

**WORKPLACE
CONFLICT RESOLUTION
POLICY**

November 2000



**Northwest
Territories**

Financial Management Board Secretariat

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POLICY ON WORKPLACE CONFLICT RESOLUTION

1.0 PHILOSOPHY AND COMMITMENT

- 1.1 The Government of the Northwest Territories (GNWT) recognizes the diversity of the Public Service and is committed to providing a workplace where all individuals are treated with fairness, dignity and respect.
- 1.2 The GNWT recognizes that harassment, whether based on race, creed, colour, sex (gender), marital status, nationality, ancestry, place of origin, age, disability, family status, political beliefs, sexual preference or religion is discrimination.
- 1.3 The GNWT is committed to providing a work environment where there is respect amongst co-workers and to the provision of a flexible conflict resolution system that offers effective solutions to workplace conflicts.
- 1.4 Nothing in this policy shall be deemed to restrict the authority of managers in performance review, counselling, disciplinary action or other appropriate interactions between employees and supervisors.

2.0 APPLICATION

- 2.1 This policy applies to every employee in the public service of the Government of the Northwest Territories, its boards and agencies, volunteers and contractors who do business with the Government. The GNWT will make best efforts to ensure that all of the above parties are informed of this policy.
- 2.2 This policy applies in all workplaces.
- 2.3 The existence and implementation of this policy does not foreclose upon an employee's rights to pursue other remedies. These may include private legal remedies, grievances, or complaints under applicable legislation.
- 2.4 The GNWT will not be responsible for the provision of legal services to employees who wish to pursue other remedies.
- 2.5 In accordance with the UNW and NWTTA Collective Agreements, where an employee to whom either of these collective agreements applies disputes the interpretation or application of a provision of this policy the employee may file a grievance. For greater certainty this does not create new rights or diminish existing rights in either collective agreement.

3.0 DEFINITIONS

- 3.1 Harassment: Harassment means any improper behaviour by a person that is directed at, and is offensive to, any other employee of the GNWT or anyone who is related to the business of the GNWT and which that person knew or ought reasonably to have known would be unwelcome. It comprises objectionable conduct, comment or display made on either a one-time or continuous basis, that demeans, belittles, or causes personal humiliation or embarrassment to an employee.

It includes harassment based on race, creed, colour, sex (gender), marital status, nationality, ancestry, place of origin, age, disability, family status, political beliefs, sexual preference or religion.

Harassment includes a poisoned environment where offensive conduct or comments, not necessarily directed at anyone in particular, are pervasive, and have a negative effect on morale; for example, the encouragement of repeated jokes related to race, women, same sex couples. Harassment also includes the exclusion of an individual or individuals, based on any of the grounds listed above, from activities within the workplace.

- 3.2 Sexual Harassment:

Sexual harassment means any conduct, comment, gesture or contact of a sexual nature, whether on a one-time basis or in a continuous series of incidents that

- a. Might reasonable be expected to cause offence or humiliation to any employee; or
- b. The employee might reasonable perceive as placing a condition of a sexual nature on employment or on an opportunity for training or promotion.

Examples of sexual harassment include:

- i. unwelcome sexual advances or propositions;
- ii. direct or implied requests or expectations of sexual activity under threat, or in exchange for favours or promises of preferential treatment
- iii. verbal abuse of a sexual nature
- iv. staring, leering, patting, pinching, touching, sexually suggestive references to physical appearance, unnecessary familiarity or physical contact
- v. displays of erotic or sexually explicit posters, pictures, graffiti or other materials, or offensive computer screen savers;
- vi. sexual jokes, comments or innuendoes;
- vii. sexually suggestive behaviour, offensive telephone calls or obscene gestures;
- viii. intrusive enquiries into a co-worker's private life or sexuality;
- ix. public displays of nudity ("flashing")
- x. pervasive animosity or extreme rudeness directed at a single sex.

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3.3 Abuse of Authority:

Abuse of authority is a form of harassment which occurs when an individual improperly uses the power and authority inherent in his or her position to endanger an employee's job, undermine the performance of that job, threaten the economic livelihood of the employee, or in any way interfere with or influence the career of the employee. It includes intimidation, threats, blackmail or coercion.

3.4 Workplace:

A workplace is any location where business of the Government is being carried out such as work yards, cafeterias, offices, and board rooms; and other locations and situations such as during business travel, work-related social gatherings or other locations where the unwelcome behaviour may have subsequent impact on the work relationship, environment or performance back in the workplace.

3.5 Complaint:

A complaint is a formal, written allegation against an individual(s), group(s) or organization(s) which contravenes this policy.

3.6 Mediation:

The process whereby disputing parties seek to reconcile their differences with the assistance of an agreed-upon third party.

4.0 RESPONSIBILITIES OF MANAGERS AND SUPERVISORS

4.1 Managers and supervisors are responsible for taking steps to provide a work environment that is free from harassment and for communicating this policy to all employees under their supervision.

4.2 This policy reinforces the responsibility of managers and supervisors to foster a work environment in which employees under their supervision conduct themselves appropriately. Nothing in this policy diminishes the responsibility of managers and supervisors to address inappropriate conduct in the workplace, regardless of whether a complaint has been made.

4.3 Managers and supervisors to whom complaints have been made will advise the complainant of the procedure for making complaints. A complaint can be made to a supervisor, Designated Conflict Officer (DCO) or another senior staff person in whom the complainant feels comfortable confiding.

4.4 During the investigation, if it is deemed by the employer to be in the best interests of all parties, when the complainant and respondent are in a subordinate-supervisor relationship with each other, they may be physically removed from each other on a temporary basis and may have their reporting relationship changed.

5.0 RESPONSIBILITIES OF EMPLOYEES

5.1 Employees of the Public Service of the GNWT have a responsibility to comply with this policy in avoiding conduct that is offensive and which may constitute harassment. Non-compliance

will result in remedial action being taken by the GNWT.

6.0 RESPONSIBILITIES OF THE DESIGNATED CONFLICT OFFICER (DCO)

6.1 The role of the Designated Conflict Officer (DCO) includes but is not limited to:

- a. receiving complaints from complainants, managers or supervisors;
- b. informing the Deputy Head that a complaint has been received;
- c. advising the complainant and the respondent of the process in dealing with the complaint through the Workplace Conflict Resolution Policy;
- d. advising the complainant and the respondent of the Workplace Conflict Resolution Policy, by providing them with a copy of the policy.
- e. informing the complainant and the respondent of the possible avenues of resolution available under this policy, i.e. mediation;
- f. conducting investigations in accordance with the Workplace Conflict Resolution Policy, either within the DCO's department, board or agency, or upon request by another department, board or agency. DCOs will co-investigate a complaint; one DCO will usually be from the affected department, board or agency and the other will usually be from an external department, board or agency.
- g. declaring a conflict of interest or bias if the DCO considers that he/she may not be able to maintain impartiality during an investigation;
- h. informing union members involved in the complaint of their right to union representation (see Appendix A).

7.0 RESPONSIBILITIES OF THE DEPUTY HEAD

7.1 The Deputy Head of GNWT departments, boards and agencies will:

- a. make the policy accessible and encourage a work environment free of harassment;
- b. receive notifications of complaints from the DCO;
- c. take into consideration, location and dynamics of the work site, gender balance of the investigation team, and supervisory relationships, and will designate two investigators in accordance with this policy.
- d. make a formal request to the Deputy Head of another department, board, or agency for the assignment of a co-investigator(s)
- e. ensure the timely resolution of complaints;

- f. receive the investigators' written report and seek clarification on the report, if he/she considers it necessary;
- g. ensure that the findings are conveyed separately to the complainant and respondent as close in time as possible;
- h. if necessary, determine the appropriate remedial action and ensure implementation of a course of action based on the findings of the investigation report. This may include the administering of appropriate discipline, and, depending upon the seriousness of the incident(s) and where deemed necessary, take steps to follow up on the situation in which a complaint of harassment has been substantiated and ensure that harassment ceases.

8.0 RIGHTS AND RESPONSIBILITIES OF THE COMPLAINANT

Under this policy, the following options are available to an individual who feels that he or she has been harassed.

- 8.1 If the circumstances permit and if the complainant feels comfortable in doing so, he or she may advise the other person that the behaviour is offensive and request that the behaviour cease. The other person may not have been aware that his or her behaviour is offensive and this may prevent recurrence.
- 8.2 The complainant has the right to make a complaint with his or her supervisor, another senior member of the staff, or a DCO. If the complaint is filed with a DCO the Deputy Head is not required to assign the investigation to the DCO who received the complaint.
- 8.3 The complainant has the right to have his or her complaint treated seriously and to be informed of the findings.
- 8.4 The complaint will be held in confidence except in so far as it is necessary for the purposes of investigating the complaint or taking disciplinary action in relation to the complaint. This means that the complaint will be shared with the respondent.
- 8.5 The complainant has the right to be accompanied by another person for support during all interviews related to the complaint, including a union representative, and, if necessary, an interpreter.
- 8.6 The complainant has the right to receive fair treatment.
- 8.7 The complainant has the right to provide names of witnesses to the incident(s).
- 8.8 The complainant has the right to receive a copy of this policy from the DCO of the department, board or agency.
- 8.9 The complainant has the right to offer, at any time, a voluntary solution to the complaint.

Under this policy, a complainant has the following responsibilities, before, during and after the complaint process.

- 8.10 The complainant has the responsibility to make his or her disapproval or unease known to the other party within a reasonable time, unless it would not be reasonable to do so.
- 8.11 The complainant has the responsibility to make a complaint or seek assistance from a union representative, supervisor, DCO or other senior staff member in whom he or she feels comfortable in confiding within a reasonable period of time.
- 8.12 The complainant has the responsibility to keep his or her involvement and the complaint confidential.
- 8.13 The complainant has the responsibility to co-operate with those investigating the complaint.
- 8.14 The complainant has a responsibility to express the complaint honestly.
- 8.15 The complainant is responsible for seeking further clarification or explanation of his/her rights, responsibilities and options.

9.0 RIGHTS AND RESPONSIBILITIES OF THE RESPONDENT

Under this policy, a person against whom a complaint has been made has the following rights.

- 9.1 The respondent has the right to be fully informed of the complaint, to have a copy of the complaint, and to be given the opportunity to respond to the complaint.
- 9.2 The right to be accompanied by another person for support, including a union representative and an interpreter, if necessary, during interviews that relate to the complaint.
- 9.3 The respondent has the right to decline to respond to the complaint, or to participate in the investigation, but he/she must be informed that the investigation will continue.
- 9.4 The respondent has the right to fair treatment.
- 9.5 The respondent has the right to provide names of witnesses to the incident(s).
- 9.6 The respondent has the right to receive a copy of this policy from the DCO.
- 9.7 The respondent has the right to offer, at any time, a voluntary solution to the complaint.

A respondent has the following responsibilities under this policy.

- 9.8 The respondent has the responsibility to keep his or her involvement and the complaint confidential.

9.9 The respondent must not impede the efforts of the investigators or other persons conducting the review of the complaint.

9.10 The respondent is responsible for seeking further clarification or explanation of his/her rights, responsibilities and options.

10.0 THIRD PARTY COMPLAINTS AND ANONYMOUS ALLEGATIONS

10.1 Complaints may be investigated from an employee who is not being harassed directly but where there is a direct and personal impact in the workplace as a result of harassment involving others.

10.2 While it is possible for anyone to seek anonymously the advice and assistance of a DCO, supervisor or senior staff member, only those complaints in which the complainant's identity is disclosed may be taken through the mediation and investigation processes.

11.0 DEALING WITH THE COMPLAINT

11.1 Discussion Between Complainant and Respondent

The diverse nature of the work environment makes respectful and honest communication between co-workers critical to the functioning of our workplace. Wherever possible, employees should attempt to discuss offensive behaviours with the other party when they occur, with the aim of finding a mutually agreeable solution before the situation becomes unworkable.

Employees are expected to discuss behaviour they find offensive with the other party only if it is reasonable in the circumstances to do so.

In circumstances where discussions between individual employees are unsuccessful or not feasible, the complainant may make a formal complaint to his or her supervisor, a senior staff member or a DCO.

11.2 Taking the Complaint

The person who takes the complaint, normally the DCO, will meet with the complainant and the complainant's representative, if any, and where appropriate, an interpreter. The person taking the complaint will take steps to ensure that the problem is properly understood and formulated accordingly. The person taking the complaint will keep notes of the meeting and the complaint. If someone other than the DCO receives the complaint, he or she must refer the complaint to the DCO or Deputy Head within a reasonable time.

11.3 While each case will have its own set of facts, the following are issues that will be discussed at the initial meetings:

- a. areas of the complaint that are unclear or which require elaboration;
- b. possible resolutions available to the complainant, within this policy;

- c. supporting evidence in relation to the complaint, such as notes taken by the complainant and the names of witnesses who may have witnessed the event(s);
 - d. an explanation of the process that will be followed, including an outline of this policy.
 - e. Confidentiality will be discussed. In particular, the complainant will be told that the complaint will be discussed with the respondent, that the respondent will receive a copy of the complaint, and that, in the event of a full-scale investigation, witnesses may be interviewed. Additionally, the complainant will be made aware that he or she has an obligation to maintain confidentiality with respect to his or her complaint.
- 11.4 The assigned DCOs will then conduct an initial review of the matter with the complainant and the respondent. The DCOs will identify all avenues of resolution within this policy and appropriate in the circumstances
- 11.5 The following are some of the potential reasons why a matter may not be pursued:
- a. the allegations are not within jurisdiction of the policy;
 - b. a reasonable alternate remedy is available;
 - c. there is insufficient evidence or information;
 - d. an extensive delay or unreasonable delay (i.e. more than six months) has occurred;
 - e. the complaint was made anonymously.

12.0 MEDIATION

- 12.1 Where it has been determined to be feasible and where both parties concur, a mediated solution to the dispute will be attempted. A person within the GNWT who has mediation skills and is acceptable to the complainant and the respondent will mediate the dispute. If it is not possible to use a mediator from within the GNWT in a timely manner, or at all, a mediator from outside the GNWT shall be hired. Both parties will have the right to have another person accompany them to the mediation. Both parties will have the right to an interpreter, if required.

- 12.2 Mediation may be attempted at any point in the process of dealing with a complaint where it is considered to be appropriate and have a reasonable chance of solving the complaint.

13.0 FULL-SCALE INVESTIGATION

- 13.1 When it is not possible to resolve the complaint through discussion or mediation, a full-scale investigation will be conducted.

- 13.2 If a complaint is filed against a Deputy Head, the investigators will be chosen in co-ordination with the Secretary to the Financial Management Board or the Deputy Minister of Justice, whoever is appropriate in the circumstances.

- 13.3 No person directly involved in the supervision of either the complainant or the respondent shall conduct such an investigation.

- 13.4 The investigators will remain impartial and will not prejudge the matter or the persons involved.

- 13.5 The investigators will interview the complainant, respondent, any witnesses identified by these individuals, and any other parties involved in the complaint. All persons interviewed will be counseled on the importance of keeping the matters discussed in such interviews confidential. The investigators will inform witnesses that although their identities will be kept confidential, their comments may be made known to the complainant and the respondent. Further, the investigators will inform all witnesses that their identity and interview statement may be disclosed to the complainant or respondent, if legally required. Information collected and retained may also be subject to release in accordance with the *Access to Information and Protection of Privacy Act*.

- 13.6 The facts and summary of evidence gathered through an investigation will be submitted to the Deputy Head in a report. The evidence that is used to form the basis of the report will be limited to facts that are within the direct knowledge of any witnesses, and the complainant and by the respondent. Hearsay evidence that is not substantiated or beliefs of the interviewees will not be included in the report or recommendations. The Deputy Head will ensure that the findings of the investigation as laid out in the report are provided to the complainant and the respondent, as close in time as possible.

- 13.7 The report will not contain recommendations.

- 13.8 The report and other relevant considerations will form the basis for a decision by the Deputy

Head, respecting appropriate action.

- 13.9 The Deputy Head will separately advise the complainant and the respondent of the decision that is reached.

14.0 WHERE THE COMPLAINT IS SUBSTANTIATED

- 14.1 If, upon thorough investigation, a complaint is substantiated and a mediated solution is not possible, then appropriate action will be taken. The action to be taken will be decided by the Deputy Head. Possible actions include one or more of the following:

- a. written warning/reprimand
- b. requirement of counseling
- c. transfer, demotion or both
- d. change in work situation to eliminate or minimize scope for repetition of offense
- e. suspension from work
- f. dismissal
- g. education and training
- h. other remedial measures applicable to specific circumstances
- i. follow-up, as necessary
- j. recommend changes to policies, procedures and practices

Only where formal disciplinary action has been implemented as a result of an investigation, is a reference to the investigation made on an employee's personnel file.

- 14.2 If an apology is made and accepted the apology may be deemed an appropriate resolution.
- 14.3 Once resolution of the founded complaint is reached, the Deputy Head or designate will follow up on the situation. Follow-up is a critical component of effective complaint resolution.
- 14.4 Appropriate remedial action may be taken by the GNWT to encourage a positive and harassment-free workplace. This may include but is not limited to, training, the provision of information about counseling, and other services that are available to assist the parties.
- 14.5 Workplace issues which may need to be addressed, other than the finding of harassment, should be identified and brought to the attention of the Deputy Head by the DCO in a separate report.

15.0 WHERE THE COMPLAINT IS NOT SUBSTANTIATED

- 15.1 If a complaint is not substantiated, the findings shall be explained separately to both the complainant and the respondent. The complainant shall be told first.
- 15.2 The complainant and the respondent will be advised that an unsubstantiated complaint is not necessarily false or frivolous.
- 15.3 If no harassment is found to have occurred, but there are workplace issues that need to be

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addressed, these issues should be identified and brought to the attention of the Deputy Head by the DCO in a separate report.

16.0 DOCUMENTATION

- 16.1 Notes on the complaint and the investigation are to be maintained on files separate from the complainant's or respondent's personnel file. Only disciplinary action taken will be documented on the respondent's or complainant's personnel file.
- 16.2 The investigation report and all related documentation shall be kept sealed in a secure location in the Division of Labour Relations and Compensation, Financial Management Board Secretariat (FMBS), Yellowknife.
- 16.3 These files will be retained in accordance with the records and retention schedule of FMBS.
- 16.4 An investigation may be re-opened only in the following circumstances:
 - a. New and relevant information is provided to the investigators or management which was not reasonably available to the investigators at the time of the original investigation; or
 - b. A reprisal is alleged to have occurred.
- 16.5 Information from a previous investigation(s) that is concluded with a finding of harassment may be reviewed and considered where a new allegation of harassment has been made against the respondent.

17.0 FALSE OR FRIVOLOUS COMPLAINTS

- 17.1 All employees should be aware that a complaint of harassment against another employee is a very serious allegation with far-reaching repercussions. Accordingly, where a complaint is found to be fabricated or frivolous, or where false information has been provided to support a complaint by either a complainant or a witness, the complainant or witness may be subject to disciplinary measures including, but not limited to, the following:
 - a. warning or written reprimand;
 - b. transfer or demotion, or both;
 - c. suspension;
 - d. dismissal.
- 17.2 If an apology is made and accepted the apology may be deemed an appropriate resolution.
- 17.3 Only disciplinary action taken will be documented on the complainant's personnel file.

18.0 RETALIATION AND REPRISAL

- 18.1 All employees have a right to be free from retaliation or reprisals or threats of either as a result

of filing a complaint or being party to the investigation of a complaint. Any employee found to be engaging in such conduct shall be subject to disciplinary action.

19.0 COMMENTS AND CONCERNS

19.1 Any comments or concerns regarding this policy or the process followed in its application can be directed to:

Director
Labour Relations and Compensation Services
Financial Management Board Secretariat

APPENDIX A
UNW and NWTTA Contacts
Union of Northern Workers (UNW)

Union of Northern Workers (UNW)

President, (867) 873-5668

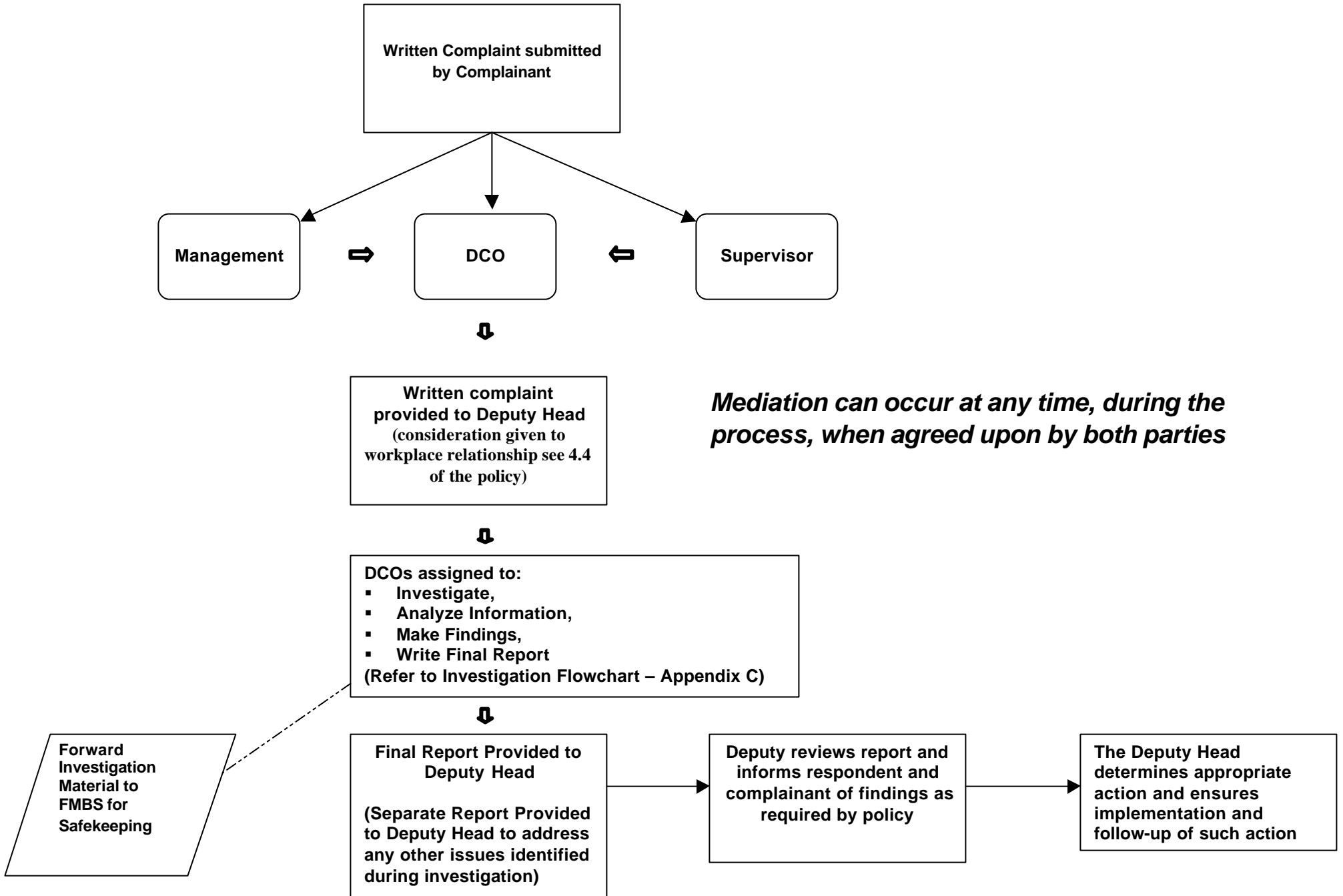
Website: www.unw.ca

Northwest Territories Teachers Association (NWTTA)

Executive Director, (867) 873-8501

Website: www.nwtta.nt.ca

APPENDIX "B" WORKPLACE CONFLICT RESOLUTION



APPENDIX "C"

Investigation Flow Chart

