

# **Nova Scotia House of Assembly Policy on the Prevention and Resolution of Harassment in the Workplace (Policy).**

Approved by the Nova Scotia House of Assembly on May 19, 2016.

Effective date May 20, 2016.

**STATEMENT: The Nova Scotia House of Assembly is committed to providing a workplace that is free of harassment.**

## **1. Name**

This Policy is called “Nova Scotia House of Assembly Policy on the Prevention and Resolution of Harassment in the Workplace.”

## **2. Context**

Everyone has a right to be treated with respect and has a responsibility to treat others the same way. It is in the best interests of everyone to foster a workplace that supports respect and dignity and prevents harassment by promoting awareness of and early informal resolution of harassment complaints.

To prevent harassment all communications and interactions should be professional and respectful. Showing courtesy and politeness can go a long way to preventing misunderstandings that could be perceived as harassment.

Behaviour considered harmless by one person may be considered offensive by another. Individuals should be sensitive to how others react to their remarks and behaviour. Body language is important: non-verbal behaviour, such as facial expressions, posture, tone of voice or silence, may indicate that another person is not comfortable with the behaviour.

## **3. Workplace**

The workplace is any place where the business of the House of Assembly is being carried out including, but not limited to;

- all offices, premises and locations that are used by persons identified at Section 4 of this Policy as their workplace;
- all premises where the business of the House of Assembly is being conducted; and
- all locations and situations, including business travel, conferences and work-related social gatherings, where House of Assembly-related activities are carried out.

#### **4. Application**

This Policy applies to

- every elected Member of the House of Assembly (MLA);
- every staff person, be he or she permanent, contract, casual, intern, page or other, whose salary or remuneration is paid from the Legislative Services budget of the House of Assembly;
- any contract staff person whose salary is paid from budgets other than the Legislative Services budget of the House of Assembly and who works at the workplace defined under Section 3 including security staff; and
- volunteers who work with MLAs.

For greater certainty, this Policy applies to employees who are subject to a collective agreement and whose salary or remuneration is paid from the Legislative Services budget of the House of Assembly. Employees who are subject to a collective agreement are also subject to the Government of Nova Scotia Respectful Workplace Policy.

For greater certainty, this Policy does not apply to debate and proceedings in the House of Assembly (including Committee of the Whole on Supply, the Subcommittee on Supply and the Committee of the Whole House on Bills) and does not apply to debate and proceedings before the Committee on Assembly Matters, the Standing, the Select and the Special Committees of the House of Assembly.

#### **5. Harassment**

Harassment means any behaviour, act, conduct or comment, whether sexual in nature or not, whether occurring on a one-time or recurring basis, by a person to whom this Policy applies, directed at and offensive to another person to whom this Policy applies, and that the person knew or ought reasonably to have known

- would be unwelcome and cause offence or harm;
- would demean, belittle, intimidate, threaten, distress, humiliate or embarrass;
- would affect a person's reputation;
- would endanger a person's job, undermine job performance, threaten economic livelihood or interfere with one's career;
- would be discrimination on account of one or more factors listed in the *Human Rights Act*;
- would be bullying as defined under the *Education Act*; or
- would be cyberbullying as defined under the *Cyber-safety Act* or under another Act.

## **6. Purpose**

The purpose of this Policy is to

- encourage open communication to ensure that the workplace is free of harassment and that persons in the workplace are respectful of each other;
- prevent harassment between persons to whom this Policy applies;
- encourage early identification and reporting of harassment complaints;
- promote and encourage both informal and formal reporting of instances of harassment;
- initiate early and informal resolution of harassment situations, whenever possible;
- establish a resolution process that is complainant-driven, that is one where it is the complainant's choice as to whether the complaint brought forward is informal or formal and it is also the complainant's discretion to bring an end to the complaint process at any given time in the process;
- ensure that any allegation of harassment is taken seriously and provide procedures for the speedy and effective resolution of allegations;
- make everyone aware of each person's responsibilities;
- ensure confidentiality throughout the complaint resolution process, unless otherwise provided for in this Policy; and
- provide, in situations where harassment is found to have occurred, remedial, corrective or disciplinary measures, up to and including termination of employment in the case of staff or in the case of an elected Member, a referral and motion by the Internal Affairs Committee to the House of Assembly.

## **7. General Guidelines and Directives**

### **7.1 Confidentiality**

Appropriate steps will be taken to ensure the confidentiality of all inquiries, complaints and related records is respected, subject to procedural fairness or to any disclosure required by this Policy or by law. Disciplinary measures may be taken against an individual who inappropriately discloses information. No person shall disclose information related to the resolution process or any information related to any participant.

All persons associated with a complaint including witnesses are responsible for limiting discussion of the complaint and the disclosure of related information to those people who need to know.

**7.2 Confirmation of receipt and reading of Policy**

A) All persons to whom this policy applies as set out in Section 4, **except** contract staff persons whose salary is paid from budgets other than the Legislative Services budget of the House of Assembly and who work at the workplace defined under Section 3 including security staff and volunteers, are to be provided with a copy of this Policy.

Within 5 business days of receiving the Policy, each person must individually sign and return to the person providing them with a copy of this Policy, a form acknowledging receipt of the Policy and confirming they have read the Policy. Each signed confirmation form will immediately be remitted by the person collecting them to the Chief Clerk for filing.

<b>Person providing the Policy and collecting the confirmation of receipt</b>	<b>Person receiving the Policy and signing acknowledgment</b>
Party Whip	Each and every caucus MLA in the Whip’s political party
Chief Clerk	Each Independent MLA; the Director of Administration – Speaker’s Office; an Assistant Clerk; the Sergeant-at-Arms; the Chief Legislative Counsel; the Legislative Librarian; the Manager – House of Assembly Operations; the Hansard Editor; the Manager of Legislative Television Broadcast and Recording Services; the Coordinator – House of Assembly Operations; the Chief Clerk.
Director of Administration – Speaker’s Office	Every staff person be it permanent, contract, casual, intern, page or other, whose salary or remuneration is paid from the Legislative Services budget of the House of Assembly and who is not listed in this chart.
Sergeant-at-Arms	Contract staff and service providers

B) As a condition of their contract, all contract staff persons whose salary is paid from budgets other than the Legislative Services budget of the House of Assembly and who work at the workplace defined under Section 3 including security staff, are to be informed of the Policy by the employer as identified in their contract of service. Where possible, reference to this Policy will be noted in the contract of employment of the staff person and will be included as a condition of the general contract for service with the service provider.

The Sergeant-at-Arms will provide copies of the Policy and a one-page summary brochure of the Policy to the employer identified in the contract of service for distribution to each contract staff person working at the workplace defined under Section 3. The Sergeant-at-Arms will obtain from the employer identified in the service contract a form acknowledging that that person has informed all contract staff of the Policy. The Sergeant-at-Arms will immediately remit the signed form to the Chief Clerk for filing.

C) When an MLA retains a volunteer to work with them, the MLA is responsible for informing the volunteer of this Policy by providing a one-page summary brochure of the Policy and directing the volunteer to the location on The Nova Scotia Legislature's website where the Policy is posted.

### **7.3 Criminal Conduct**

When there are reasonable grounds to believe that an MLA or other person to whom this Policy applies has committed an offence under the *Criminal Code* or provincial legislation, the Speaker of the House of Assembly, in consultation with the Chief Clerk and the Chief Legislative Counsel shall notify the proper authorities.

The resolution process under this policy remains pending until the proper authorities advise the Speaker that no charges will be laid or that there has been a final disposition of the charges with respect to the conduct.

### **7.4 Dissemination of Policy**

This Policy will be included and form part of the Members' Manual – Members' Compensation, Expenses and Constituency Administration.

This Policy and a summary thereof will be posted in a prominent place on the Nova Scotia Legislature's website.

Within 10 business days of the election of a new MLA, it is the responsibility of that MLA's Whip to provide a copy of the Policy to the new MLA and to obtain from the MLA a form acknowledging receipt of the Policy and confirming the Policy has been read. That form is to be filed immediately by the Whip with the Chief Clerk.

It is the responsibility of the Chief Clerk to provide a copy of the Policy to an Independent MLA and to obtain from the MLA a form acknowledging receipt of the Policy and confirming the Policy has been read.

Each person hiring a staff person be it permanent, contract, casual, intern, page or other, whose salary or remuneration is paid from the Legislative Services budget of the House of Assembly is responsible for informing the Director of Administration – Speaker’s Office of the hire and the Director will provide a copy of the Policy to that person and file the form acknowledging receipt of the Policy and confirming that the Policy has been read with the Chief Clerk.

### **7.5 Education and Orientation**

The Chief Clerk or the Chief Clerk’s delegate shall develop and offer appropriate orientation and ongoing training sessions to all persons to whom this Policy applies, to assist them in understanding their respective duties and responsibilities and, in particular, in applying and complying with this Policy.

### **7.6 Indemnification**

The House of Assembly shall indemnify each person who acts under this Policy against all costs, charges and expenses actually and reasonably incurred by that person, including an amount paid to settle an action or satisfy a judgment in a civil, criminal or administrative action or proceeding to which the person is made a party because of the duties carried out under this Policy, if the person acted in good faith with a view to the best interests of the House of Assembly and had reasonable grounds for believing that his or her conduct was lawful.

No action or other proceeding for damages lies or may be instituted against the House of Assembly for an act or omission done in good faith in the execution or intended execution of any duty pursuant to this Policy.

### **7.7 Informal Resolution**

Informal resolution should be attempted prior to the submission of a formal complaint except where the complainant refuses to participate or has been advised, by the person designated in the Policy to receive the complainant’s complaint, not to participate in the informal process.

### **7.8 Policy Updates**

Each person who is responsible under this Policy to provide copies of the Policy and obtain forms acknowledging receipt and reading of the Policy are also responsible for the distribution of all Policy updates in the same manner.

### **7.9 Procedural Fairness**

The parties to a complaint made under this Policy have the right to be informed, to be heard and to obtain an impartial decision.

## **7.10 Support Person**

A complainant and a respondent can each be accompanied by a support person at all steps of the informal or formal complaint process. For the purpose of this Policy a support person is a personal friend or confidant.

## **7.11 Timeliness**

All complaints should be dealt with in keeping with the time lines under this Policy and any remedial, corrective or disciplinary action should be implemented expeditiously and consistently.

The complaint process, up to and including Step 7 under Section 11 of this Policy, must be completed, without undue delay, no more than 6 months from the date the formal complaint is made unless an investigation extension has been granted under Section 11.5.5.

## **8. Definitions**

### **8.1 Complainant**

A person to whom this Policy applies and who initiates an informal or a formal harassment complaint under this Policy.

### **8.2 Formal Complaint**

A complaint that is filed in writing under Step 2 of Section 11 of this Policy.

### **8.3 Informal Complaint**

A complaint that is not formally filed under Step 2 of Section 11 of this Policy and that is resolved under Step 1 of Section 11.

### **8.4 Informal Resolution**

Practices, including counselling, coaching, facilitation or mediation that may assist the parties to resolve their differences in a timely and appropriate fashion.

### **8.5 Mediation**

A voluntary process used to resolve conflict by having a third party help the disputing persons arrive at a mutually acceptable solution.

### **8.6 Respondent**

A person to whom this Policy applies and who is named as a respondent to an informal or a formal harassment complaint by the complainant under this Policy.

**9. To whom are complaints both formal and informal made?**

<p style="text-align: center;"><b>When the Respondent named in the complaint is:</b></p>	<p style="text-align: center;"><b>The Complainant makes the complaint to:</b></p>
<p>(a) • an MLA</p>	<p>the Whip of the MLA’s political party</p>
<p>(b) • a Whip</p>	<p>the House Leader of the Whip’s political party</p>
<p>(c) • an Independent MLA; • a House Leader; • the Director of Administration – Speaker’s Office; • an Assistant Clerk; • the Sergeant-at-Arms; • the Legislative Librarian; • the Manager – House of Assembly Operations; • the Hansard Editor; • the Manager of Legislative Television Broadcast and Recording Services; • the Coordinator – House of Assembly Operations</p>	<p>the Chief Clerk</p>
<p>(d) • the Chief Clerk; • the Chief Legislative Counsel</p>	<p>the Speaker</p>
<p>(e) • the Speaker</p>	<p>the Chair of the Internal Affairs Committee</p>
<p>(f) • a person to whom this Policy applies and who is not listed at paragraphs (a), (b), (c), (d), (e) or (g) of this chart</p>	<p>Director of Administration – Speaker’s Office</p>



(g) • contract staff including security staff whose salary is paid from budgets other than the Legislative Services budget	the Sergeant-at-Arms
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**9.1** When a complainant lacks confidence that the person designated to receive the complaint will process the complaint fairly or give it the attention it deserves, the complainant may choose, in those circumstances, to make the complaint directly to the Chief Clerk or the Chief Clerk’s designate.

**10. Roles and Responsibilities**

<b>10.1 Person receiving complaint</b>	<b>Action to be taken</b>
<ul style="list-style-type: none"> <li>(a) a Whip;</li> <li>(b) a House Leader;</li> <li>(c) the Chief Clerk;</li> <li>(d) the Speaker; or</li> <li>(e) the Chair of the Internal Affairs Committee</li> </ul>	<ol style="list-style-type: none"> <li>1. Confirm with the complainant whether the complaint being made is an informal or a formal complaint.</li> <li>2. Inquire as to whether any resolution efforts were undertaken before making the complaint.</li> <li>3. Inform the complainant of available alternative resolution processes and time restrictions such as possible complaints to the Human Rights Commission, etc.</li> <li>4. Inform the respondent of the complaint.</li> <li>5. Explore, as appropriate, informal resolution or mediation options to resolve the complaint. Participation in an informal resolution process is voluntary and only after the complainant agrees to participate will the respondent be asked whether that person wishes to participate in an informal resolution process.</li> </ol>

	<ol style="list-style-type: none"><li>6. Remind the complainant and the respondent that informal resolution and/or mediation options are available at all stages of the resolution process.</li><li>7. Where the complainant has confirmed that the complaint is a formal complaint, review and accept or reject the filing of the formal complaint as required by Section 11.3 of this Policy. When the filing is rejected for technical reasons only, provide an opportunity for the technical error to be corrected.</li><li>8. Refer a filed formal complaint to the Office of the Ombudsman for investigation.</li><li>9. Request that the Office of the Ombudsman's investigation report contain one of the following conclusions:<ol style="list-style-type: none"><li>(a) there is sufficient evidence to support a claim that the respondent has engaged in a conduct that constitutes harassment as defined by this Policy;</li><li>(b) there is insufficient evidence to support a claim of harassment as defined by this Policy; or</li><li>(c) there is insufficient evidence to support a claim of harassment as defined by this Policy, and the complaint was frivolous or vexatious or was not made in good faith.</li></ol></li></ol> <p>The report may make recommendations as deemed appropriate by the Office of the Ombudsman to address issues identified during the investigation.</p>
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	<p>10. Where the investigation report concludes there is sufficient evidence to support the claim of harassment <b>or</b> the complaint is frivolous, vexatious or not made in good faith, the person receiving the report may</p> <ul style="list-style-type: none"><li>(a) recommend and implement any remedial, corrective or other measures against the MLA, the Whip, the Independent MLA, the House Leader or the Speaker, as the case may be;</li><li>(b) in the alternative and in exceptional cases where the person receiving the report believes that the appropriate measure to be taken in that case is a referral and motion by the Internal Affairs Committee to the House of Assembly, that person shall immediately refer the matter to the Chair of the Internal Affairs Committee without first determining a measure to be taken;</li><li>(c) recommend and implement any remedial, corrective or other measures up to and including suspension or termination of employment against the Director of Administration – Speaker’s Office, an Assistant Clerk, the Sergeant-at-Arms, the Legislative Librarian, the Manager – House of Assembly Operations, the Hansard Editor, the Manager of Legislative Television Broadcast and Recording Services, the Coordinator – House of Assembly Operation, the Chief Clerk or the Chief Legislative Counsel, as the case may be.</li></ul>
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	<p>11. Where the investigative report from the Office of the Ombudsman has made recommendations to address issues identified during the investigation, the person receiving the report will determine the manner in which to address the recommendations.</p>
<p>When the complaint is received by the Director of Administration – Speaker’s Office</p>	<ol style="list-style-type: none"> <li>1. Confirm with the complainant whether the complaint being made is an informal or a formal complaint.</li> <li>2. Inquire as to whether any resolution efforts were undertaken before making the complaint.</li> <li>3. Inform the complainant of available alternative resolution processes and time restrictions such as possible complainants to the Human Rights Commission, etc.</li> <li>4. Inform the respondent and the complainant’s supervisor of the complaint.</li> <li>5. Explore, as appropriate, informal resolution or mediation options to resolve the complaint. Participation in an informal resolution process is voluntary and only after the complainant agrees to participate will the respondent be asked whether that person wishes to participate in an informal resolution process. Retain the services of mediators of other professionals as required in consultation with the Public Service Commission and the Office of the Ombudsman to assist in resolving the complaint.</li> <li>6. Remind the complainant and the respondent that informal resolution and/or mediation options are available at all stages of the resolution process.</li> </ol>

	<p>7. Where the complainant has confirmed that the complaint is a formal complaint, review and accept or reject the filing of the formal complaint as required by Section 11.3 of this Policy. When the filing is rejected for technical reasons only, provide an opportunity for the technical error to be corrected.</p> <p>8. Refer a filed formal complaint to an investigator or the Office of the Ombudsman for investigation.</p> <p>9. Direct that the investigation report contain one of the following conclusions:</p> <ul style="list-style-type: none"><li>(a) there is sufficient evidence to support a claim that the respondent has engaged in a conduct that constitutes harassment as defined by this Policy;</li><li>(b) there is insufficient evidence to support a claim of harassment as defined by this Policy; or</li><li>(c) there is insufficient evidence to support a claim of harassment as defined by this Policy, and the complaint was frivolous or vexatious or was not made in good faith.</li></ul> <p>The report may make recommendations as deemed appropriate by the Office of the Ombudsman to address issues identified during the investigation.</p> <p>10. Where the investigation report concludes there is sufficient evidence to support the claim of harassment <u>or</u> the complaint is frivolous, vexatious or not made in good faith, the Director in consultation with the person's appropriate manager and/or supervisor and the Public Service Commission, recommend and implement</p>
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	<p>any remedial, corrective or other measures up to and including suspension or termination of the person's employment.</p> <p>11. Where the investigative report from the Office of the Ombudsman has made recommendations to address issues identified during the investigation, the person receiving the report will determine the manner in which to address the recommendations.</p>
<p>When a complaint is received by the Sergeant-at-Arms</p>	<p>Where the respondent named in the complaint is a contract staff person, the Sergeant-at-Arms will resolve the complaint by involving the parties to the contract.</p> <p>This means that these complaints do not proceed any further under this Policy as they are resolved outside this Policy.</p>

<p><b>10.2 Person or Office receiving an investigative referral</b></p>	<p><b>Action to be taken</b></p>
<p>When the Office of the Ombudsman or a private investigator receives a request to conduct an investigation under this Policy</p>	<p>The Office of the Ombudsman or the private investigator will conduct an investigation and the investigation report will contain one of the following conclusions:</p> <ul style="list-style-type: none"> <li>(a) there is sufficient evidence to support a claim that the respondent has engaged in a conduct that constitutes harassment as defined by this Policy;</li> <li>(b) there is insufficient evidence to support a claim of harassment as defined by this Policy; or</li> </ul>

	<p>(c) there is insufficient evidence to support a claim of harassment as defined by this Policy, and the complaint was frivolous or vexatious or was not made in good faith.</p> <p>The report may make recommendations as deemed appropriate to address issues identified during the investigation.</p>
<p><b>10.3 The Committee on Assembly Matters</b></p>	<p style="text-align: center;"><b>Action to be taken</b></p>
	<ul style="list-style-type: none"> <li>• adopting this Policy and recommending its approval to the House of Assembly;</li> <li>• recommending to the House of Assembly that it adopt any legislative and rule changes required to give effect to this Policy;</li> <li>• adopting amendments to the Policy and recommending the approval of any amendments to the House of Assembly; and</li> <li>• ensuring that the Policy is implemented and appropriately applied.</li> </ul>
<p><b>10.4 The Internal Affairs Committee</b></p>	<p style="text-align: center;"><b>Action to be taken</b></p>
	<ul style="list-style-type: none"> <li>• in exceptional cases receiving a referral from a person who believes, when reviewing an investigation report that the appropriate measure to be taken in that particular case is a referral and motion by the Internal Affairs Committee to the House of Assembly;</li> <li>• deciding the exceptional cases referred to the Committee and implementing any remedial, corrective or other measures against the MLA, the Whip, the Independent MLA, the House Leader or the Speaker, as the case may be;</li> </ul>

	<ul style="list-style-type: none"> <li>• receiving appeals limited to the remedial, corrective, disciplinary or other measures imposed, including the final investigative report and the appellant’s written submissions setting out the sufficiency of the remedial, corrective or other measures imposed on the respondent or an appeal from a measure imposed on the complainant because the complaint was frivolous, vexatious or not made in good faith;</li> <li>• conducting an appeal process in accordance with this Policy;</li> <li>• receiving complaints under Section 9 naming the Speaker as the respondent and taking action as required under Section 10 of this Policy; and</li> <li>• when the appeal relates to the measures imposed on an MLA, preparing a report for the House of Assembly containing a summary of the final investigative report and any recommendations regarding appropriate sanctions to be imposed by the House of Assembly on the MLA.</li> </ul>
<b>10.5 The House of Assembly</b>	<b>Action to be taken</b>
	<ul style="list-style-type: none"> <li>• adopting a motion approving and declaring this Policy in force;</li> <li>• adopting all additional resolutions, rule and legislative amendments required to authorize the persons, offices or Committees named in the Policy to carry out their duties as required by the Policy;</li> <li>• adopting by motion any Policy amendments as recommended by the Committee on Assembly Matters;</li> <li>• receiving reports from the Internal Affairs Committee, debating and voting on any</li> </ul>



	<p>recommendations made by the Committee to the House regarding appropriate sanctions to be imposed on an MLA.</p>
<b>10.6 The Chief Clerk</b>	<b>Action to be taken</b>
	<ul style="list-style-type: none"> <li>• fostering a work environment free of harassment within the House of Assembly Administration;</li> <li>• providing the Policy to persons as required under Section 7.2 of this Policy and receiving and filing forms acknowledging receipt and confirming that the Policy has been read by these persons;</li> <li>• disseminating the Policy and updates as required under Section 7.4 and Section 7.8 of this Policy;</li> <li>• developing and offering appropriate orientation and ongoing training sessions and to all persons to whom this Policy applies; and</li> <li>• receiving complaints under Section 9 and taking action as required under Section 10 of this Policy.</li> </ul>
<b>10.7 The Director of Administration - Speaker's Office</b>	<b>Action to be taken</b>
	<ul style="list-style-type: none"> <li>• fostering a work environment free of harassment within the House of Assembly Administration;</li> <li>• providing the Policy to persons as required under Section 7.2 of this Policy, receiving forms acknowledging receipt and confirming that the Policy has been read by these persons and filing the forms with the Chief Clerk;</li> </ul>

	<ul style="list-style-type: none"> <li>• disseminating the Policy and updates as required under Section 7.4 and Section 7.8 of this Policy; and</li> <li>• receiving complaints under Section 9 and taking action as required under Section 10 of this Policy.</li> </ul>
<b>10.8 The Whip</b>	<b>Action to be taken</b>
	<ul style="list-style-type: none"> <li>• fostering a work environment free of harassment within the House of Assembly;</li> <li>• providing the Policy to persons as required under Section 7.2 of this Policy, receiving forms acknowledging receipt and confirming that the Policy has been read by these persons and filing the forms with the Chief Clerk;</li> <li>• disseminating the Policy and updates as required under Section 7.4 and Section 7.8 of this Policy; and</li> <li>• receiving complaints under Section 9 and taking action as required under Section 10 of this Policy.</li> </ul>
<b>10.9 The MLA</b>	<b>Action to be taken</b>
	<ul style="list-style-type: none"> <li>• fostering a work environment free of harassment within the House of Assembly; and</li> <li>• when retaining a volunteer to work with the MLA, informing the volunteer of this Policy, providing a one-page summary of the Policy as required under Section 7.2 and directing the volunteer to the location on The Nova Scotia Legislature’s website where the Policy is posted.</li> </ul>

<b>10.10 The Speaker</b>	<b>Action to be taken</b>
	<ul style="list-style-type: none"> <li>• fostering a work environment free of harassment within the House of Assembly;</li> <li>• notifying, after consultation with the Chief Clerk and the Chief Legislative Counsel, the proper authorities when there are reasonable grounds to believe a person to whom this Policy applies has committed an offence under the <i>Criminal Code</i> or provincial legislation; and</li> <li>• receiving complaints under Section 9 and taking action as required under Section 10 of this Policy.</li> </ul>
<b>10.11 Complainants</b>	<b>Action to be taken</b>
	<ul style="list-style-type: none"> <li>• assessing the possibility of a misunderstanding arising out of lack of knowledge, misconstrued intent or differing values;</li> <li>• informing, in a timely manner, personally if comfortable in doing so, or through an appropriate intermediary, the individual whose conduct is of concern, that such conduct is objectionable and unwelcome;</li> <li>• keeping a record of the incident(s), including a description of the offensive conduct, date(s), time(s), location(s) and the names of witnesses, if any;</li> <li>• seeking advice from a qualified and trusted person;</li> <li>• participating if appropriate in the circumstances and in the complainants discretion in informal resolution processes up to and including mediation before lodging a formal complaint;</li> </ul>

	<ul style="list-style-type: none"> <li>• making the complaint in accordance with this Policy;</li> <li>• may withdraw a complaint at any step of the complaint process including at any time during Step 7 and Step 8 of the Procedures under this Policy; and</li> <li>• cooperating with persons designated to mediate, review, or investigate complaints.</li> </ul>
<b>10.12 Respondents</b>	<b>Action to be taken</b>
	<ul style="list-style-type: none"> <li>• discussing the matter with the complainant as soon as possible, if asked;</li> <li>• stopping the conduct that is considered to be offensive to the complainant and remedying the situation with an appropriate gesture given the circumstances, such as an apology;</li> <li>• seeking advice from a qualified and trusted person; and</li> <li>• cooperating with persons designated to mediate, review or investigate complaints.</li> </ul>
<b>10.13 All Persons</b>	<b>Action to be taken</b>
	<ul style="list-style-type: none"> <li>• ensuring that their own conduct contributes to a harassment free work environment;</li> <li>• acting in a respectful manner in dealings with others;</li> <li>• being familiar with this Policy and its related procedures;</li> <li>• informing individuals, if possible, whose conduct is offensive that their behaviour is objectionable and unwelcome and asking them to stop;</li> </ul>

	<ul style="list-style-type: none"> <li>• making every effort to resolve any conflicts in which they may be involved, as soon as they arise and before they escalate;</li> <li>• respecting the confidentiality of complainants and respondents by avoiding any informal discussion of harassment complaints of which they have knowledge;</li> <li>• bringing to the attention of the appropriate person identified in this Policy any harassment to which they are subjected or of which they become aware; and</li> <li>• cooperating in the resolution or investigation of harassment cases.</li> </ul>
<b>10.14 The House Leader</b>	<b>Action to be taken</b>
	<ul style="list-style-type: none"> <li>• fostering a work environment free of harassment within the House of Assembly; and</li> <li>• receiving complaints under Section 9 and taking action as required under Section 10.</li> </ul>
<b>10.15 The Sergeant-at-Arms</b>	<b>Action to be taken</b>
	<ul style="list-style-type: none"> <li>• fostering a work environment free of harassment within the House of Assembly;</li> <li>• ensure where possible, reference to this Policy will be noted in the contract of employment of the contract staff person and will be included as a condition of the general contract for service with the service provider;</li> <li>• will provide copies of the Policy and a one-page summary brochure to the employer identified in the contract of service for distribution to each contract staff person</li> </ul>

	<p>working at the workplace defined under Section 3;</p> <ul style="list-style-type: none"> <li>• will obtain from the employer identified in the service contract a form acknowledging that that person has informed all contract staff of the Policy and will file the signed form with the Chief Clerk; and</li> <li>• receiving complaints under Section 9 and taking action as required under Section 10.</li> </ul>
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## 11. PROCEDURES

### 11.1 Step 1 – Informal Resolution

11.1.1 The objective of informal resolution is to correct any situation, problem or conflict as soon as possible and in a fair and respectful manner. Every effort should be made to resolve the problem as quickly as possible with open communications and cooperation. Participation in an informal resolution process is voluntary.

11.1.2 If a person believes that he or she has been harassed and that person chooses to address the matter informally, the following actions should be taken:

- make it known to the other party as soon as possible that such conduct is offensive in an attempt to resolve the problem before it can escalate; and
- if the problem is not resolved or if the offended person does not wish to speak directly with the other person, the offended person should meet with the person designated in this Policy to receive the complaint or seek advice from a qualified and trusted person.

11.1.3 Every effort to resolve the issue between the parties as quickly as possible is to be made and if necessary, with the assistance of a resource person.

11.1.4 Problem resolution mechanisms such as coaching, counselling, facilitation and mediation can in many instances resolve the issue and prevent the situation from escalating to the point where a formal complaint is filed.

11.1.5 The complainant and the respondent must both agree on a mutually acceptable mediator before mediation can take place.

## **11.2 Step 2 – Filing a Formal Complaint**

11.2.1 When the complainant determines the informal process for dealing with the harassment situation does not succeed or the complainant chooses not to proceed with the informal complaint procedure, the complainant may file a formal written complaint.

11.2.2 Mediation remains available at any point in the formal complaint process. The formal investigation will be suspended if both parties agree to mediation during the formal process. Should the complainant determine that efforts to mediate a formal complaint fail, the investigation resumes.

11.2.3 Complainants and respondents may each have with them, during meetings and interviews related to the resolution of the complaint, one support person of their choice who has agreed to accompany them and who is not a party to the process. Such persons must adhere to the confidentiality provisions of this Policy.

11.2.4 A formal complaint must be submitted, in writing, to the appropriate person identified in this Policy no later than 6 months after the alleged incident(s) leading to the complaint.

11.2.5 Formal complaints must be based on allegations of harassment as defined in this Policy, be signed, dated and include

- (a) the complainant's name;
- (b) the name of the respondent and the relationship of the respondent to the complainant,
- (c) the nature of the allegations;
- (d) date and description of the incident(s);
- (e) where the incident(s) occurred;
- (f) names of witnesses, if any; and
- (g) whether another external resolution process has been initiated by the complainant.

## **11.3 Step 3 – Acknowledgement and Filing of a Formal Complaint**

11.3.1 Within 5 business days of receipt the formal complaint will be reviewed and accepted for filing by the person designated in the Policy to receive the complaint where

- (a) the complaint meets the requirements of a formal complaint as set out in Section 11.2.5 of this Policy; and

- (b) the allegations as described in writing in the formal complaint meet the definition of harassment as set out in Section 5 of this Policy.

11.3.2 When the complaint is accepted for filing under Section 11.3.1, the person designated to receive that complaint will send an acknowledgement of receipt to the complainant and will provide a copy of the complaint to the respondent.

11.3.3 When the complainant has made a complaint under Section 9.1, the Chief Clerk shall acknowledge receipt of the complaint and inform the complainant's Whip and House Leader of the complaint.

11.3.4 When a formal complaint names an employee as a respondent, the Director of Administration – Speaker's Office shall notify that employee's supervisor.

11.3.5 If a complaint is not accepted for filing, the complainant will be advised of the reasons for rejecting the filing and if appropriate, other means may be suggested for resolving the issue raised in the complaint. Where the rejection is based solely on a technical error, an opportunity to correct the technical error is to be provided to the complainant and the complaint is to be re-submitted for filing.

#### **11.4 Step 4 – Review of a Formal Complaint**

11.4.1 Within 15 business days of the date when the formal complaint is accepted for filing, the person designated in this Policy will either

- appoint a private investigator to conduct an investigation; or
- refer the complaint to the Office of the Ombudsman for investigation.

#### **11.5 Step 5 – Investigation**

11.5.1 The steps taken and the procedures used by the investigator are at their discretion, subject to the rules of procedural fairness.

11.5.2 If during the course of the investigation, the investigator is presented with what is deemed to be a new allegation of harassment, the investigator will consult with the person who has engaged the investigator to determine whether

- the new allegation falls within the existing mandate;
- the mandate will be modified to address the new allegation; or
- the new allegation should be addressed separately.

11.5.3 Communications with an investigator are confidential except in so far as it may be necessary to disclose them in the investigation report, to ensure procedural fairness or as may be required by this Policy or by law.



11.5.4 The investigator shall provide a draft report to the complainant and the respondent within 30 business days of being appointed. Once received, the complainant and the respondent will have 5 business days to submit any comments, in writing, in response to the investigator.

11.5.5 Where the investigator is unable to meet the 30 business day deadline under Section 11.5.4, an extension request detailing reasons may be made to the person who engaged the investigator.

11.5.6 The person receiving the extension request shall in that person's sole discretion respond to the request.

11.5.7 The final report will be submitted to the person who engaged the investigator, no later than 5 business days after the date the complainant and respondent responses under Section 11.5.4 are due. Both the complainant and the respondent will be provided with a copy of the final report by the person who receives the final report from the investigator.

## **11.6 Step 6 – Decision**

11.6.1 Within 15 business days of receipt of the final report, the person designated under this Policy to receive that complaint, shall where the final report concludes that there was sufficient evidence to support a claim of harassment or the claim is frivolous, vexatious or not made in good faith, determine and implement any remedial, corrective or other measures against the respondent or the complainant, as the case may be.

11.6.2 In exceptional cases where the person receiving the report believes that the matter should be referred to the Internal Affairs Committee to the House of Assembly to determine the appropriate measure to be taken, that person shall immediately refer the matter to the Chair of the Internal Affairs Committee without first determining a measure to be imposed.

11.6.3 The complainant, respondent, as well as their supervisors, as appropriate, will be informed of the decision. The terms of any settlement of a complaint will only be made known to the extent required by the settlement itself.

11.6.4 Where the report concludes that there is insufficient evidence to support a claim of harassment, no further action is taken, no measures are to be imposed and that determination is final and is not subject to appeal.

## **11.7 Step 7 – Appeal**

11.7.1 An appeal can be made by either the complainant or the respondent, but is limited to the remedial, corrective, disciplinary or other measures imposed by the person who received the final investigative report.

This means a complainant may appeal

- the sufficiency of the measure imposed on the respondent; or
- a measure imposed on the complainant because the complaint was frivolous, vexatious or not made in good faith.

A respondent may appeal because the measures imposed were too severe.

11.7.2 The appeal must be made to the Chair of the Internal Affairs Committee, within 10 business days of the imposition of the measures.

11.7.3 The appeal must be in writing and must set out the grounds for the appeal. A copy of the final investigation report and any other relevant documentation must be included with the appeal.

11.7.4 Within 5 business days of receipt of the appeal, the Chair of the Internal Affairs Committee must set a committee meeting date that must be within 25 calendar days of receipt of the appeal. The Internal Affairs Committee shall hold its meeting “in camera”.

11.7.5 At the “in camera” meeting the Committee shall firstly determine whether all or part of the final investigation report or a summary of it may be used as evidence before the Committee and at the same meeting, shall hear the appeal.

11.7.6 The complainant and the respondent shall be provided with an opportunity to appear before the Internal Affairs Committee on the appeal hearing.

11.7.7 The person who initiates the appeal to the Committee may indicate in writing that the matter will not be pursued further and it will be deemed withdrawn from the Committee.

11.7.8 When the appeal relates to the measures imposed on a person who is not an elected MLA, the appeal decision of the Internal Affairs Committee is final and not subject to any further appeal.

11.7.9 When the appeal relates to the measures imposed on a person who is an MLA, the Internal Affairs Committee shall prepare a report for the House of Assembly within 15 business days of the “in camera” meeting under Section 11.7.5 that shall contain a summary of the final investigation report and a recommended sanction motion against the MLA for debate by the House of Assembly.

## **11.8 Step 8 – House of Assembly**

11.8.1 Within 10 sitting days following the presentation of the report and recommended sanction motion of the Internal Affairs Committee to the House of Assembly and the inscription of the matter on the Order Paper, the matter shall be called for debate.

11.8.2 The MLA who is referred to in the motion shall have the right to make a statement in the House of no more than 10 minutes in length in response to the report when the motion is called for debate by the House. All statements made in the House of Assembly must respect the confidentiality of the resolution process and the privacy of the persons involved.

11.8.3 A motion to adopt the report and recommended sanction motion from the Internal Affairs Committee shall be made and shall be considered for no more than 1 hour including the response time referred to under Section 11.8.2, by the House of Assembly after which time the question shall be put to the House of Assembly by the Speaker.

11.8.4 In the event that the MLA who is the subject of the sanction motion ceases to be an MLA following the presentation of the report of the Internal Affairs Committee to the House and before the motion is called for debate before the House, the entire matter is deemed withdrawn and shall be removed from the Order Paper.

11.8.5 Following a prorogation or dissolution of the House of Assembly, provided that the MLA who is the subject of the sanction motion remains an elected member, the appropriate Whip with the consent of the complainant, may resubmit the matter to the attention of the Chair of the Internal Affairs Committee in writing and the process at that level will recommence following the steps under this Policy.

## **11.9 Step 9 – General Provisions**

11.9.1 If a complainant or a respondent has concerns with the administration of their complaint, that person may, at any time during the resolution process, request that the Chief Clerk look into the concerns and report his or her findings and any recommended course of action in response to the concerns to the Internal Affairs Committee.

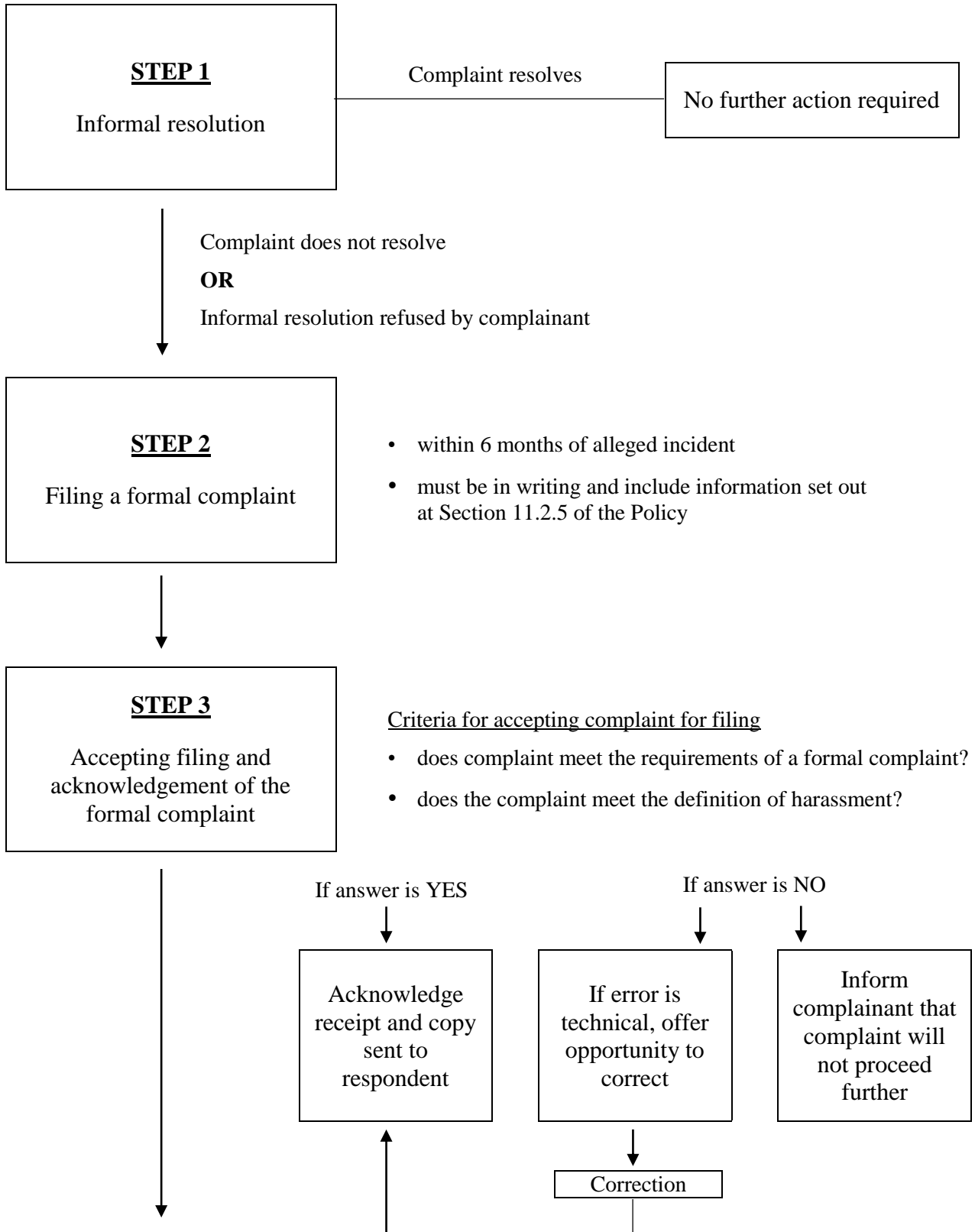
11.9.2 The Director of Administration will present statistical reports, as required, to the Chief Clerk on the incidence and disposition of harassment complaints and the Director may make recommendations for changes to the Policy.

11.9.3 The Chief Clerk shall present statistical reports and recommendations for changes to the Policy, if any, to the Committee on Assembly Matters once every 5 years commencing on the fifth anniversary date of the adoption of the Policy by the House of Assembly. The Chief Clerk must inform the Committee if there are no reports or recommended changes.

11.9.4 Any and all file materials or information received or prepared by a Whip, a House Leader, the Chief Clerk, the Speaker, the Chair of the Internal Affairs Committee, the Director of Administration – Speaker’s Office or the Sergeant-at-Arms, including the complaint, a written submission, informal and formal resolution details, investigative reports, electronic recordings of “in camera” meetings, etc. are to be provided to the Chief Clerk for secure confidential storage.

11.9.5 All costs associated with this Policy and its implementation including the retention of mediators, investigators and others are to be paid from the Legislative Services budget of the House of Assembly.

**PROCEDURES AND PROCESS**



**STEP 4**  
Appoint investigator



**STEP 5**  
Investigation



**STEP 6**  
Decision

**STEP 7**  
APPEAL  
INTERNAL AFFAIRS  
COMMITTEE



- within 15 business days of accepting a formal complaint at Step 3 – investigator is appointed under Section 11.4.1

- draft investigation report to the complainant and respondent within 30 business days of appointment
- complainant and respondent response within 10 business days of receipt of draft investigation report
- final report no later than 5 business days from the date responses at Section 11.5.4 are due

A) Final Report concludes that harassment has occurred or complaint is frivolous



Decision – corrective measures to be taken

B) Final Report concludes that harassment has not occurred



No further action under this Policy – decision is final

- appeal is limited to the nature of the corrective measure taken and the appellant may be the original complainant or the original respondent.
- appeal must be filed in writing within 10 business days of the imposition of corrective measures with the Chair of the Internal Affairs Committee
- There are two types of appeals:
  - 1) Respondent to the appeal is not an MLA; or
  - 2) Respondent to the appeal is an MLA.
- appeal is heard in accordance with Section 11.7.
- When respondent to the appeal is not an MLA, the appeal decision of the Internal Affairs Committee is final and not subject to any further appeal.
- When respondent to the appeal is an MLA, report and recommended sanction motion forwarded to House of Assembly.

**STEP 8**

House of Assembly

- Report of Internal Affairs Committee to be placed before the House of Assembly within 15 business days of the “in camera” meeting under Section 11.7.5
- Procedure before the House of Assembly set out at Section 11.8

**Nova Scotia House of Assembly Policy on the Prevention  
and Resolution of Harassment in the Workplace**

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