

Human Resource Policies and Guidelines

Section: 3 *Labour Relations – Respectful Workplace*

Subsection: 3.1.4 **RESPECTFUL WORKPLACE POLICY:
ADDRESSING AND PREVENTING SEXUAL
HARASSMENT, HARASSMENT AND BULLYING**

Type: *Policy*

**Effective
Date:** *March 6, 2019*

Please see additional resources available at <http://www.manitoba.ca/respect>

1. POLICY

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 pertains to concerns involving another supervisor, another supervisor's staff, a contractor, client (e.g. the public) and/or political staff.

This policy is not intended to discourage or prevent an employee from exercising any legal right, including filing a complaint with the Manitoba Human Rights Commission, reporting unsafe working conditions through Workplace Safety and Health, or contacting the appropriate authorities. Nothing in this policy precludes an employee from also filing a grievance in accordance with the applicable collective agreement or the Conditions of Employment Regulation under The Civil Service Act.

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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 Manitoba government employees and their interactions with:

- Other employees
- Contractors
- Members of the public
- Political staff including Cabinet ministers
- Manitoba Legislative Assembly political and non-political staff
- Members of the Legislative Assembly
- Constituency assistants

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

It is recognized that employee 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 government or the employee's department
- 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 Legislative Assembly 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.

3. BEHAVIOURAL DEFINITIONS

The following definitions describe a spectrum of 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](#).

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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 uses The Manitoba Workplace Safety and Health Act and Regulation definition of harassment, which 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 race, creed, religion, colour, sex, sexual orientation, gender-determined characteristics, marital status, family status, source of income, political belief, political association, political activity, disability, physical size or weight, age, nationality, ancestry or place of origin; and/or
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.

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Sexual harassment includes, but is not limited to:

1. Abusive remarks or behaviours based on sex, gender or sexual orientation
2. Objectionable and unwelcome sexual solicitations or advances
3. A reprisal, retaliation or threat of retaliation for rejecting a sexual solicitation or advance
4. 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*.

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 resources.

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.

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

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Note: Behavioural concerns may involve third parties such as members of the public, contractors or clients. 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:

1. [Overview of the Resolution Process for Addressing Inappropriate Behaviour](#)
2. [Reporting Contacts and Post-Incident Supports](#)

5. IMPORTANT PRINCIPLES AND PRACTICES

Confidentiality and Anonymity

Supervisors, human resources 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. 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 in sufficient detail to respond fully.
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.

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 within five to seven business days. This update is typically provided by the employee's supervisor (or another level of management if the concern is with the supervisor) or human resources.

Formal complaints may take longer to actually investigate. Generally, investigations are concluded within 30 business days of receiving a complaint. Every effort will be made to complete an investigation within that time; 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 (e.g. every 10 business days) will be provided to the complainant and respondent to ensure communication is maintained throughout the investigation process.

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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.
- Take 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.

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- 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 resources 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 resources.**
- 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 Resources

- 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. Labour Relations, Respectful Workplace Advisor) to provide added support where needed.

Respectful Workplace Advisor

- Follow the roles and responsibilities as outlined for all employees.
- Provide mandatory respectful workplace and harassment (including sexual harassment and bullying) prevention training and awareness for employees, supervisors and managers.
- Participate in the resolution process as required.
- Provide additional support to senior management, supervisors, human resources and employees as needed.

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7. 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 employee has been found to have engaged 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)

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 resources 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 resolution.

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)

Manitoba Government Employee (Employee): This term refers to all individuals employed by the Manitoba government, including, but not limited to, regular, term, departmental, casual, secondment/interchange, student, contract, and volunteer/practicum staff.

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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, mine, 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 worked².

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.

REFERENCES

- [The Manitoba Human Rights Code](#), sections 19(1) and 19(2)
- [Civil Service Conditions of Employment Regulation](#), sections 17(1), 17(2), and 23
- [The Civil Service Act](#), section 57(1)(h)
- [The Freedom of Information & Protection of Privacy Act](#)
- [The Personal Health Information Act](#)
- [The Workplace Safety and Health Act](#), sections 4(1)(a) and 18(1)(bb)
- [Workplace Safety and Health Regulation](#), sections 1.1.1, 10.1, 10.2, and 10.3

AUTHORITY

- Cabinet Meeting Minute Excerpt #402 – March 6, 2019
- Replaces Respectful Workplace and Harassment Prevention Policy dated May 4, 2015 (Treasury Board Minute TB 8B/2015-17)
- Replaces Respectful Workplace Policy dated November 17, 2008 (Treasury Board Minute: TB 36A/2006-17(a))

² 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

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- Replaces Sexual Harassment Policy dated April 16, 1997 (Civil Service Commission Board Minute: CSC1-97/98-8)

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Owner:	Civil Service Commission
Additional information:	Civil Service Commission Phone: 204-945-2332