

4.9 Respectful Workplace Policy

Policy Statement

The Government of Nova Scotia is committed to a healthy, safe and supportive workplace and is committed to providing a work environment that values diversity and where all persons are treated with respect and dignity. It is the right of all employees to work in an environment free from harassment, sexual harassment, and discrimination.

Harassment, sexual harassment, and discrimination (offensive behaviour) affect the workplace and the well-being of individuals and will not be tolerated. Whether the source of the offensive behaviour comes from within government or outside, any allegation of offensive behaviour will be taken seriously and dealt with promptly. This policy promotes awareness, prevention, and prompt resolution of offensive behaviour.

It is the intent of this policy to promote employee involvement in resolving situations. Resolution through the informal process is encouraged, as is the use of mediation, at any stage.

The *Nova Scotia Human Rights Act* prohibits sexual harassment and discrimination on the basis of the protected characteristics set out in the Act. The government's policy goes beyond the parameters of legislation by prohibiting other types of workplace harassment.

Definitions

COMPLAINANT

An employee(s) who has made a complaint under this policy, whether formal or informal, alleging that offensive behaviour has occurred. Complainant includes a third party complainant.

COORDINATOR

Refers to the Respectful Workplace Coordinator, Public Service Commission, or delegate.

DEPARTMENT

Any government department, office, or public service entity listed in Category I of Appendix I-A, Management Manual 100, Chapter 1, Policy 1.2 Management Manuals Policy.

DEPUTY HEAD

The deputy of the member of the Executive Council presiding over a department and all others whom the Governor in Council from time to time designates as having the status of deputy head.

DISCRIMINATION

Means discrimination as defined under the Nova Scotia *Human Rights Act*.

EMPLOYEE

Means:

- an employee as defined in the *Civil Service Act*
- an employee as defined in the *Corrections Act*
- an employee as defined in the *Highway Workers Collective Bargaining Act*; or
- any other person directly employed by the Province of Nova Scotia.

FORMAL COMPLAINT

A written allegation of offensive behaviour that is submitted to the Respectful Workplace Coordinator on the approved complaint form. A complaint may include:

- a) a third party complaint
- b) a referral to the Respectful Workplace Coordinator by a human resource professional

HARASSMENT

Derogatory (e.g. condescending, insulting, belittling) or vexatious (e.g. aggressive, angry, antagonistic) conduct or comments that are known or ought reasonably to be known to be offensive or unwelcome and includes actions or comments that are directed at no person in particular but that create an intimidating, demeaning or offensive work environment. Bullying is a form of harassment.

HUMAN RESOURCE PROFESSIONAL

An employee who is accountable for the provision of consultation, advice, guidance and direction on human resource matters, and/or for the delivery of human resource programs and services to the management and staff of the Province of Nova Scotia and includes a Human Resource Director, Manager or Consultant.

INFORMAL COMPLAINT

An allegation of offensive behaviour, that is brought to a manager or human resource professional which is dealt with through the informal process and may include a third party complaint.

INVESTIGATION

A careful search or examination in order to discover facts.

INVESTIGATOR

An individual(s) appointed by the Coordinator to investigate through fact finding complaints of offensive behaviour.

MEDIATION

A voluntary process used to resolve conflict by having a neutral person help the parties to the dispute attempt to arrive at a mutually acceptable solution.

MEDIATOR

A neutral person appointed by the Coordinator to help the parties to a dispute, attempt to arrive at a mutually acceptable solution.

NON-EMPLOYEE

Refers to a person who is engaged in work activities at a government workplace who is not a direct employee of government. This includes, but is not limited to, volunteers, temporary agency employees, students on work-terms, contractors and custodial staff.

OFFENSIVE BEHAVIOUR

Means harassment, sexual harassment, or discrimination.

“REASONABLY OUGHT TO KNOW OR HAVE KNOWN ”

The “reasonably ought to know or have known” standard refers to an objective assessment of how a specific behaviour might generally be received.

RESPONDENT

An employee(s) against whom allegations of offensive behaviour are made through the formal or informal complaint process and includes a manager who is alleged to have failed to take reasonable action in the circumstances, to protect an employee from offensive behaviour.

RETALIATION

Taking or threatening to take an unjustified employment action against an employee who has made a complaint or participated in an investigation under this policy. Retaliation may include any negative changes in the terms and conditions of an employee’s employment, including transfers, changes in work schedule or assignments, negative performance evaluations, unwarranted discipline, harassment, denial of promotion or work schedule requests, or denial of training. Retaliation may also include any offensive behaviour towards the employee by another employee.

Retaliation does not include a complaint or a response to a complaint, made in good faith, under this policy.

SEXUAL HARASSMENT

- i) Vexatious sexual conduct or a course of comment that is known or ought reasonably to be known as unwelcome,
- ii) A sexual solicitation or advance made to an individual where the other individual is in a position to confer a benefit on, or deny a benefit to, the individual to whom the solicitation or advance is made, where the individual who makes the solicitation or advance knows or ought reasonably to know that it is unwelcome, or
- iii) A reprisal or threat of reprisal against an individual for rejecting a sexual solicitation or advance
- iv) Comments, gestures or physical conduct of a sexual nature, or actions or comments with a sexual connotation or component that are directed at no person in particular but that create an intimidating, demeaning or offensive work environment, where an individual knows or ought to reasonably know that the behaviour is unwelcome.

WORKPLACE

Any place occupied by an employee as part of their employment which includes, but is not limited to, lunchrooms, a client's home or work site, vehicle, training events, conferences, business travel, work-related social gatherings, or other location where an employee is engaged in activity associated with employment.

Policy Objectives

This policy seeks to:

- promote awareness for employees and create understanding as to what is considered offensive behaviour
- provide a work environment that is free from all forms of offensive behaviour
- provide a mechanism to have offensive behaviour addressed and eliminated from the workplace

Application

This policy applies to all civil servants whose terms and conditions are set out in accordance with the *Civil Service Act* and regulations and other direct employees of the provincial government, including all bargaining unit employees.

Policy Directives

SUBSTANTIVE DIRECTIVES

Managers are to lead by example and take reasonable measures to ensure a work environment that is free from offensive behaviour. If a manager or a human resource professional is made aware of an alleged violation of this policy, they are required to take reasonable action in the circumstances to address the allegation within ten (10) working days. This applies to situations that involve employees as well as non-employees working in a government workplace.

Managers are to take all reasonable steps to ensure that their employees do not act offensively toward employees, non-employees or clients/customers.

Nothing in this policy restricts a manager's authority and obligation to manage the performance of employees or take appropriate disciplinary action when necessary.

All information regarding a complaint is to be treated as confidential and will be disclosed on a need to know basis only.

Information related to a Respectful Workplace complaint, whether formal or informal, will not be held on an employee's file. Disciplinary action resulting from a Respectful Workplace matter will be held on an employee's file in accordance with the appropriate collective agreement or the Civil Service Act, as required.

Complaints should be undertaken with great care because they may result in damage to the respondent's reputation and disruptions in the workplace. Complaints which are frivolous, vexatious or made in bad faith may result in disciplinary action against the complainant.

Support will be provided, as necessary, to remove barriers to the complaint process for individuals with disabilities and/or low literacy skills.

Retaliation is prohibited against anyone who has made a complaint or has participated in an investigation under this policy. Retaliation may result in disciplinary action.

Retaliation does not include a complaint or a response to a complaint, made in good faith, under this policy.

PROCEDURAL DIRECTIVES

The Public Service Commission will develop procedures related to this policy and will maintain a Respectful Workplace Procedures Manual.

The rules of procedural fairness govern all activities under the complaint process.

An individual against whom allegations of offensive behaviour have been made shall

be made aware of the allegations and be provided with an opportunity to respond to them. Decisions under this policy that affect an individual's rights will be made without bias.

A complaint under this policy shall be made within 12 months of the alleged offensive behaviour. In extenuating circumstances, complaints may be considered beyond 12 months, in consultation with the Coordinator.

Complaints will be processed efficiently and as expeditiously as possible with regard to all the circumstances, in accordance with time limits established in this policy and in the Public Service Commission's Respectful Workplace Procedures Manual.

The Coordinator may extend the time limits specified at any stage of the process where it is necessary to ensure procedural fairness or otherwise in the best interest of the parties and may do so at the request of one or more parties. The Coordinator will ensure that the appropriate parties are notified of any time limit extensions.

If at any time after making a formal complaint, the complainant wishes to abandon the formal complaint, s/he must communicate this, in writing, to the Coordinator. The Coordinator will determine whether further action is required to address the allegations raised in the formal complaint, including but not limited to, whether an investigation should proceed.

If at any time after making an informal complaint, the complainant wishes to abandon the informal complaint, the manager or Director of Human Resources, as appropriate, will determine whether further action is required to address the allegations, including whether the matter should be referred to the Respectful Workplace Coordinator.

Guidelines

RESOLUTION OPTIONS

The following resolution options are available to all employees. Selection of either option does not supersede or eliminate the right of bargaining unit employees to the grievance procedure.

INFORMAL PROCESS

Employees who believe they are experiencing offensive behaviour may choose to speak directly with the person(s) and inform them that their behaviour is unwelcome and must stop.

Employees may choose to make an informal complaint to a manager or human resource professional. Refer to procedures as approved by the Public Service Commission.

For offensive behaviour by non-employees or clients/customers, refer to procedures, as approved by the Public Service Commission.

FORMAL PROCESS

Employees may choose to make a formal complaint to the Respectful Workplace Coordinator. Refer to Procedure as approved by the Public Service Commission.

OTHER OPTIONS

Complainants may, instead of the complaint procedures under this policy, file a complaint under any of the following options where applicable:

- Grievance Procedure - bargaining unit employees may file a grievance pursuant to the applicable collective agreement. For additional information about the grievance procedure, employees may contact their union.
- complaint to the Nova Scotia Human Rights Commission
- complaint under the *Criminal Code*

Accountability

DEPUTY HEADS

Deputy Heads are responsible for:

- ensuring all employees are provided with an opportunity to attend mandatory respectful workplace training;
- taking steps to create an environment free from offensive behaviour;
- determining appropriate action in response to investigative findings.

MANAGERS

Managers are responsible for:

- modeling respect;
- attending appropriate mandatory respectful workplace training;
- ensuring all employees are provided with an opportunity to attend mandatory respectful workplace training;
- taking action to protect employees and others from offensive behaviour;
- responding to allegations of offensive behaviour through the informal complaint process;
- determining, with support from human resources and/or the Coordinator, whether an informal complaint is appropriate for resolution under this policy;

- making decisions, with support from human resources and/or the Coordinator, as to appropriate resolution options;
- determining whether further action is required where an individual wishes to abandon an informal complaint.

EMPLOYEES

Employees are responsible for:

- attending respectful workplace training;
- treating all persons with respect and dignity.
- cooperating with Respectful Workplace processes as required.

DIRECTORS OF HUMAN RESOURCES

Directors of Human Resources are responsible for:

- discharging the accountabilities of a human resource professional;
- directing the activities of human resource professionals in accordance with their role and accountabilities under this policy;
- determining whether further action is required where an individual wishes to abandon an informal complaint;
- determining whether an informal complaint is appropriate for resolution under this policy;
- making decisions as to appropriate resolution options for informal complaints;
- providing advice to Deputy Heads on workplace restoration and/or discipline.

HUMAN RESOURCE PROFESSIONALS

Human Resource Professionals are responsible for:

- responding to allegations of offensive behaviour through the informal complaint process;
- referring matters to the Respectful Workplace Coordinator as appropriate;
- responding to inquiries from employees and managers;
- providing referrals to the Employee Assistance Program.

RESPECTFUL WORKPLACE COORDINATOR

Respectful Workplace Coordinator is responsible for:

- providing policy advice;
- determining whether a formal complaint is appropriate for resolution under this policy;
- making decisions as to appropriate resolution options;
- assigning mediators and/or investigators;
- ensuring complaints are processed in a fair, efficient and transparent manner;
- providing advice as required, to Deputy Heads on workplace restoration;

- providing support to employees, managers and human resource professionals using the informal complaint process;
- taking appropriate action where a breach of a mediated settlement agreement is alleged;
- overseeing the development and delivery of respectful workplace training.

PUBLIC SERVICE COMMISSION

Public Service Commission is responsible for:

- evaluating the effectiveness of this policy;
- monitoring compliance with this policy;
- developing procedures related to this policy.

Monitoring

The Public Service Commission shall monitor the effectiveness of the policy and coordinate periodic reviews.

References

Civil Service Act and regulations
Corrections Act
Criminal Code of Canada
Highway Workers Collective Bargaining Act
Nova Scotia Human Rights Act
Occupational Health & Safety Act
Respectful Workplace Procedures Manual

Enquiries

Public Service Commission
(902) 424-2741

Approval date:

April 25, 2012

Effective date:

July 3, 2012

Approved by:

Treasury Board

Administrative update:
