



LEGISLATIVE ASSEMBLY MANAGEMENT COMMISSION
Minutes of a Meeting Held at
5:00 p.m., Thursday, May 9, 2019
Room 254 Legislative Building

DECISIONS

1. Legislative Assembly Respectful Workplace Policy (BP 1-19)

The policy below was considered and adopted.

Respectful Workplace Policy: Addressing and Preventing Sexual Harassment, Harassment and Bullying

1. POLICY

For the purposes of this policy Members of the Legislative Assembly and their Constituency Assistants are included in the term “employee”. This term refers to all individuals employed by the Legislative Assembly, including, but not limited to, regular, term, departmental, casual, sessional, secondment/interchange, student, contract, and volunteer/practicum staff.

Every employee is entitled to work in an environment that is respectful and free of all forms of harassment, including sexual harassment and bullying.

A respectful workplace requires the cooperation and support of each and every employee. Employees must set a positive example and avoid behaving disrespectfully, including behaviour that would reasonably offend, intimidate, embarrass or humiliate others, whether deliberately or unintentionally. Disrespectful behaviour, sexual harassment, harassment and/or bullying will not be tolerated.

Any employee who experiences or witnesses behaviour in violation of this policy is encouraged to address it using the process outlined in this policy. More serious forms of inappropriate behaviour (e.g. sexual harassment, harassment/bullying and/or workplace violence) should be reported immediately to an appropriate reporting contact.

Employees are not required to make a formal complaint. However, supervisors are obligated to address an issue they have been made aware of if necessary to maintain a harassment-free workplace for all employees. If a supervisor observes or is advised of more serious forms of inappropriate behaviour (e.g. sexual harassment, harassment/bullying and/or workplace violence), they must **not** wait until a formal complaint is made to address it; rather, they have a responsibility to address it immediately.

This policy is not intended to discourage or prevent an employee from exercising any legal right or contacting the appropriate authorities. Nothing in this policy precludes an employee from also filing a grievance in accordance with the applicable Legislative Assembly Employment Policy.

This policy does not limit the employer's right to manage. Performance reviews, work assignment and evaluation, and disciplinary measures taken by the employer for any valid reason do not constitute disrespectful behaviour, sexual harassment, harassment and/or bullying.

2. APPLICATION

This policy applies to:

- All Members of the Manitoba Legislative Assembly;
- Staff employed by MLAs (Constituency Assistants); and
- Employees of the Legislative Assembly, including staff of the Non-Political and Political Offices of the Assembly.

Non-Political Offices of the Legislative Assembly include:

- Clerk of the Legislative Assembly
- Committees, Journals, Research, Visitor Tour Program, Sergeant-at-Arms/Chamber and Hansard branches and Members' Allowances Office, Pages hired under the Provincial Page Program, Interns hired under the Internship Program
- Office of the Speaker
- Education and Outreach Services
- Administration
- Human Resource Services, Finance, Gift Shop, Information Systems

Political Offices of the Legislative Assembly* include:

- PC Caucus
- NDP Caucus
- Liberal Caucus
- Office of the Leader of the Official Opposition
- Office of an Independent Member

This policy covers interactions with:

- Employees of the Political and Non-Political offices of the Legislative Assembly
- Members of the Legislative Assembly
- Constituency Assistants
- Civil Servants
- Contractors
- Members of the public
- Political staff including Cabinet ministers

This policy applies to the workplace itself, as well as activities connected with the workplace (e.g. travel, conferences, online (including online and electronic communications), work related social gatherings, etc.).

It is recognized that interactions can occur outside of the workplace and/or outside of working hours. The policy applies to inappropriate off-duty conduct that:

- Reflects negatively on the Manitoba Legislative Assembly
- Affects the employee's ability to perform their work duties effectively
- Makes other employees reluctant to work with them
- Restricts the work unit's ability to meet operational requirements

It is also recognized that employees covered by this policy have working relationships with employees covered under the Civil Service Commission Respectful Workplace Policy. The Legislative Assembly and the Manitoba government are committed to supporting respectful working relationships between all staff covered by their respective policies. If a matter comes forward involving staff covered by both policies, the Legislative Assembly and the government will work together as appropriate to address it in a way that respects the processes of each respective policy.

This policy is the paramount policy regarding respectful workplace, bullying, workplace violence, harassment and sexual harassment for all offices of the Legislative Assembly. If there is any inconsistency between this policy and another policy of an office of the Legislative Assembly regarding this subject matter, the terms of this policy will prevail.

3. BEHAVIOURAL DEFINITIONS

The following definitions describe a spectrum of inappropriate behaviours that vary in severity. A list of definitions for other procedural terms used throughout this policy can be found here.

Behaviour can be deemed inappropriate even if an employee did not intend it to be.

A detailed tool has been developed for employees and supervisors that provides specific examples of the varying types of behaviour: Overview of the Resolution Process for Addressing Inappropriate Behaviour.

Respectful Behaviour: This behaviour values diversity, inclusion, dignity, courteous conduct, mutual respect, fairness, equality, and promotes positive communication and collaborative working relationships.

Inappropriate Behaviour: This is an overarching term used to describe disrespectful behaviour, sexual harassment, harassment, bullying and/or workplace violence.

Disrespectful Behaviour: This behaviour is disruptive to positive communication, courteous conduct and collaborative working relationships (e.g. gossip, interruptions). Behaviour may also be disrespectful if it does not value diversity, inclusion, dignity, fairness and equality. More objectionable and severe forms of disrespectful behaviour are considered harassment and/or bullying.

Bullying: See *Harassment* definition.

Harassment: This policy defines two different forms of harassment:

1. Objectionable conduct that creates a risk to the health of a worker
 - Conduct is objectionable if it is based on any characteristic referred to in subsection 9(2) of *The Human Rights Code*;
2. Bullying behaviour
 - This behaviour includes severe conduct that adversely affects a person's psychological or physical well-being. Conduct is considered severe if it is:
 - repeated humiliation or intimidation that adversely affects a person's psychological or physical well-being; or
 - a single instance so serious that it has a lasting, harmful effect on a person.

Harassment may be written, verbal, physical, online or electronic, a gesture or display, or any combination of these. It may happen only once, but often happens repeatedly.

Sexual Harassment: This form of harassment is based on sex, gender (how one identifies including gender identity or expression or gender-determined characteristics) or sexual orientation. Sexual harassment can be sexual in nature, but can also include any form of harassment based on sex, gender or sexual orientation.

Sexual harassment can also refer to behaviour that creates or permits a sexualized or sexually charged, or a negative/poisoned work atmosphere.

Sexual harassment includes but is not limited to:

- a. Abusive remarks or behaviours based on sex, gender or sexual orientation
- b. Objectionable and unwelcome sexual solicitations or advances
- c. A reprisal, retaliation or threat of retaliation for rejecting a sexual solicitation or advance
- d. A reprisal or threat of reprisal for filing a sexual harassment complaint

Sexual harassment may be written, verbal, physical, online or electronic, a gesture or display, or any combination of these.

Workplace Violence: This term refers to the attempted or actual exercise of physical force against a person, or any threatening statement or behaviour that gives a person reasonable cause to believe that physical force will be used against the person¹.

4. PROCESS

This policy outlines three steps in addressing inappropriate behaviour.

Step 1: Assessing the Options Available – There are a number of reporting options and post incident supports that employees can access when they have experienced inappropriate behaviour. These options are available so employees can feel more comfortable coming forward and raising concerns to ensure that inappropriate behaviour stops.

Step 2: Addressing Inappropriate Behaviour – For less severe forms of inappropriate behaviour (e.g. disrespect), employees should first consider whether they can resolve the matter informally (e.g. speaking to the other person, or seeking the advice or support of a supervisor or other post-incident supports). If an employee is not comfortable addressing the situation informally, or for more severe forms of inappropriate behaviour (e.g. harassment, sexual harassment and/or workplace violence), they should report the incident to an appropriate reporting contact. See Procedural Definitions for *Formal Resolution* and *Informal Resolution*.

1 Defined by The Manitoba Workplace Safety and Health Act and Regulation 2016:
https://www.gov.mb.ca/labour/safety/pdf/1_2016_wsh_ar_oc.pdf



If a formal complaint is raised against a Member of the Legislative Assembly (“MLA”), an Independent Officer of the Legislative Assembly, the Speaker, Clerk, Executive Director of Administration or Director of Human Resource Services, it will immediately be assigned to an independent external investigator. The independent investigator will provide a report and findings to the Speaker of the Legislative Assembly; in the case of a complaint against the Speaker the reports will be provided to the Executive Director of Administration.

In some less severe situations, and with agreement of both the complainant and the respondent, mediation may be considered.

NOTE: A supervisor or anyone receiving a complaint of sexual harassment must document the complaint using the Complaint Form (Disclosure of Inappropriate Conduct) and report it immediately to Human Resource Services.

Step 3: Ensuring Workplace Restoration – After a situation involving inappropriate behaviour has been addressed, supervisors are responsible to ensure there are measures in place to maintain respect in the workplace.

Note: Behavioural concerns may involve third parties such as members of the public or contractors. The same steps outlined above would be applicable to those situations as well to address any inappropriate behaviour from third parties.

To support these steps the following tools have been developed for employees and supervisors:

- A. Overview of the Resolution Process for Addressing Inappropriate Behaviour
- B. Reporting Contacts and Post-Incident Supports

5. IMPORTANT PRINCIPLES AND PRACTICES

Confidentiality and Anonymity

Supervisors, Human Resource Services and/or anyone else who receives a complaint or is involved in an investigation will not disclose the name of a complainant, alleged respondent or the circumstances related to the issue to any person except where the disclosure is necessary to investigate, take corrective action, or is required by law. However, it is important to note that confidentiality does not mean anonymity. The respondent will be notified of the identity of the complainant and in most cases be provided with a full copy of the written complaint.

Confidentiality is subject to the following limitations:

1. A supervisor is responsible for addressing every reported issue.
2. The person alleged to have acted inappropriately (the respondent) is informed of the allegations and the identity of the complainant in order to allow for a full response.
3. It may be necessary to interview witnesses.
4. If the situation results in discipline, the disciplined employee has the right to grieve, and any resulting process may involve witnesses, including the complainant.

These limitations on confidentiality should not discourage employees from reporting a concern.

Requesting anonymity or that no action be taken

The purpose of bringing forward a concern is to start a process that may result in constructive change. Bringing forward concerns is not constructive unless the employee is asking that the issue be addressed. All concerns brought forward are taken very seriously. If an issue is significant enough to bring forward, the employee must be aware that action may be taken to ensure the issue will be addressed, which action may include a robust evidence-based investigation process.

If a supervisor is informed of sexual harassment, harassment, bullying or workplace violence, they are required to address it, and an investigation may proceed on the initiative of the Legislative Assembly. Failure to do so is a violation of this policy.



Timeliness

Reported issues will be resolved as soon as reasonably possible and without undue delay. When concerns are raised with a reporting contact, generally, complainants will be advised of next steps either verbally or in writing.

Formal complaints may take longer to actually investigate. Every effort will be made to complete an investigation in a timely manner however, there may be extenuating circumstances. If there are delays, the complainant and respondent will be advised of the cause of the delay. During an investigation, regular timeline updates will be provided to the complainant and respondent to ensure communication is maintained throughout the investigation process.

Reprisal/Retaliation

Reprisal is not permitted against an employee exercising their rights in good faith under this policy. Any act of reprisal will be cause for disciplinary action up to and including termination of employment. Reprisal can include, but is not limited to, an actual or threatened harmful act, penalizing someone for making a complaint (e.g. a supervisor purposely giving stricter deadlines or an unmanageable workload after a complaint is made), withholding a benefit for making a complaint (e.g. future negative implications to career such as loss of job opportunities), or attempting to isolate or exclude an employee from work activities.

False Allegations

If it is determined that a false complaint was deliberately made for frivolous or vindictive reasons, the employee who made the false allegation may be subject to disciplinary action up to and including termination of employment. This does not apply to complaints made in good faith that are unproven or unsubstantiated (see Procedural Definitions for *Substantiated Allegation and Unsubstantiated Allegation*).

6. ROLES AND RESPONSIBILITIES

All Employees

A respectful workplace requires cooperation and support from each and every employee in the organization. Employees who experience or witness behaviour in violation of this policy are encouraged to address it using the process outlined in this policy.

All employees are responsible for their behaviour and must:

- Demonstrate respect in the workplace at all times.
- Behave in a manner that will not reasonably offend, intimidate, embarrass or humiliate others, whether deliberate or unintentional.
- Refrain from participating in all types of inappropriate behaviour that could reasonably be perceived to be disrespectful behaviour, sexual harassment, harassment and/or bullying.
- Attend all mandatory respectful workplace and harassment prevention training.
- Cooperate in the resolution process as required.

Senior Management

- Follow the roles and responsibilities as outlined for all employees and supervisors.
- Provide leadership related to respectful workplaces, including modelling and inspiring exemplary behaviour (e.g. lead by example and set the appropriate tone).
- Ensure awareness and compliance with this policy and any other legislation or applicable policies.
- Ensure all supervisors are adhering to this policy and understand their roles and responsibilities.
- Ensure there is no reprisal against anyone who has come forward and made a complaint in good faith

Supervisors

- Follow the roles and responsibilities as outlined for all employees.
- Promote and take responsibility for fostering a workplace culture of respect, including setting a positive example of respectful behaviour.
- Ensure employees are aware of the policy and expected behaviours in the workplace, and have taken the applicable mandatory respectful workplace and harassment prevention training.
- Intervene promptly once aware of sexual harassment, harassment/bullying and/or workplace violence.
- Immediately contact Human Resource Services for guidance and assistance for complaints of sexual harassment, harassment/bullying and/or workplace violence.
- Ensure complaints are handled fairly, confidentially, effectively and in a timely manner, and that appropriate action is taken respecting any person under the supervisor's direction.

- Ensure complaints and all actions taken to resolve the issue are documented. All **complaints of sexual harassment must be documented using the Complaint Form (Disclosure of Inappropriate Conduct) and reported immediately to Human Resource Services.**
- Ensure there is no reprisal/retaliation against anyone who has come forward and made a complaint in good faith.
- Ensure workplace restoration measures are put in place following the resolution of a situation involving inappropriate behaviour.

Human Resource Services

- Follow the roles and responsibilities as outlined for all employees.
- Advise supervisors and employees on the interpretation and application of this policy.
- Support the resolution process as required.
- Engage specialized resources (e.g. government supports available to Human Resource Services such as Labour Relations and the Respectful Workplace Advisor) to provide added support where needed.

7. TRAINING

All employees of the Assembly must be provided with this policy upon hire and sign a declaration form indicating they have read and understand the policy and its contents. In addition, all employees will be subject to mandatory respectful workplace training with respect to this policy.

8. REPORTING

Annually, the Speaker and the Director, Human Resource Services for the Legislative Assembly shall disclose to the Legislative Assembly Management Commission (LAMC) the number of complaints that have been received under this policy and at which stage they were resolved. They shall not however, disclose the nature of the complaint or the individuals involved.

9. PROCEDURAL DEFINITIONS

Complainant: This term refers to a person who files a complaint alleging a violation of this policy.

Disciplinary Action: Disciplinary action may be taken at the conclusion of a formal resolution process when an individual has been found to engage in activities contrary to this policy. Each situation is individually assessed to determine the appropriate level of discipline based on a number of factors (e.g. severity of the incident). Employers are responsible for determining the appropriate level of discipline. Disciplinary action may include:

- Written reprimand
- Suspension without pay
- Disciplinary demotion
- Immediate termination of employment for cause and without notice
- Notification of the appropriate authorities (e.g. local police)

In relation to Members of the Legislative Assembly the applicable Caucus is responsible for any disciplinary action against a Member.

Employee of the Manitoba Legislative Assembly (employee): Refers to all individuals employed by the Legislative Assembly, including, but not limited to, regular, term, departmental, casual, sessional, secondment/interchange, student, contract, and volunteer/practicum staff. For the purposes of this policy Members of the Legislative Assembly and their Constituency Assistants are included.

Formal Resolution: Formal resolution is an approach used to address inappropriate behaviour when informal resolution is not successful, or for more serious cases of inappropriate behaviour (e.g. sexual harassment, harassment/bullying, workplace violence). Formal resolution may involve:

- A complaint made verbally or in writing to an appropriate reporting contact
- A verified statement from the complainant
- An investigation by a third party, normally human resources ☐ Disciplinary action to resolve the issue, if required

Human Resource Services will assist with determining if a formal investigation and formal resolution is required or if informal resolution is most appropriate to resolve the concern. Not every formal complaint will warrant formal investigation.

Informal Resolution: Informal resolution is a confidential, collaborative, problem solving approach often used to address less severe forms of inappropriate behaviour (e.g. disrespectful behaviour) and to establish expectations to ensure future behaviour is respectful. Examples of informal resolution include:

- Communicating with the other person directly
- Resolving with the support of the supervisor or another level of management
- Resolving through a group meeting (anonymous)
- Resolving through mediation (third party)

Reasonableness: This term is used to describe the actions or approach that a person with sound judgement would take under a given set of circumstances at a point in time.

Reasonableness is used when assessing impacts of disrespectful behaviour, sexual harassment, harassment and/or bullying.

Reporting Contact: This term refers to a person who can receive a formal complaint of inappropriate behaviour in violation of this policy. A list of the reporting contacts are located here.

Respondent: This term refers to a person alleged in a complaint to have been in violation of this policy.

Substantiated Allegation: This term refers to a behaviour/incident being established as having likely occurred after considering the available information.

Unsubstantiated Allegation: This term refers to a behaviour/incident not being established as having likely occurred after considering the available information.

Workplace: A workplace can refer to any building, site, workshop, structure, mobile, vehicle, or any other premises or location whether indoors or outdoors in which one or more workers, or self-employed persons, are engaged in work or have worked.

Workplace Restoration: This term refers to the establishment or re-establishment of respectful working relationships so employees can move forward following resolution of a situation involving inappropriate behaviour.

The Commission approved the following:

- *Respectful Workplace Policy: Addressing and Preventing Sexual Harassment, Harassment and Bullying.* (With an amendment on page 2 to include under the heading **Political Offices of the Legislative Assembly*** - replace the words "Office of the Leader of the Official Opposition" with "Office of the Leader of any Recognized Opposition Party");
- *Overview of the Resolution Process for Addressing Inappropriate Behaviour;*
- *Reporting Contacts and Post-Incident Supports* (with an amendment on page 3 under the heading **Safe-Walk** "...ensures that all Manitoba government staff..." strike out the word **government**;
- *General Guide for Receiving a Respectful workplace Complaint;* and
- *Disclosure of Inappropriate Conduct.*

The Commission also approved the following:

- That information regarding the *Respectful Workplace Policy: Addressing and Preventing Sexual Harassment, Harassment and Bullying* and related documentation be provided to all Legislative Assembly employees including Members of the Assembly, Constituency employees, Legislative Assembly staff (including Caucus Offices and Legislative Interns) as part of their onboarding process, more specifically when they sign up for payroll; and
- That the classroom training on harassment that is currently being developed be made mandatory for all Legislative Assembly employees including Members of the Assembly, Constituency employees, Legislative Assembly staff (including Caucus Offices and Legislative Interns).



2. **Appointment of Auditors to Perform Annual Audits of the Office of the Auditor General**

LAMC approved the appointment of Craig and Ross for a five year term to examine the accounts of the office of the Auditor General.

3. **2018/2019 LAMC Annual Report (BP 2-19)**

The Legislative Assembly Management Commission Annual Report for 2018/2019 was considered and approved as presented.