

6.7 Respectful Workplace Policy

Policy Statement

The Government of Nova Scotia is committed to a healthy, safe and supportive workplace and is committed to provide 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. This policy promotes awareness, prevention, and prompt resolution of offensive behaviour.

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.

Whether the source of the offensive behaviour comes from within government or outside, any allegation of offensive behaviour is serious and should be taken seriously. Managers have an obligation to take appropriate action to protect their employees and others in the workplace and to put a stop to any offensive behaviour they are aware of, whether or not a complaint has been filed. Employees have an obligation to treat all persons with respect and dignity and are encouraged to take appropriate action to ensure offensive behaviour is not tolerated or condoned.

Definitions

COMPLAINT

A written allegation of offensive behaviour submitted to the Respectful Workplace Coordinator.

COMPLAINANT

An employee(s) who has brought forward or filed a complaint under this policy, alleging that offensive behaviour has occurred.

COORDINATOR

Refers to the Respectful Workplace Coordinator.

DEPARTMENT

Any department, office, or public service entity established by the Government of Nova Scotia as identified under Category I in Appendix I-A of the 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 legislated 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

HARASSMENT

Harassment refers to 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. Harassment includes, but is not limited to, the following:

- actions or comments that are directed at no person in particular but that create an intimidating, demeaning or offensive work environment;
- any objectionable comment, act, or display that demeans, belittles, or causes personal humiliation or embarrassment, and any act of intimidation or threat;
- conduct or comments that would amount to harassment involving any of the protected characteristics set out in the *Nova Scotia Human Rights Act*: age; race; colour; religion; creed; sex (gender, including pregnancy); sexual orientation; physical disability or mental disability; an irrational fear of contracting an illness or disease; ethnic, national or aboriginal origin; family status; marital status; source of income; political belief, affiliation or activity; association with another individual or class of individuals having characteristics named above.

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.

OFFENSIVE BEHAVIOUR

Means harassment, sexual harassment, or discrimination.

PERSON IN AUTHORITY

A person other than the employee's direct supervisor who is a member of the employee's chain of command.

"REASONABLY TO BE KNOWN"

The "reasonably to be 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.

SEXUAL HARASSMENT

Means sexual harassment as legislated under the *Nova Scotia Human Rights Act*. Sexual harassment also includes 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 and offensive. Examples of conduct that fall within the definition of sexual harassment are:

- inappropriate or derogatory comments, humour, insults or behaviour based on gender and/or sexual orientation
- inappropriate, lewd, or sexually offensive written, graphic or behavioural displays
- inappropriate conversation, physical touching, or leering that could be construed to be a sexual advance
- any implied or expressed reward for complying with a sexually-oriented advance or request
- a reprisal or threat of reprisal against an individual for rejecting a sexual solicitation or advance.

THIRD PARTIES

Persons who are engaged in work activities at a government workplace who are not direct employees of government. They include, but are not limited to, volunteers, temporary agency employees, student work-term, contractors, and custodial staff.

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.

WORKPLACE RESTORATION

Promoting and/or restoring positive work environment and respectful workplace relationships.

Policy Objectives

This policy seeks to:

- provide a work environment that is free from all forms of offensive behaviour
- educate employees and create understanding as to what is considered 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

Creating an environment that is free from offensive behaviour is achieved through awareness and training. Deputy Heads will ensure that employees are provided with an opportunity to attend the required respectful workplace training.

Managers are to lead by example and take reasonable measures to ensure a work environment that is free from offensive behaviour. If a manager, person in authority, or a human resource professional is made aware of a violation of this policy, they are required to take action even in the absence of a complaint. This applies to situations that involve employees as well as third parties working in a government workplace.

It is the intent of this policy to promote employee involvement in resolving situations. The use of resolution options, including mediation, is encouraged at any stage of this policy.

Resolution to a situation should be sought within 12 months of the offensive behaviour. In extenuating circumstances the Respectful Workplace Coordinator may consider complaints beyond 12 months.

Nothing in this policy shall be deemed to restrict the authority of managers in performance management, counselling, disciplinary action or other appropriate interactions between employees and supervisors.

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

ADVISORY SERVICES

EAP Consultants, Public Service Commission, will act as Advisors and will be available to provide information to employees on their options under this policy on a confidential basis. This service will be accessible to complainants, potential complainants, respondents, witnesses, and managers. Employees need not identify themselves when requesting advice.

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.

Communicating concerns directly to the person

- 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.
- If done in person, the employee may want to be accompanied by another person.
- The employee should document any discussion between the employee and the person(s) concerned and keep a record of any written correspondence.
- A matter dealt with to the employee's satisfaction is considered resolved.

Communicating concerns to manager, person in authority, or human resource professional

- If the matter is not resolved to the employee's satisfaction or if the employee chooses not to speak to the person(s) directly, the employee may approach their manager, person in authority, or human resource professional and ask for their assistance in resolving the situation.

- If the discussion is done in person, the employee may find it helpful to be accompanied by another person.
- The employee should document any discussion between them and the manager, person in authority, or human resource professional and keep a record of the discussion and, if the concerns are communicated in writing, to keep a copy of the correspondence.
- Within 10 working days of being informed of the situation the manager, person in authority, or human resource professional will review and take steps to resolve the situation as appropriate.
- The manager, person in authority, or human resource professional may refer the matter to the Respectful Workplace Coordinator or ask for their assistance in resolving the situation which may include a request for mediation.
- Once a manager, person in authority, or human resource professional is made aware of a behaviour that could be a breach of this policy, they must ensure that the matter is properly dealt with by the employer.

WRITTEN COMPLAINT OPTION

An employee has the option to initiate a written complaint if the above resolution options are not effective in resolving the situation to the satisfaction of the employee or if the employee prefers to file a written complaint immediately.

Filing a Complaint

- Written complaints must be signed by the complainant. Forms for this purpose may be obtained from Human Resources or the Public Service Commission.
- The completed form is sent to the Respectful Workplace Coordinator, Public Service Commission, marked “Personal & Confidential”.
- Upon receipt of the complaint, the Coordinator will inform the Deputy Head(s) of the department(s) of the complainant and the respondent, and the respondent that a complaint has been filed and that the Coordinator will be conducting a preliminary investigation. The Deputy Head(s) and the respondent will be provided with a copy of the complaint.
- Within 10 working days of the complaint being acknowledged, the Coordinator reviews the complaint and if necessary, seeks additional information to determine that the allegations, if proven, are offensive behaviour. The Coordinator may extend this time limit if required.
- If the Coordinator determines that the allegations, if proven, are not offensive behaviour, the Coordinator informs the complainant, the respondent, and the

Deputy Head(s) in writing. The Coordinator may redirect the complainant to other appropriate avenues of recourse or may suggest other means of resolving the situation.

- If the Coordinator determines that the allegations may be offensive behaviour, the Coordinator may offer the option of mediation to the complainant and the respondent. Both parties have to agree to the mediation in order for the process to begin.
- Within 20 working days of initiating the mediation process, the complainant and the respondent will have resolved the situation or the mediation will be suspended. A report will be provided by the Mediator to the Coordinator indicating the results of the mediation.
- If mediation fails to resolve the situation or it is determined that formal investigation is the more appropriate action to be taken, the Coordinator will inform the Deputy Head(s), the complainant, and the respondent that an investigation will be conducted, and assign an investigator(s).
- The Coordinator will inform the complainant and the respondent that they have the option of being accompanied during the investigation interview by a union official (if a bargaining unit employee), a co-worker, or other support person.

Formal Investigation

- The investigator(s) will interview the complainant, the respondent, and any witnesses, and will review relevant documentation.
- The investigator(s) must complete their investigation and file a report of their findings to the Deputy Head(s) concerned and the Coordinator within 30 working days of receiving the complaint.

DECISION

- Within 15 working days of receiving the investigator's report, the Deputy Head(s) determines on the basis of the investigator's report what action, if any, including appropriate disciplinary action, is to be taken.
- The Deputy Head(s) may seek the advice of the Respectful Workplace Coordinator, in determining appropriate workplace restoration options which maybe actioned to create a workplace free from offensive behaviour.
- The Deputy Head(s) should, in addition to other appropriate persons, seek the advice of the Director of Human Resources in determining whether disciplinary action is warranted and the appropriate level of disciplinary action where applicable.

- The Deputy Head(s) will inform the parties in writing of the results of the investigation in determining a finding of offensive behaviour. The Deputy Head(s) will ensure that workplace restorative measures and/or disciplinary actions are taken, if warranted.

WITHDRAWAL OF COMPLAINT

If at any time after filing a complaint the complainant wishes to abandon the complaint, he or she must communicate this in writing to the Coordinator. The Coordinator will determine whether the investigation is to be continued.

RETALIATION

Retaliation is prohibited against anyone who has reported an offensive behaviour or participated in an investigation. Retaliation may result in disciplinary action.

BAD FAITH COMPLAINTS

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

Guidelines

REPRESENTATION

During the interview process employees have the option of being accompanied by a union official (in the case of bargaining unit employees), a co-worker, or other support person.

Employees who are excluded from bargaining may seek legal counsel. The cost of such representation will be borne by the employee.

TIME LINES

At the request of any of the parties, the Coordinator may agree to extend the time limits specified at any stage of the process. The Coordinator will ensure that the appropriate parties are notified of any time limit extensions.

DEALING WITH OFFENSIVE BEHAVIOUR BY THIRD PARTIES OR CLIENTS/ CUSTOMERS

The Government of Nova Scotia is committed to provide a workplace that is free from offensive behaviour. This extends to circumstances where an employee is subject to offensive behaviour by persons who are not direct employees of government but are employed at a government workplace and by clients/customers.

These procedures do not supersede the Violence in the Workplace Regulations, and where circumstances warrant these procedures should be considered in conjunction with those regulations.

Procedures for Dealing with Offensive Behaviour by Third Parties

The following process and procedures apply to circumstances where employees are subject to offensive behaviour by third parties in a government workplace. Third parties are persons who are engaged in work activities at a government workplace who are not direct employees of government. They include, but are not limited to, volunteers, temporary agency employees, student work-term, contractors, and custodial staff.

- Upon receipt of a complaint, the manager or person in authority will take immediate steps to ensure that the complainant is protected from the source of the alleged offensive behaviour.
- The manager or person in authority, in consultation with the employee, shall take such action as is appropriate and reasonable in the circumstance to ensure that the offensive behaviour does not continue.
- In the case of a written complaint, an investigation will be carried out in accordance with the process set out in the Respectful Workplace Policy.
- The respondent and the respondent's employer, if applicable, will be informed of the complaint and the investigation.
- Any findings determined by the investigation will be provided to the respondent's employer, if applicable.

Procedures for Dealing with Offensive Behaviour by Client/Customers

The following process and procedures apply to circumstances where employees are subject to offensive behaviour by clients/customers.

- Employees who are subject to offensive behaviour by clients/customers are encouraged to report the incident(s) to their manager or person in authority, particularly if the offensive behaviour is of a serious nature or made in circumstances where the employee feels the offensive behaviour may continue or re-occur.
- Upon receipt of such a complaint, the manager or person in authority, in consultation with the employee, shall take such action as is appropriate and reasonable in the circumstance to ensure that the offensive behaviour does not continue.

- The manager or person in authority shall consider what, if any, procedures and safe work practices are appropriate at the workplace to minimize or control offensive behaviour by clients/customers.

DEALING WITH OFFENSIVE BEHAVIOUR BY EMPLOYEES

The process as defined in this policy applies to employees of the Government of Nova Scotia. Though third parties and client/customers cannot access the complaint process described in the policy, managers are to ensure that their employees do not act offensively toward these parties. In addressing these situations managers are expected to abide by the spirit of the policy and ensure that where internal procedures exist to deal with the complaint, that they are followed.

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.

External Options

- complaint to the Nova Scotia Human Rights Commission
- complaint under the Criminal Code
- complaint under the *Occupational Health & Safety Act*

Accountability

Deputy Heads are responsible for:

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

Managers are responsible for:

- setting a positive example;
- taking action to protect employees and others from offensive behaviour;
- responding to allegations of offensive behaviour.

Employees are responsible for:

- attending respectful workplace training;
- treating all persons with respect and dignity.

Director of Human Resources are responsible for:

- providing advice as required to Deputy Heads.

Human Resource Corporate Service Units are responsible for:

- responding to allegations of offensive behaviour;
- responding to employees and managers inquiries;
- providing referrals to EAP Advisory Services.

Respectful Workplace Coordinator, Public Service Commission is responsible for:

- providing policy advice;
- reviewing and processing all written complaints;
- assigning mediators and/or investigators;
- providing advice as required to Deputy Heads on workplace restoration actions.

EAP Consultants, Public Service Commission are responsible for

- acting in an advisory capacity to employees on issues of offensive behaviour and application of this policy.

Public Service Commission is responsible for:

- evaluating the effectiveness of this policy and make any changes as necessary.

Monitoring

The Public Service Commission shall monitor the effectiveness of the process and coordinate periodic reviews and audits to ensure departmental compliance with this policy. Departments shall provide all documentation deemed necessary to conduct any reviews of this policy.

References

Civil Service Act and regulations

Nova Scotia Human Rights Act

Criminal Code of Canada

Occupational Health & Safety Act

Corrections Act

Highway Workers Collective Bargaining Act

Enquiries

Strategic Support Services

Public Service Commission

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