



Directive on the Harassment Complaint Process

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Directive on the Harassment Complaint Process

1 Effective date

1.1 This directive takes effect on October 1st, 2012.

1.2 It is issued in conjunction with the Treasury Board [Policy on Harassment Prevention and Resolution](#) dated October 1st, 2012 and both instruments replace the 2001 Policy on the Prevention and Resolution of Harassment in the Workplace.

2 Application

2.1 This directive applies to the core public administration which includes organizations named in Schedule I and the other portions of the federal public administration named in Schedule IV of the [Financial Administration Act](#) unless excluded by specific acts, regulations or orders in council.

2.2 The provisions in sections 6.2.2, 6.2.3 and 7 relating to the role of the Treasury Board of Canada Secretariat in monitoring compliance and directing measures to be taken in response to non-compliance do not apply with respect to the Office of the Information Commissioner of Canada and the Office of the Privacy Commissioner of Canada, the Office of the Chief Electoral Officer, the Office of the Commissioner of Lobbying, the Office of the Commissioner of Official Languages and the Office of the Public Sector Integrity Commissioner. The deputy heads of these organizations are solely responsible for monitoring and ensuring compliance with this directive within their organizations, as well as for responding to cases of non-compliance in accordance with any Treasury Board instruments providing principles and guidance on the management of compliance.

2.3 The harassment complaint process established under this directive is available to employees of organizations described in 2.1. For individuals who are not employees as defined in [Appendix A](#), managers must address any allegation of harassment from these individuals in accordance with the spirit of this directive.

2.4 In circumstances where an employee files a harassment complaint against an individual who is not an employee as defined in [Appendix A](#), managers must apply the complaint process as established in this directive to the extent possible.

3 Context

3.1 The prevention and resolution of harassment in the workplace is an essential component in the effective people management of an organization. The goal of Treasury Board as the employer is to maintain a productive, healthy and respectful workplace where positive working relationships and practices are promoted and where everyone is guided by the values of the public sector which includes treating each other with respect and fairness.

In keeping with the [Policy on Harassment Prevention and Resolution](#), the Treasury Board is committed to having a harassment-free workplace. In part, this can be achieved by ensuring that every organization remains sensitive to the potential for harassment, or perceptions of harassment in the workplace, and actively managing any such situations whenever and wherever they arise. Requiring organizations across the core public administration to implement measures for preventing and managing workplace harassment will help the employer reduce the effects of stressful work situations on employees, and improve their overall wellbeing and productivity, which in turn will lead to better results for Canadians.

3.2 Harassment is serious and needs to be addressed promptly, with sensitivity, competence and discretion. The primary goal is to resolve allegations of harassment in the most informal way feasible, with the least disruption possible for the parties involved and the work environment. While the seriousness of harassment allegations calls for access to a careful and rigorous process from the outset, it is consistent with such a process that many cases may, upon closer exploration and with the consent of all parties, be effectively dealt with through informal resolution processes.

3.3 This directive flows from the [Policy on Harassment Prevention and Resolution](#) and requires the establishment and the maintenance of an effective harassment complaint process. It sets out specific roles and responsibilities of the designated official(s) pertaining to the application of this directive.

3.4 Deputy heads have the responsibility and are accountable for the establishment and maintenance of a respectful and harassment-free workplace, and for the prompt resolution of related complaints. Treasury Board provides broad direction to deputy heads while the latter are responsible for implementation.

3.5 This directive is issued pursuant to section 7 and subsection 11.1 of the [Financial Administration Act](#).

3.6 This directive is to be read in conjunction with the following:

- [Policy on Harassment Prevention and Resolution](#)
- [Canada Labour Code](#), including the [Canada Occupational Health and Safety Regulations](#) – Part XX dealing with Violence Prevention in the Workplace
- [Canadian Human Rights Act](#)
- The principles listed in the [Policy Framework for People Management](#)

In addition, the guidelines contained in the [Guide on Applying the Harassment Resolution Process](#) should be read in conjunction with this directive as they are fundamental in interpreting and applying efficiently the harassment complaint process.

4 Definitions

For definitions to be used in the interpretation of this directive, refer to [Appendix A](#).

5 Directive Statement

5.1 Objective

The objective of this directive is to describe the minimum requirements of the harassment complaint process and set out expected results in order to ensure the timely and efficient resolution of complaints.

5.2 Expected results

The expected results of this directive are:

5.2.1 Complaints of harassment are handled fairly, confidentially¹, effectively and in a timely manner.

5.2.2 Steps are taken to restore the well-being of the workplace.

6 Requirements

6.1 The designated officials are responsible for the following:

6.1.1 Ensuring that the harassment complaint process is carried out promptly; respects the principles of procedural fairness towards the complainant, the respondent and all other parties involved; and that it contains the following five steps:

Step 1 – Acknowledging receipt of the complaint while ensuring that:

- employees understand that if a complaint on the same issue is or has been dealt with through another avenue of recourse, the complaint process under this directive will not proceed further and the file will be closed.
- the written complaint is submitted within 12 months of the last incident or event of alleged harassment (unless there are extenuating circumstances); and
- the parties are made aware of the options for informal resolution from the outset and throughout the process.

Note: The [Canada Occupational Health and Safety Regulations](#) – Part XX dealing with Violence Prevention in the Workplace found in the [Canada Labour Code](#) should be considered in cases of incidents of violence including alleged threats. Assaults, including sexual assault and criminal harassment are subject to the [Criminal Code](#) and such cases should be promptly referred to the appropriate authorities.

Step 2 – Reviewing the complaint to determine whether the allegation(s) meets the definition of harassment as described in this directive (see [Appendix A](#)). The respondent is notified of the complaint whether or not the complaint is admissible.

Step 3 – Exploring options for resolving the complaint while ensuring that consideration is given to informal resolution processes. Should there be an investigation², the person conducting the investigation is appropriately qualified³ and applies the principles of procedural fairness.

Step 4 – Rendering a decision and notifying in writing the parties involved as to whether or not the allegations were founded.

Step 5 – Restoring the well-being of the workplace while ensuring that:

- the work unit manager in consultation with the Informal Conflict Resolution practitioners and other relevant organizational resources addresses the needs of the parties concerned and the work unit throughout the complaint process as well as any detrimental impacts resulting from the incidences of harassment; and
- the work unit manager takes timely corrective and/or disciplinary measures, if warranted, including addressing reprisal or risk of reprisal.

6.1.2 Ensuring that steps 1, 2, 3 and 4 are completed in a timely fashion, normally within 12 months unless there are extenuating circumstances, and step 5 is initiated within the same time frame.

For additional information on the application of the steps in the harassment complaint process, consult the [Guide on Applying the Harassment Resolution Process](#).

6.2 Monitoring and reporting requirements

6.2.1 Within Organizations

Consistent with the requirements in section 6.1, the deputy head is responsible for monitoring the performance of the organization with respect to the application and administration of this directive.

6.2.2 By Organizations

The Treasury Board of Canada Secretariat, Office of the Chief Human Resources Officer (TBS/OCHRO) is responsible for assessing organizational performance with respect to the administration of and compliance with the requirements herein. The results organizations are expected to achieve may be assessed by data collection mechanisms such as the Public Service Employee Survey and the Management Accountability Framework.

As deemed appropriate by TBS/OCHRO, the deputy head may be required to provide information considered necessary for assessing compliance with this directive. For example, TBS/OCHRO may conduct focus groups with representatives of identified organizations, in partnership with the bargaining agents, to better understand challenges in organizations with relatively poor results.

6.2.3 Government Wide

TBS/OCHRO will review the directive and its effectiveness at the five-year mark of implementation.

7 Consequences

7.1 The deputy head is responsible for taking corrective measures when significant issues arise regarding compliance with this directive. When corrective action is not implemented satisfactorily or in a timely manner, the Chief Human Resources Officer may request that deputy heads temporarily withdraw or suspend delegated authorities to his/her staff, undertake corrective actions or impose measures to restore compliance with this directive.

7.2 For a range of consequences of non-compliance, refer to the [Framework for the Management of Compliance](#).

8 Roles and Responsibilities of Government Organizations

8.1 In addition to its monitoring role, TBS/OCHRO assists the designated officials with the implementation and application of this directive through the provision of advice and the issuance of related administrative guidelines and tools.

9 References

9.1 Other Relevant Legislation/Regulations:

- [Criminal Code](#)
- [Access to Information Act](#)
- [Privacy Act](#)
- [Official Languages Act](#)
- [Public Service Labour Relations Act](#)

9.2 Related policy instruments/publications

- [Values and Ethics Code for the Public Sector](#)
- [Framework for the Management of Compliance](#)
- [Policy on Official Languages for Human Resources Management](#)
- [Policy on Language of Work](#)

Guides/Tools:

- [Getting to know Informal Conflict Management Systems \(ICMS\) better](#)
- [A guide to the key elements of an ICMS](#)
- [Is it Harassment? A Tool to Guide Employees](#)
- [Guide on Applying the Harassment Resolution Process](#)
- [Investigation Guide for the Policy on Harassment Prevention and Resolution and Directive on the Harassment Complaint Process](#)
- [Preventing and Resolving Harassment in the Workplace: a Guide for managers](#)
- [Restoring the Workplace Following a Harassment Complaint: A Manager's Guide](#)
- Sample of a Harassment Complaint Form

10 Enquiries

For interpretation of this directive, departmental officials should contact [TBS Public Enquiries](#). Employees should direct enquiries about this directive to their responsible departmental officials.

Appendix A – Definitions

Complaint (plainte)

is an allegation of harassment communicated verbally or submitted in writing. For the harassment complaint process, a written complaint must be submitted.

Designated Official (responsable désigné)

person designated by the deputy head to be responsible for the overall application of the Policy on Harassment Prevention and Resolution and the Directive on the Harassment Complaint Process. The deputy head may designate more than one official in his organization.

Employee (employé)

for the purpose of this directive, employee refers to those employed as indeterminate employees, part-time employees, term employees, seasonal employees, casual workers, students and part-time workers in organizations defined in section 2.1.

Harassment (harcèlement)

improper conduct by an individual, that is directed at and offensive to another individual in the workplace, including at any event or any location related to work, and that the individual knew or ought reasonably to have known would cause offence or harm. It comprises objectionable act(s), comment(s) or display(s) that demean, belittle, or cause personal humiliation or embarrassment, and any act of intimidation or threat. It also includes harassment within the meaning of the [Canadian Human Rights Act](#) (i.e. based on race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability and pardoned conviction).

Harassment is normally a series of incidents but can be one severe incident which has a lasting impact on the individual.

Informal Resolution Process (processus de résolution informel)

a confidential, voluntary and collaborative problem-solving approach such as face to face conversation, conflict coaching, facilitated discussion or mediation that has the advantage of addressing the parties' needs, concerns and mutual interests. Informal resolution processes are also commonly called interest based conflict resolution, Informal Conflict Management System (ICMS) and alternative dispute resolution.

Restoration of the workplace (rétablissement du milieu de travail)

the establishment or re-establishment of harmonious working relationships amongst individuals and within the team, group or unit, following a harassment complaint.

Footnotes

Footnote fn1

All parties directly involved in the process are expected to limit the discussion of all aspects of the complaint to those who need to know.

[Return to footnote 1 referrer](#)

Footnote fn2

An investigation may not be necessary if the designated official is satisfied that he has all the facts based on his inquiries and that the parties have been heard in accordance with procedural fairness.

[Return to footnote 2 referrer](#)

Footnote fn3

Investigators must meet the Competency Profile for the harassment investigators.

[Return to footnote 3 referrer](#)