



A Guide to Applying the
Harassment Free and
Respectful Workplace
Policy



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INTRODUCTION

The Government of the Northwest Territories (GNWT) is committed to creating and maintaining a respectful workplace free of harassment and where all individuals are treated with fairness, dignity and respect. All those who work for the GNWT have a responsibility to help ensure a working environment in which the dignity of all employees, clients and visitors is respected.

The Harassment Free and Respectful Workplace Policy identifies the GNWT's commitment to a harassment free and respectful workplace. It provides definitions for workplace harassment and outlines key roles and responsibilities.

This guide presents an overview of workplace harassment, outlines options for dealing with workplace conflict, and provides details on the formal resolution process. It also provides information to questions that may help you recognize behaviours that create and maintain a respectful workplace and how we can work together to create a respectful workplace. The Harassment Free and Respectful Workplace Policy is available on the Department of Human Resources web site (www.hr.gov.nt.ca).

WORKPLACE HARASSMENT

As members of the public service, our mission is to provide excellent service to the people of the Northwest Territories. Like the public we serve, our workplaces are diverse with individuals from different backgrounds and different life experiences.

The GNWT recognizes that conflicts occur, and the Harassment Free and Respectful Workplace Policy is not meant to interfere with everyday work interactions where some conflict is normal. Every employee is expected to demonstrate behaviour that creates and maintains a respectful workplace and to resolve issues in a manner that contributes to a healthy and productive workplace.

Excellence, innovation and commitment are the touchstones of our service to the public. Commitment to harassment free and respectful workplaces ensures the GNWT has a great work environment for all of us.

Behaviours that create and support a respectful workplace:

- The contributions of all employees
- Positive communication and collaborative working relationships
- Courteous, respectful treatment of others
- Treating everyone equitably and fairly
- Listening to what others have to say

- Recognizing and valuing diversity in the workplace
- Willingly and sincerely apologizing to people when something you say or do has or may have offended another individual.

The Harassment Free and Respectful Workplace Policy defines workplace harassment in four ways: abuse of authority, harassment, personal harassment and sexual harassment. If it occurs within the course of the employment relationship, many forms of behaviour can constitute harassment. These are just some examples:

- Unwelcome sexual advances
- Physical conduct ranging from touching to serious assault
- Serious or repeated degrading or offensive remarks, such as teasing about a person's physical appearance, put-downs or insults
- Verbal and written harassment through jokes, racist or sexist remarks, derogatory comments, offensive language, gossip and slander, mobile telephone ring tones, threats, letters, emails
- Visual displays of posters, computer screen savers, downloaded images, graffiti, obscene gestures, cartoons, or any other offensive material
- Isolation or non-co-operation at work, exclusion from social activities, initiations and/or pranks
- Repeatedly singling out an employee for meaningless or dirty jobs that are not part of his or her normal duties
- Threats, intimidation or retaliation against an employee, including one who has expressed concerns about perceived unethical or illegal workplace behaviours
- Intrusion by pestering, spying, or interfering with personal effects, work equipment, etc.

This behaviour:

- Is verbal or non-verbal
- Is deliberate or unintended
- Is a single incident or a series of incidents.

Workplace harassment does not include:

- Exclusion of individuals for a job based on specific *bona fide* occupational requirements necessary to accomplish the safe and efficient performance of the job
- Advising someone of the possible consequences of poor performance, insubordination or insolence
- An isolated incident of a minor nature for which a person has promptly apologized
- Strongly expressed opinions that are different from yours

- Free and frank discussion about issues or concerns in the workplace without personal insults
- A social relationship welcomed by both individuals
- Voluntary or consensual sexual contact/relationships between employees.

QUESTIONS AND ANSWERS

Q. How serious is harassment in the GNWT? Why is this kind of emphasis being put on the subject?

A. Harassment, of any kind, may occur and the GNWT will not tolerate this behaviour. The Harassment Free and Respectful Workplace Policy is meant to ensure you know what to do if incidents occur. We believe the problem is best dealt with by education for both management and employees.

Q. What can I do if I feel I'm being harassed? I don't want to seem too sensitive.

A. You and everyone else have the right to be treated respectfully. If this isn't happening, you have the right to see that it is effectively addressed.

- Immediately tell the person to stop. The individual might not know the behaviour is unwelcome and unwanted.
- If that doesn't resolve the problem, speak to your manager or someone higher in authority.
- Keep a detailed written record. Write down dates, times, witnesses, locations, what was said or done.
- Do not ignore the problem in hopes it will go away. If you feel you cannot talk to the person, send him or her an email or letter.
- Ask for help/support. Additional sources of support can be found at the end of this document.
- Know and understand the Harassment Free and Respectful Workplace Policy.
- Know your resolution options.

Q. What does 'context of employment relationship' mean?

A. Workplace harassment can take place in the workplace itself, or outside of the workplace, or activities connected with the workplace such as work sites, washrooms, cafeterias, training sessions, business travel, conferences, work-related social gatherings, the client's home and the client's work site. It applies to

relationships between colleagues, between managers and employees and between co-workers.

Q. What happens to the person who complains of harassment in the workplace just to retaliate against someone he or she does not like or get along with?

A. This is a very unusual situation and more likely to occur when employees are not informed about the definition(s) of workplace harassment. An explanation of the complaint procedure would discourage this type of complaint. Vexatious complaints could result in disciplinary procedures.

Q. What do I do if I am accused of harassment?

A. Take it seriously. What may seem funny or trivial to you may be hurtful or offensive to someone else.

- Offer an apology
- Seek a resolution. Ask your manager for help in resolving the situation if there is a misunderstanding.
- Know and understand the Harassment Free and Respectful Workplace Policy.
- Know your rights and responsibilities.

Q. What protection is there for me if I am falsely accused of sexual harassment? My career and reputation could be ruined.

A. The procedure for investigation is clearly laid out and investigations are to be done confidentially and impartially. If there is no merit to a complaint, this will be documented in the report. It is important to understand the philosophy of the Harassment Free and Respectful Workplace Policy. All reasonable complaints must be investigated. Retaliation against any employee as a result of a complaint will not be tolerated. Confidentiality is emphasized in every case to ensure protection of your reputation.

Q. How can the investigation be kept confidential if everyone knows what is going on?

A. Confidentiality is identified as a major concern in all interviews carried out as part of an investigation of any harassment complaint. The employee grapevine is a part of every organization and certainly beyond our ability to control. It is the responsibility of the Investigator to discuss the complaint only with those who might have knowledge of the situation. It is equally important that the complainants, respondents and witnesses pay heed to their role in maintaining

confidentiality. Please recognize if a complaint has no merit, there can be damage done to an individual who has been accused. We encourage those with information to support the complaint process and then to leave the conclusions to the Investigator.

Q. If someone tells a dirty or ethnic joke, is that harassment?

A. Yes, inappropriate humour is a form of unacceptable behaviour that would be considered harassment. Humour is cherished in our society and no one likes to be accused of not having a sense of humour. If someone objects to the sexual nature of jokes, he or she has an obligation and a right to express his or her concern. Employees should use their own discretion and keep humour appropriate to a work environment. A person must find the joke offensive for a joke to be harassment. Use common sense.

Q. Is a picture of a nude woman/man in my locker or desk considered sexual harassment?

A. Yes, such pictures have no place in a work place. Employees, clients or visitors may see it and be offended or humiliated. Not only are such pictures offensive to many, they also reflect poorly on the GNWT's image.

Q. Will the person who harassed me go to jail?

A. As an employer, the GNWT is legally obligated to protect against discrimination in the workplace. If the harassment is of a criminal nature, you also always have the right to report it to the RCMP.

Q. My supervisor harassed me once and I told him/her to stop. He/she hasn't done it again. Is this harassment?

A. If the supervisor has stopped the practice you are objecting to, you should consider the incident over. If it starts in the future, you may wish to again pursue options to resolve the issue.

Q. If someone else is being harassed, do I have to get involved as a witness? It's his/her problem, not mine.

A. It is reasonable for the employer to require employees to disclose information they may have about workplace issues. All employees share in the responsibility to eliminate harassment of any kind from our workplace. You can be compelled to become involved. A positive respectful work place benefits everyone and we must all be proactive.

- Q. How does an Investigator decide if it's sexual harassment if there were no witnesses and it's just one person's word against another?
- A. Investigators are trained in determining on a balance of probabilities if any type of harassment has occurred, even when there are no direct witnesses to the incident.

DEFINITIONS

Complaint Assessor: Department of Human Resources staff member tasked with assessing complaints.

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

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

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

Lead Investigator: is the investigator who leads the investigation team.

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

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

Respondent: is the person who a complaint has been made against.

RESOLUTION

Every effort is made to resolve conflicts in a fair and respectful manner without having to resort to the formal complaint process, which is adversarial in nature. You are urged to resolve conflict through discussion with the other party as the first and least confrontational approach to dealing with the offensive behaviour.

Early Conflict Resolution Mechanisms	vs.	Investigation
<ul style="list-style-type: none">• Focused on increased communication & understanding		<ul style="list-style-type: none">• Focused on determining facts and findings, with no direct communications between employees
<ul style="list-style-type: none">• Parties participate in finding resolution directly or with guidance from supervisor or mediator		<ul style="list-style-type: none">• Deputy Head directs corrective action, if any, based on investigation outcome
<ul style="list-style-type: none">• May be resolved faster, more complete, and may be less disruptive to a work unit		<ul style="list-style-type: none">• May be more time consuming and more disruptive to a work unit

Management encourages prevention and resolution of conflict through frank communication and a firm commitment to finding solutions and implementing them. The use of problem resolution mechanisms, such as one-on-one or facilitated discussion, can in many instances resolve the issue and prevent the situation from escalating to the point where filing a complaint is necessary. The following progressive conflict resolution process should be followed whenever possible:

FIRST STEPS OF RESOLUTION PROCESS

These steps are to be taken prior to contemplating filing a formal complaint under the policy:

Individual Problem Solving

- Should always be the first step as long as employee does not believe his/her safety is at risk or his/her economic livelihood or career is threatened.
- Only the parties involved in the conflict participate.

Facilitated Discussion

- If individual problem solving is not feasible or does not work, this should be the next step.
- Both parties plus the manager participate.
- If no agreement is reached, the Manager will provide direction on future workplace behaviour with no blame attached.

Steps that will be taken if you file a formal complaint and if mediation or an investigation is deemed necessary

Formal Mediation

- Complaint assessed to see if it fits within the mandate of the Policy and if there is *prima facie* evidence that shows that workplace harassment has occurred.
- Requires consent of both parties plus an experienced mediator.
- Facilitated collaborative problem solving with no blame assigned.



Investigation

- By its very nature is adversarial.
- All other avenues should be exhausted before commencing investigation.
- Before investigation is undertaken, the complaint is assessed to see if it fits within the mandate of the Policy and if there is *prima facie* evidence that shows that workplace harassment has occurred.

FILING A COMPLAINT

1. When all other resolution steps have been tried or, when it is unreasonable to try them, a formal written complaint may be made to the Deputy Head.
2. Employees are encouraged to use the complaint form available online at <http://www.hr.gov.nt.ca/sites/default/files/complaintform.pdf>
3. The Deputy Head acknowledges, in writing, receipt of the complaint and forwards the written complaint to the **Manager, Accommodations, Bargaining and Investigations (ABI) unit of the Labour Relations Division with the Department of Human Resources.**

ASSESSING THE COMPLAINT

4. The Department of Human Resources assesses the complaint to determine:
 - a. if the allegation(s) falls within the mandate of the Harassment Free and Respectful Workplace Policy and no unreasonably extensive delay has occurred;
 - b. if there is *prima facie* (on the face of it) evidence that workplace harassment has occurred; and
 - c. whether or not there is a reasonable alternate remedy to a formal investigation or if an investigation is warranted.
5. When assessing the complaint, the first step is to ensure the complaint is properly understood. This may require speaking to the complainant to clarify areas of the complaint that are unclear or that require elaboration. The complaint assessor may also request supporting documentation in relation to the complaint, such as notes taken by the complainant and the names of witnesses.
6. The Deputy Minister of the Department of Human Resources advises the employing Deputy Head of the outcome of the assessment. In instances where an investigation is not recommended, alternate resolution measures may be recommended.
7. The employing Deputy Head advises the complainant and the respondent, separately, in writing, of the result of the assessment and next steps, if necessary.

MEDIATING THE COMPLAINT

8. Mediation may be attempted at any time during the complaint process. Both parties must agree to mediation.
9. A person with mediation skills and, who is acceptable to the complainant and respondent, will mediate the dispute.

INVESTIGATING THE COMPLAINT

10. Investigations are authorized by Deputy Heads upon recommendation of the Deputy Head of the Department of Human Resources.
11. The Department of Human Resources either leads or identifies a contractor to lead the investigation.
12. Investigations are conducted by two investigators. The applicable Deputy Head is responsible for ensuring a second investigator is available to assist the lead investigator.
13. The investigators will remain impartial and will not prejudge the matter or the persons involved.
14. All parties to an investigation can expect fair unbiased treatment.
15. No person directly involved in the supervision of either the complainant or the respondent will lead an investigation.
16. The Deputy Head advises the complainant and the respondent of the pending investigation.
17. The lead investigator is responsible for explaining the process to both the complainant and respondent. This includes informing them of their rights and responsibilities regarding the investigation and ensuring that they are aware of the process.
18. Investigators interview the complainant, respondent, and pertinent witnesses identified by the complainant and respondent. Investigators may also identify other witnesses as the investigation proceeds.

19. All persons interviewed are counseled on the importance of keeping the matters discussed in such interviews confidential.
20. Investigators inform all persons interviewed that their identity and interview statement may be disclosed to the complainant or respondent in the interest of due process or if legally required.
21. Investigators gather evidence as applicable. In addition to interviews, this may include, but is not limited to:
 - a. pertinent documents;
 - b. site visit(s); and/or
 - c. review of evidence submitted by parties and witnesses in the investigation.
22. The final steps of the investigation include assessing the evidence as a whole and writing a report to the Deputy Head. The report does not contain recommendations.
23. The lead investigator may also bring to the attention of the Deputy Head, through a separate written report, any other workplace issues that come to light during the course of the investigation but which were not investigated.

ACTING ON THE FINDINGS OF INVESTIGATION REPORTS

24. The report and other relevant considerations form the basis for a decision by the Deputy Head respecting appropriate action.
25. The findings are communicated separately, but as close in time as possible, by the Deputy Head to both the complainant and respondent. The complainant is advised first.
26. If the allegations are substantiated and a mediated solution is not appropriate, the Deputy Head determines if remedial or disciplinary action is required. When action is required, Deputy Heads should seek labour relations advice.

RETALIATION FROM FILING A COMPLAINT

27. Employees who believe that they have been victim to retaliation, reprisals or threats, either as a result of filing a complaint or being party to the investigation of a complaint, should advise the Deputy Head. When doing so, the employee should outline, in writing, the nature of the retaliation, reprisal or threat.
28. The Deputy Head will assess the allegation of retaliation, reprisal or threat, seeking the assistance of the Department of Human Resources if necessary.

RIGHTS AND RESPONSIBILITIES

The Complainant

29. The complainant has the right to make a formal written complaint to the employing Deputy Head, or if the complaint identifies the Deputy Head as a respondent, the complainant has the right to make a formal written complaint to the Deputy Minister of the Department of Human Resources. If the complaint identifies the Deputy Minister of the Department of Human Resources as a respondent, the complainant has the right to make a formal written complaint to the Secretary to Cabinet.
30. If the respondent is a member of a bargaining unit, they have the right to be accompanied to all interviews by a union representative; all other respondents have the right to bring a support person to all interviews.
31. The complainant has the right to have his or her complaint treated seriously, to be informed of the assessment outcome of the complaint and, to be informed of the findings should an investigation be required.
32. The complainant has the right to have the complaint held in confidence except in so far as it is necessary for the purposes of investigating the complaint; ensuring due process occurs; or taking disciplinary action in relation to the complaint.
33. The complainant has the right to provide names of witnesses to the incident(s).
34. The complainant has the right to receive fair treatment.
35. The complainant has the right to offer, at any time, a voluntary resolution to the complaint.

36. The complainant is expected to provide information and to cooperate with those assessing and investigating the complaint.
37. The complainant is expected to seek clarification or explanation of his/her rights and responsibilities in relation to the investigation.

The Respondent

38. The respondent has the right to be informed of all allegations made under the Policy. This includes the right to receive a copy of the Policy; to respond verbally at an investigation interview and in writing to the allegations; and the right to provide names of witnesses.
39. If the respondent is a member of a bargaining unit, they have the right to be accompanied to all interviews by a union representative; all other respondents have the right to bring a support person to all interviews.
40. The respondent has the right to decline to participate in an investigation, but he/she must be informed that the investigation will continue and that findings will be made based on the information available.
41. The respondent has the right to fair treatment, including being advised of the findings of any assessment or investigation.
42. The respondent has the right to offer, at any time, a voluntary resolution to the complaint.
43. The respondent has the right to have the complaint held in confidence except in so far as it is necessary for the purposes of investigating the complaint; ensuring due process; or taking disciplinary action in relation to the complaint.
44. The respondent must not impede the efforts of the investigators or other persons conducting the review of the complaint.
45. The respondent is expected to provide information and cooperate with those investigating the complaint.
46. The respondent is expected to seek clarification or explanation of his/her rights and responsibilities in relation to the investigation.

Mediator

47. Mediators are expected to lead by example and to act respectfully in dealings with employees and other persons doing work for the GNWT.
48. Mediators are expected to declare a conflict of interest if they are not able to maintain impartiality when dealing with a complaint.
49. Mediators are expected to provide Deputy Heads with mediation reports that provide background information and mediation results.
50. Mediators are expected to mediate conflict as authorized, in a professional and timely manner.

Complaint Assessors

51. Complaint Assessors are expected to lead by example and to act respectfully in dealings with employees and other persons doing work for the GNWT.
52. Complaint Assessors are expected to declare a conflict of interest if they are not able to maintain impartiality when dealing with a complaint.
53. Complaint Assessors are expected to provide timely, clear, concise assessments based on information provided in the complaint.

Investigators

54. Investigators are expected to lead by example and to act respectfully in dealings with employees and other persons doing work for the GNWT.
55. Investigators are expected to declare a conflict of interest if they are not able to maintain impartiality when dealing with a complaint.
56. Investigators are expected to provide complainants, respondents, and witnesses with:
 - a. an explanation of the investigation process;

- b. an explanation of the rights and responsibilities, as applicable, of the individuals involved; and,
 - c. a copy of the Policy upon request.
57. Investigators are expected to carry out investigations based on the principles of natural justice.
58. Investigators are expected to conduct comprehensive, respectful, professional, timely investigations; and to make sound findings based on the evidence.
59. Investigators are expected to provide Deputy Heads with investigation reports that are clear, concise and founded on the evidence.

Witnesses

60. Witnesses are expected to provide information and cooperate in an investigation.
61. Witnesses are expected to keep their knowledge of a complaint, and involvement in any resolution or investigation process confidential.
62. Witnesses are expected to seek clarification or explanation of their rights and responsibilities in relation to the investigation.

ADDITIONAL INFORMATION AND HELP

Sometimes we need help figuring out what to do to address workplace problems. Some resources available to you are:

- Your supervisor
- Client Service Manager
(Visit <http://www.hr.gov.nt.ca/contacts/clientservice/> if you need to know who your Client Service Manager is)
- Investigation Specialists (867-920-3433) or (867-920-3467)
- Employee & Family Assistance Program - a confidential, voluntary counselling and referral service available to GNWT employees and their dependants. The program is designed to help with personal or work-related issues before they

become more serious. To take advantage of support in person, by telephone or through online resources, contact your EFAP toll-free, 24 hours a day, seven days a week:

1 800 387-4765 (English)

1 800 361-5676 (Français)

www.shepellfgi.com

- Your union

Union of Northern Workers

#202 - 5112 - 52nd Street, Yellowknife, NT X1A 2K8

Phone: 867-873-5668

Toll free: 1-877-906-4447

Email: hq@unw.ca

Northwest Territories Teachers' Association

5018 48th Street; Box 2340, Yellowknife NT X1A 2P7

Phone: 867-873-8501

Email: nwtta@nwtta.nt.ca

COMMENTS AND CONCERNS

Any comments or concerns regarding the process for the Harassment Free and Respectful Workplace Policy can be directed to:

Director of **Labour Relations**

Department of Human Resources

Box 1320

YELLOWKNIFE, NT X1A 2L9