but, to minimize the negative impact on unit morale, it should be completed as quickly as possible. The maximum timeframe to complete the investigation, the RO decision, and administrative closure is six months unless unusual circumstances are present. Any extensions need to be documented and the parties informed in writing.

- HI Report

11.6 The HI will write a draft investigation report that provides you with an analysis of the evidence.

11.7 The HI will write a final report taking into account the responses to the draft report from the parties. This report will provide findings as to whether, in his/her opinion, the evidence does or does not support the allegation(s) and whether the conduct does or does not satisfy the definition of harassment. However, you must evaluate the evidence yourself and determine if you agree with those conclusions or if additional questions need to be answered. The completed investigation should be able to withstand third party scrutiny.

11.8 If you feel there are areas that require additional enquiry, you may direct the investigator to look into these areas further. If you are comfortable that the report is as complete as possible, use this information to render a written decision on whether the allegations are supported and constitute harassment and what

action should be taken – administrative, disciplinary or restorative (e.g. an apology, changes in work procedures, or group counselling). If you do not agree with all the findings, you have the option of arriving at a different conclusion from the evidence than the HI has. If you do, you must provide a written rationale to support your decision and it is strongly recommended that you discuss the matter with your HI first to confirm your understanding of the evidence.

11.9 Even if the findings of the investigation are that the conduct exhibited does not meet the definition of harassment, there may be workplace/team issues that must be addressed to re-establish a positive working environment.

11.10 The Complainant and the Respondent must be advised of the outcome personally and in writing (see Closure below). It is recommended that you also meet with the parties separately or together at this point to provide any clarification and to communicate the unit follow-up plan.

12. Closure

12.1 Administrative closure is an important part of any resolution process. Closure may include any appropriate administrative, restorative or disciplinary action deemed necessary by the RO.

12.2 If mediation results in resolution, the signed Minutes of Settlement will constitute administrative closure of the complaint. In most cases the Minutes will be kept confidential; however, if there is a potential impact on the unit and the RO's approval is needed, the RO will also be a signatory to the agreement.

12.3 In cases where an administrative investigation is used, the RO will inform the Complainant and Respondent of his/her decision on the complaint, the appropriate remedies and corrective measures to be taken and the rationale for these decisions; this decision letter will constitute administrative closure. A sample format is included in Annex C. The RO will also provide the parties a copy of the Final Report, severed in accordance with the *Privacy Act*. Note that the decision letter should only address the general nature of the corrective measures related to the Respondent. It is recommended that you also meet with the parties regarding your decision. During that discussion, additional details relating to the corrective measures may need to be provided to the Complainant to achieve closure. To determine what details may be revealed, you must consider the balance between the need for closure and the need to keep personal information confidential.

13. *Restoring a
Positive Working
Environment*

13.1 In any case, the RO must monitor and follow up on the situation until satisfied that the situation has been, and remains, resolved.

13.2 In addition to administrative closure, the RO may need to take remedial action to end the impact the complaint has had on the unit and to restore a positive working environment. Part 7 of the *Guidelines* addresses this stage. Education may be warranted or some of the helping professions may be consulted for alternate intervention ideas.

14. *Military-
Civilian Differences*

14.1 In most respects, there are no differences in the treatment of military members and civilian employees under the *Policy*. However there are four exceptions to be aware of:

a. The HI competency profile. Where a civilian is a party to a complaint, the higher standard for HI experience must be met (see *Guidelines* Annex B 5);

b. Appointment of Assistants. Whereas the RO appoints Assistants for members, civilians are responsible for finding their own Assistants. The RO may be requested to help an un-represented or excluded civilian;

c. Boards of Inquiry and Summary Investigations. Although occasionally used in military harassment complaints, Boards of Inquiry are NEVER used for civilians; and

d. If one of the parties is a civilian, the RO should consult with the Civilian Human Resources Officer (CHRO) early on. The CHRO's advice will ensure that the resolution process complies with collective agreements, etc.

15. *HA*

15.1 Your HA has been trained to assist you. The HA course is based on the *Guidelines* and concentrates on developing knowledge and skills in the following areas:

a) Policy context – what legislation and policy imperatives have been incorporated into the *Policy* and *Guidelines* or must be considered in harassment cases (e.g. *Privacy Act*);

b) Definition of harassment;

c) Rights and responsibilities Complainants and Respondents;

d) Duties and responsibilities of the RO, supervisors, HA,

Assistants, Workplace Relations Advisor, HI, etc.;

e) SMEs who can assist;

f) Role of HA in Prevention – unit briefings;

g) Options for complaint resolution – benefits and disadvantages;

h) Situational Assessment – advising the RO;

i) Maintaining the harassment file; and

j) Harassment Complaint Tracking System administration.

15.2 On completion of HA Training, the HA should be capable of explaining the harassment policy to the RO, supervisors and all unit personnel, be able to assist you in the resolution of specific complaints, and be able to develop and implement the unit harassment prevention program.

16. Other Resources

16.1 There are many other resources available to assist you and/or the parties to a complaint and to assist you and the HA with proactive harassment prevention initiatives. These include your local or regional:

Legal authority

Police authority

Civilian Human Resources Officers

Dispute Resolution Centre

Workplace Relations Advisor (see Section 3.8 of the

Guidelines)

Social workers

Padres

Medical doctors

Employee Assistance Program (EAP)

Canadian Forces Military Assistance Program (CFMAP)

DND/CF 1-800 Help line for Harassment/sexual assault

Unions

*17. Harassment
Subject Matter
Experts*

17.1 If you need assistance in interpreting the *Policy* or *Guidelines*, you could contact the following:

a) Your chain of command harassment subject matter experts; and

b) CF - Director of Military Gender Integration and Employment Equity (DMGIEE). Contact 992-0752.

OR

DND – Director Civilian Human Rights and Harassment Programs. Contact 945-7009.

Web site: <http://hr.d-ndhq.dnd.ca> or
<http://hr.dwan.dnd.ca/harassment/>

Annex A – Harassment Advisor Terms of Reference (TOR)

NOTE: THIS IS A SAMPLE, NOT A TEMPLATE. It provides the RO with a range of responsibilities which he/she may or may not want the HA to carry out. The duties will depend on the size of the unit, the number of HAs available and the style of the RO.

PROTECTED B (for sample purposes)

Address Header

File # (HA)

Date

Distribution List

TERMS OF REFERENCE – HARASSMENT ADVISOR

References: A. DAOD 5012-0

B. A-PM-007-000/FP-001, Harassment Prevention and Resolution Guidelines

MANDATE

1. Harassment Advisors (HAs) provide general information on the references to the Responsible Officer (RO). As advisors, HAs co-ordinate the harassment awareness and prevention program, assist in the resolution of complaints, and ensure the maintenance of files and information in accordance with section 8.3 of reference B.

PREVENTION

2. The HA will:

- a. advise the RO or the appropriate supervisor of the steps that are required to create a harassment free workplace;
- b. notify the RO and supervisors of situations, conduct or policy that could lead to a complaint of harassment, and provide advice on appropriate and available training to respond to the need;

PROTECTED B (for sample purposes)

Page#/of # Pages

PROTECTED B(for sample purposes)

- c. advise the RO of any conduct in the unit that may contribute to misunderstanding among the ranks with respect to the policy on harassment;
- d. proactively make all individuals in the unit aware of the role of the HA;
- e. ensure that members and employees of the unit are aware of the harassment policy and guidelines, the role of everyone to create a harassment-free working environment and what to do in the case of being harassed or having been accused of harassment;
- f. ensure that all members and employees are aware of the options for resolution and the benefits of ADR in comparison to administrative investigations; and
- g. make recommendations, when appropriate, to enhance the interpersonal or communication skills of members and employees to proactively deal with conflict.

RESOLUTION (WHEN A COMPLAINT OR AN ISSUE HAS BEEN RAISED)

3. The HA will:

- a. be available to receive complaints from all unit members ensuring that they are informed of their rights and responsibilities and the processes for resolution provided by the *Guidelines* through an Assistant or Workplace Relations Advisor;
- b. report complaints of harassment to the RO as described by reference B;
- c. assist the RO with the situational assessment of the complaint in order to determine an appropriate course of action;
- d. encourage the use of ADR to diffuse and resolve complaints;
- e. help to ensure that the appropriate resolution process and subsequent follow-up action remains on track;
- f. assist in the selection of military Assistants;
- g. assist unrepresented and excluded civilians in finding an Assistant, if requested;
- h. assist with the briefing of military and civilian Assistants who are not HA trained;
- i. ensure that all parties (Complainant, Respondent, witnesses, supervisors, and Investigators) have been informed of their role in the resolution and their rights and responsibilities;

PROTECTED B (for sample purposes)

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PROTECTED B (for sample purposes)

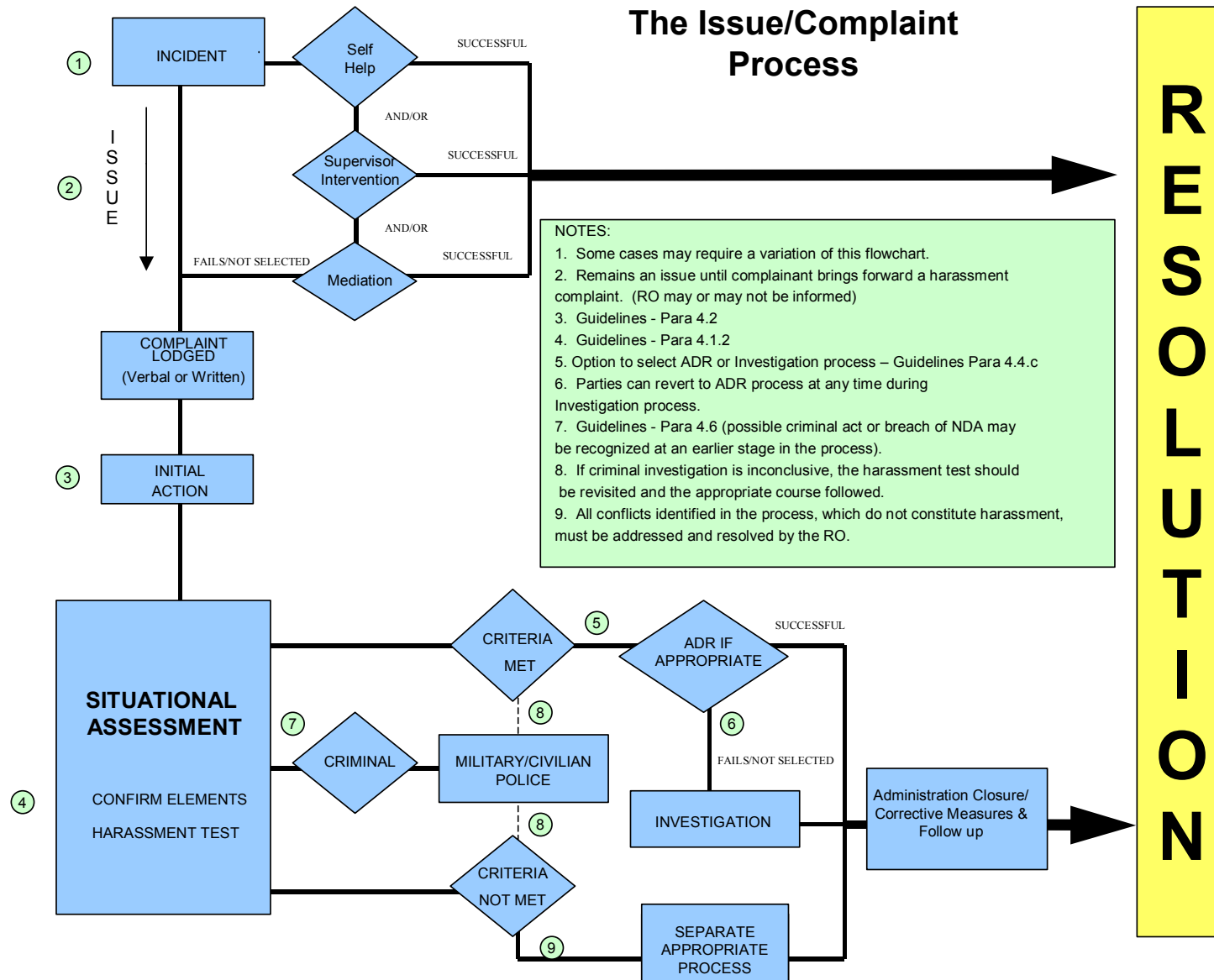
- j. ensure that the disclosure requirements of section 8.1 of reference B are met;
- k. assist the RO in locating and assessing the profile of an investigator (s) appropriate to the conflict to be investigated;
- l. working with unit records clerks, ensure that files are created and completed for all complaints;
- m. assist the RO in the preparation of essential correspondence and documents;
- n. ensure that the Harassment Complaint Tracking System is updated for all complaints;
- o. advise the RO regarding follow-up procedures which address the workplace situation or which address allegations which are not found to meet the definition of harassment during the situational assessment or investigation; and
- p. help to ensure that the resolution terms, following mediation (if the RO was involved in the settlement) or administrative investigation, are adhered to by all the parties and that the follow-up action remains on track.[ROs signature block]

Distribution List

PROTECTED B (for sample purposes)

Pages/# of Pages

Annex B



Annex C –Sample Correspondence

Examples, NOT templates, are provided for the following:

1. RECEIPT OF COMPLAINT
2. LETTER TO THE RESPONDENT
3. TERMS OF REFERENCE FOR ASSISTANTS
4. STATEMENT OF ALLEGATIONS
5. TERMS OF REFERENCE FOR ADMINISTRATIVE INVESTIGATION
6. LETTER OF ADMINISTRATIVE CLOSURE (following an administrative investigation)

1. RECEIPT OF COMPLAINT (SAMPLE)

This letter should be sent as soon as possible after receipt of the complaint.

If the complaint is sufficiently complete that the situational assessment can be done immediately, then ideally the results would be included in this letter rather than indicating that it will happen later. If significant elements are missing, the RO should notify the Complainant that an Assistant could help in rewriting the complaint to facilitate the situational assessment.

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[Address Header]

[Date]

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HARASSMENT COMPLAINT

- References: A. Harassment Complaint [date]
B. DAOD 5012-0
C. A-PM-007-000/FP-001, Harassment Prevention and Resolution Guidelines

1. Receipt of your complaint, at reference A, is acknowledged.
2. As per references B and C, a Situational Assessment will be conducted in the near future, following which possible resolution methods will be discussed with you.
3. [Rank, Name] has been assigned to assist you. (as required)
4. If you have any questions or concerns, [WRA/other] may be contacted at [tel #].

[Signature Block]

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2. LETTER TO THE RESPONDENT (SAMPLE)

This letter is to be sent within 5 working days of receipt of a complaint under normal circumstances.

If the decision is made to prepare a Statement of Allegations in addition to the complaint (e.g. due to the lack of clarity in the complaint or the naming of multiple Respondents necessitating severing), it can be an added reference which is attached or will follow.

If the complaint is complete and the situational assessment can be done immediately, then ideally the results would be included in this letter rather than indicating that it will happen later.

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NOTICE OF HARASSMENT COMPLAINT

References: A. Harassment Complaint [date]

B. DAOD 5012-0

C. A-PM-007-000/FP-001, Harassment Prevention and Resolution Guidelines

1. At reference A, [Complainant] filed a Harassment Complaint in which you were named as the respondent. It is attached for your information. **OR** (It will be forwarded to you as soon as it has been clarified) **OR** (It will be forwarded to you as soon as it has been severed)

2. As per reference C Section 3.4.1, you are encouraged to respond to the allegation(s). **OR** (As per reference D Section 3.4.1, you will be given the opportunity to respond to the allegation(s) once they are available.)

3. According to references B and C, a Situational Assessment will be conducted following which alternate resolution options will be discussed with you.

4. [Rank, Name] has been assigned to assist you. (if applicable)

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5. If you or your Assistant have any questions or concerns, [WRA or other source of help for the parties] may be contacted at [tel #].

[Signature Block]

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**3. TERMS OF REFERENCE FOR ASSISTANTS ASSIGNED TO MILITARY
COMPLAINANTS AND RESPONDENTS (SAMPLE)**

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[Letterhead]

[Date]

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TERMS OF REFERENCE FOR ASSISTANTS

References: A. Telecon [RO/Assistant] [date]

B. DAOD 5012-0

C. A-PM-007-000/FP-001, Harassment Prevention and Resolution Guidelines

1. As discussed at reference A, you have been appointed the Assistant to [Complainant/Respondent]. Your role as Assistant during the complaint resolution process is to provide support. This could range from moral support to:
 - a. providing advice and knowledge of the Policy and Guidelines at references B and C (especially with respect to the rights and responsibilities of the individual);
 - b. helping evaluate the different resolution options;
 - c. helping prepare the Complaint, allegations or material for presentation; **OR** (helping prepare the Respondent's response to the Complaint;)
 - d. accompanying the [Complainant/Respondent] to interviews or meetings associated with the resolution process, with the possible exception of mediation sessions; and
 - e. assisting the [Complainant/Respondent] with any follow-up action such as preparation of redress of grievance as required.
2. You cannot be an Assistant for a case in which you are a witness. Should this be the case, you are to inform the undersigned.

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3. If you have questions about your role or the references at B and C, contact [HA/WRA/other] at [tel #].

[ROs Signature Block]

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4. STATEMENT OF ALLEGATIONS (SAMPLE)

This document may be required if the complaint names multiple Respondents, the alleged conduct is not clearly identified in the complaint, or the complaint is full of inflammatory language that would mitigate against resolution. When there are multiple Respondents, it may be quicker to prepare this statement than to sever the complaint; sending it out can buy some time to complete the severance and keep the Respondent informed. The Statement of Allegations would be prepared by the Complainant in consultation with an Assistant (who may be trained as an HA but not employed in that role at the unit), except in the case where the only issue is multiple Respondents; then the HA might prepare it. It should reflect as completely and as specifically as possible the specific incidents (actions, inaction or words of the Respondent) that have led to the complaint. It should then be submitted to the RO, who will distribute it to the Respondent (s).

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[Date]

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STATEMENT OF ALLEGATIONS (Note – one statement per respondent if applicable)

Reference: Harassment Complaint [dated]

1. Allegation [#]: (examples) On [date/time] in/at [place], the following conduct occurred:
 - a. [Rank, Name] stated that [Complainant] was a “lazy useless excuse for a soldier” and that he/she could expect his/her career to be very short; and
 - b. [Rank, Name] said to [Complainant] “I hate your ugly face”, and “I don’t know how the army could recruit someone as useless as you”. [Rank, Name] witnessed the incident. My perception is that [explain].
2. Allegation [#]: (example) On [date/time] in/at [place], [Rank, Name] said to all that “the army never was and never will be a place for [this type of person]”. [Rank/Name] were present. My perception is that [explain]; and

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3. Allegation [#]: (example) On [date/time] in/at [place], [Rank, Name] told [Complainant] that “I could do all extras for the rest of the month because I am so stupid and that I might learn something from it”. [Rank/Name] witnessed the incident. My perception is that [explain].

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**5. TERMS OF REFERENCE FOR AN ADMINISTRATIVE INVESTIGATION
(SAMPLE)**

(Excerpt from the Harassment Prevention and Resolution Guidelines, Annex C)

This sample TOR provides the minimum that should be included in a HI TOR; however, additional pertinent details could be added, such as:

- *the names of the HA, WRA, Assistants, and administrative staff with responsibilities related to the complaint*
- *specific instructions with respect to meeting Privacy Act and National Defence Security Policy requirements, surrendering the investigation file at the completion of the investigation, formatting of the draft and final reports, and handling of conflict of interest situations*
- *the availability of administrative support*

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File #

Date

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TERMS OF REFERENCE
HARASSMENT INVESTIGATION INTO
ALLEGATIONS BY (NAME, INITIALS)

References: A. Harassment Complaint (date)
B. DAOD 5012-0, Harassment Prevention and Resolution
C. A-PM-007-000/FP-001, Harassment Prevention and Resolution Guidelines

1. [Name of HI(s)] is/are appointed to conduct a thorough investigation into the harassment complaint at Reference A. Pursuant to Reference B, this investigation is considered to be a primary responsibility. The investigation shall be conducted with the utmost sensitivity and discretion in accordance with Reference C. The investigating officer shall suspend the investigation if he/she uncovers any evidence of a criminal or NDA offence and the matter shall be brought to the attention of the RO for further direction.

2. The HI shall conduct an investigation in the following stages:

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Administrative Investigation Stages

3. Research and Planning Stage
 - a. Review all applicable legislation, regulations and orders, specifically DAOD 5012-0 and the Treasury Board *Harassment in the Workplace Policy*;
 - b. Ensure that the specific allegations referred to in the complaint are clear and have been provided in writing to the Respondent with the opportunity to respond;
 - c. Confirm whether the Complainant and Respondent understand their rights and responsibilities and that they have access to Assistants prior to the commencement of the investigation;
 - d. Obtain and review all documents relevant to the matters under investigation;
and
 - e. Discuss with the RO the details prior to continuing with the investigation should opportunities for ADR arise during the investigation process.

4. Interview Stage. Interview the Complainant and Respondent cited in the complaint, and other witnesses as required with respect to each allegation, to ascertain all relevant facts relating to the complaint. In particular, respond to the following:
 - a. Is there information to support the allegations? If yes, what?
 - b. What was the period of time over which the conduct took place?
 - c. What motive for the conduct became evident? Explain;
 - d. Is there information available to suggest that the conduct was intentional? Explain;
 - e. Does it appear that the conduct was persistent, pervasive? Explain;
 - f. Has the Complainant and/or Respondent had to seek assistance to cope with the situation? Explain; and
 - g. Has the situation had career implications for the Complainant and/or Respondent? Explain.

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Should additional allegations be made during the course of the investigation, such allegations are to be submitted to the RO to determine whether they should be considered as part of the mandate for your investigation. If these allegations become part of this investigation, they are to be presented in writing to the Respondent.

5. Analysis Stage

- a. Determine and identify the substance of each allegation;
- b. Determine if the conduct satisfies the definition of harassment? Quote references; and
- c. Comment on the general situation in the workplace under question to identify underlying factors, which may have contributed to the complaint and have had a negative effect on the work environment.

6. Investigator's Report Stage

a. Draft Report

(1) Prepare the Draft Report in accordance with the following format:

- (a) a summary of the harassment complaint;
- (b) a description of the allegation(s);
- (c) a description of the background and evidence that supports, and does not support, each allegation; and
- (d) an analysis of the evidence in respect to each allegation as to its credibility but not, whether or not the conduct satisfies the definition of harassment.

(2) ensure that the Draft Report, severed in accordance with the *Privacy and Access to Information Acts*, is given to the Complainant and the Respondent, who shall be provided 14 calendar days to provide a written comment; and

(3) after all of the information has been reviewed, consider any additional information provided by the parties and incorporate it into the report if it is deemed appropriate to do so.

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b. Final Report

(1) Prepare the Final Report using the information from the Draft Report and add the information from items (e) and (f) identified below:

- (a) a summary of the harassment complaint;
- (b) a list of the allegations(s);
- (c) a description of the background and evidence that supports, and does not support, each allegation;
- (d) an analysis of the evidence in respect to each allegation;
- (e) a statement as to whether each allegation is supported or not; and
- (f) a determination as to whether or not the behaviour described in each allegation constitutes harassment.

7. All expenses associated with the conduct of this investigation are to be charged to (Financial Code).

8. The Final Report is due by (date). If an extension is deemed necessary, a request in writing shall be submitted.

[RO's SIGNATURE BLOCK]

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6. LETTER OF ADMINISTRATIVE CLOSURE
FOLLOWING AN ADMINISTRATIVE INVESTIGATION (SAMPLE)

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[Letterhead]

[Date]

[Addressee] (The Respondent, Complainant should each receive their own letter addressed to them only (no distribution list) informing them of the adjudication of the Administrative Investigation. Information in each letter must be severed as per the Privacy Act. The Complainant has a right to receive details on any proceeding against the Respondent.)

RESOLUTION REGARDING [HARASSMENT COMPLAINT]

References: A. Terms of Reference [dated]
B. Complaint of harassment [dated]
C. Harassment Investigation Final Report [dated], including responses received from the disclosure phase.

1. By the Terms of Reference, at reference A, [Rank, Name of investigator] conducted an investigation into the allegation of harassment at reference B, made by [SN, Rank, Name of Complainant] against [Rank, Name of Respondent]. In reaching my decision I have taken into consideration the findings of the Administrative Investigation and the information presented in support of the findings (summary of events, method, etc.).

BACKGROUND

2. (This section should contain a summary of how the situation developed and how it was handled. The timeline should include as much of the following information as possible [date of alleged incidents]; [date first reported]; [date chain of command became involved]; [date of appointment of Assistant]; [date of notification of respondent]; [date of Terms of Reference]; [dates of investigation from beginning to end, with note if there were any major delays]; [date when investigation finished and disclosure issued]; and [Date responses were received, specifically noting if any time periods were excessive and reasons why. If proceeding without a response from either the complainant or the respondent(s), the reason must be fully explained]).

Note: The timeline should be as complete as possible, with particular attention to reasons for delays.

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REVIEW OF EACH ALLEGATION

3. (List each allegation followed by the finding as follows:)
 - a. (1) [Allegation 1]. (What the complainant's allegation is); and
(2) [Finding]. (This section is for the Responsible Officer (RO) to take each allegation and finding by the Harassment Investigator(s) (HI) and either support or not support the findings of the investigation. If the RO differs from the HI's findings, then the subsequent analysis and decision must be explained.)
 - b. (1) [Allegation 2]. (etc.)

DIRECTION

4. (The final section would be for the adjudicating authority's direction as a result of the findings of the harassment investigation. It may be necessary to list the direction given for each specific allegation. The RO should outline the proceeding against the Respondent and other corrective actions related to the workplace.)

[RO's Signature Block]

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Notes:

1. *All information sent to the Complainant and Respondent(s) should be delivered either in person or sent, with a DND 728 attached, by registered mail or priority post, whichever is most economical and feasible given the time constraints. It is also recommended that the adjudication be explained in person after the Respondent/Complainant have received their copy of the RO's decision.*

2. *The HI's reports and the administrative closure letter are vital elements to the healing process. Therefore, the tone and selected wording should be conducive to a smooth resolution of the conflict.*