

Harassment-Free Workplace Procedures

1. Administration

- 1.1. The Public Service Commission has primary responsibility for administering the Harassment-Free Workplace Policy in accordance with the procedures detailed herein.

2. Making a Personal Complaint of Harassment

- 2.1. All complaints of harassment must be submitted or confirmed in writing using the applicable standardized form (the “Harassment Complaint Form”).
- 2.2. Where employees are, for any reason, unable to prepare a written complaint, assistance can be provided by a support person who may complete the Harassment Complaint Form on behalf of the employee. In such circumstances, the employee shall be required to review and sign the completed Harassment Complaint Form.
- 2.3. Notwithstanding 2.1 and 2.2, anonymous and/or verbal complaints shall not be accepted under the process set out in the Policy. However, such complaints may, where deemed necessary by the Employer, be subject to a workplace investigation.

3. Making a Bystander Complaint of Harassment

- 3.1. All bystander complaints of harassment must be submitted or confirmed in writing using the applicable standardized form (the “Bystander Complaint Form”).
- 3.2. Where employees are, for any reason, unable to prepare a written complaint, assistance can be provided by a support person who may complete the Bystander Complaint Form on behalf of the employee. In such circumstances, the employee shall be required to review and sign the completed Bystander Complaint Form.
- 3.3. Notwithstanding 3.1 and 3.2, verbal complaints shall not be accepted under the process set out in the Policy. However, such complaints will be assessed by the Employer and may, where deemed necessary by the Employer, be subject to a workplace investigation.

4. Timelines for Complaint Submission

- 4.1. Individuals are encouraged to report a concern/complaint at the earliest opportunity. All complaints under the Policy must be submitted within 12 months of the last incident of alleged harassment.

- 4.2. Notwithstanding 4.1, timelines may be extended at the discretion of the Harassment-Free Workplace Manager if satisfied that there is a reasonable justification for not having brought the matter forward earlier.

5. Use of Support Persons

- 5.1. Subject to 5.2, the Parties and witnesses may be accompanied by a support person of their choosing at their own expense (e.g. union representative, lawyer, colleague, friend, etc.) when attending meetings regarding a complaint, provided that any such support person is not a witness to the complaint and is not in a potential conflict of interest by virtue of their involvement.
- 5.2. The support person cannot interfere with the conduct of the meeting (e.g., not permitting a person to speak). If found to do so, the individual responsible for the conduct of the meeting in accordance with the Policy (i.e. Harassment-Free Workplace Manager, Investigator, or Departmental Representative) may end the meeting as a result.
- 5.3. Support persons may also assist Parties and witnesses in preparing written statements and responses.
- 5.4. Support persons shall maintain the confidentiality of all information pertaining to the complaint and/or resolution process.

6. Assessment of a Complaint

- 6.1. All complaints shall be subject to an assessment by the Harassment-Free Workplace Manager to determine whether the complaint falls within the scope of the Policy.
- 6.2. Complaints that, upon assessment, meet one or more of the following criteria, are considered outside the scope of, and shall not be addressed under the Policy:
 - 6.2.1. Would not, if true, meet the definition of harassment under the Policy;
 - 6.2.2. Does not provide sufficient detail of the alleged harassment, after being given reasonable opportunity and time to provide sufficient detail;
 - 6.2.3. Is known to involve a falsehood, malicious intent, or is made in bad faith;
 - 6.2.4. Has been previously investigated by the Employer or the substance of the complaint has been resolved in some other fashion;
 - 6.2.5. Does not have a real and substantial connection to the workplace; or
 - 6.2.6. Is made outside the timelines established in the Policy, as reflected in 4.1.
- 6.3. Where it has been determined that a complaint is outside the scope of the Policy, the Complainant shall within 30 days be advised in writing of the reasons and that no further action shall be taken to resolve the complaint. The Harassment-Free Workplace Manager shall maintain records pertaining to such complaints in accordance with Section 16.

- 6.4. Complaints determined to be outside the scope of the Policy may be the subject of a workplace investigation where deemed necessary by the Employer. The Harassment-Free Workplace Manager shall notify the Deputy Minister(s) of the subject department(s) of the complaint and provide a copy of any relevant documentation.
- 6.5. Where it has been determined that on a balance of probabilities a complaint involves a falsehood, malicious intent, or is made in bad faith, the matter shall be referred to the Deputy Minister of the Complainant's Department and the Complainant may be subject to disciplinary and/or corrective action.
- 6.6. Where it has been established that one or more Parties to a complaint is not an employee of the Government of Newfoundland and Labrador, the complaint is considered a third-party complaint.
 - 6.6.1 Third-party complaints remain subject to assessment as per 6.1.
 - 6.6.2 Where the Harassment-Free Workplace Manager determines a third-party complaint falls within the scope of the Policy, the Complainant will be notified of this decision and the complaint will be referred to the appropriate HR Division for resolution, in alignment with the Policy's overall objectives.
 - 6.6.3 Third-party complaints will be resolved in accordance with the HR Division's established processes, while considering the circumstances of the complaint, the involved Parties, and the work environment.

7. Intake Process for Personal Complaints

- 7.1 Within five days following receipt of a complaint, the Harassment-Free Workplace Manager will acknowledge the complaint in writing and commence assessment of the complaint to determine whether it falls within the scope of the Policy (as per 6.2).
- 7.2 Upon receipt and/or after assessing a complaint, the Harassment-Free Workplace Manager shall notify the Deputy Minister(s) of the Complainant's and Respondent's Department and provide a copy of any relevant documentation. The Deputy Minister (or designate) shall consult with the appropriate Human Resource officials to determine whether any interim measures and/or waiver of time limits is necessary in reference to applicable collective agreements.
- 7.3 Within five days of assessing a complaint as within the scope of the Policy, the Harassment-Free Workplace Manager shall notify the Complainant of the result in writing and will contact the Complainant to schedule a meeting to discuss resolution options.
- 7.4 During the meeting noted in 7.3, the Harassment-Free Workplace Manager shall review the resolution options available to the Complainant under the Policy and complete a meeting summary.

- 7.5 No action shall be taken to advance complaint resolution until the Complainant has selected a resolution option and communicated it to the Harassment-Free Workplace Manager, who shall subsequently confirm it in writing to the Complainant.
- 7.6 Within five days of the Complainant choosing a resolution option, the Harassment-Free Workplace Manager shall request that the Deputy Minister of the Respondent's Department identify a Departmental representative who shall schedule a meeting between themselves, the Harassment-Free Workplace Manager, and the Respondent. At this meeting, the Harassment-Free Workplace Manager shall advise the Respondent of the complaint and provide a copy, provide information about the resolution process, answer any questions the Respondent may have, and advise on available supports. Prior to this meeting, the Harassment-Free Workplace Manager may meet with the Departmental representative.
- 7.7 If no resolution option is selected by the Complainant within 10 days of the meeting noted in 7.3, the complaint shall be held in abeyance until a resolution option has been selected and communicated to the Harassment-Free Workplace Manager.
- 7.8. Where, pursuant to 7.7, a complaint remains in abeyance for 30 days, the complaint file shall be closed and subsequently confirmed by the Harassment-Free Workplace Manager to the Complainant in writing.

8. Intake Process for Bystander Complaints

- 8.1. Within five days following receipt of a bystander complaint, the Harassment-Free Workplace Manager shall acknowledge receipt of the complaint in writing and provide the bystander with information on the bystander complaint process.
- 8.2. Upon receipt and/or following actions outlined in 8.3, the Harassment-Free Workplace Manager shall notify the Deputy Minister(s) of the subject department(s) and provide a copy any relevant documentation.
- 8.3. The Harassment-Free Workplace Manager shall contact the subject of the alleged harassment to discuss the bystander complaint, outline the general concerns discussed in the complaint, and discuss the process for making a personal complaint under the Policy.
- 8.4. If the subject of the alleged harassment wishes to explore resolution options under the Policy, a personal complaint must be filed under the Policy in accordance with section 2. Intake following this action shall be in accordance with section 7.
- 8.5. Following the discussion noted in 8.3, the file will be closed. The Employer retains the right to conduct a workplace investigation and/or take other appropriate actions in relation to the bystander complaint.

9. Temporary/Interim Measures

- 9.1. At any stage of the complaint and/or resolution process, it may be necessary to take, modify, or end temporary/interim measures in order to safeguard the environment of a Complainant, Respondent, and/or Witness (e.g. separation of Parties, change in reporting relationship, change in duties, workspace relocation, removal from the workplace, etc.).
- 9.2. All temporary/interim measures are at the discretion of the Deputy Minister in consultation with their appropriate Human Resource Division.
- 9.3. Temporary/interim measures do not require consent of the Parties.
- 9.4. Temporary/interim measures shall not be construed as evidence pertaining to an allegation of harassment, as a disciplinary measure, or as a violation of the Policy.
- 9.5. All temporary/interim measures must be re-assessed by the Deputy Minister at the conclusion of the resolution process.

10. Withdrawal of a Complaint

- 10.1. The Complainant may withdraw the complaint at any time by notifying the Harassment-Free Workplace Manager in writing.
- 10.2. Where a complaint is withdrawn, the file will be closed, and the relevant Parties will be notified in writing by the Harassment-Free Workplace Manager. The Parties' Deputy Minister(s) shall be copied on any related correspondence.
- 10.3. Notwithstanding 10.2, the Employer retains the right to proceed with appropriate actions and/or interventions, including the initiation/continuation of a workplace investigation.
- 10.4. Subject to Section 4, the withdrawal of a complaint shall not preclude the ability to file a future complaint in accordance with the Policy.

11. Holding a Complaint in Abeyance

- 11.1. Upon written request and/or at discretion of the Harassment-Free Workplace Manager, the complaint and/or resolution process can be held in abeyance pending the resolution of any related judicial and/or quasi-judicial proceedings (e.g. human rights complaint, civil action, arbitration) or in exceptional circumstances.
- 11.2. In such instances where the Employer initiates a workplace investigation due to the nature of the complaint as per 17.2, the resolution process under the Policy will be held in abeyance, as per 11.1, until the workplace investigation is concluded.

- 11.3. Where, pursuant to 11.1, a complaint remains in abeyance for six months and the Harassment-Free Workplace Manager is satisfied that the matter cannot reasonably proceed in the foreseeable future, the complaint file shall be closed. This does not preclude the Complainant from refiling their complaint at a later date, in accordance with Section 4. Any such decision, and its supporting rationale, will be confirmed by the Harassment-Free Workplace Manager to the relevant Parties in writing.
- 11.4. Where a complaint has been held in abeyance, the Complainant and/or Respondent shall be advised in writing of the reasons for the delay and the impact on the required timelines. The Parties' Deputy Minister(s) shall be copied on any related correspondence, as well as any other relevant Parties involved in the complaint and/or resolution process (e.g. RWP, Investigator, etc.).
- 11.5. Even where a complaint has been held in abeyance, the Employer retains the right to proceed with appropriate actions and/or interventions, including the initiation/continuation of a workplace investigation.
- 11.6. Timelines as outlined in the Policy shall be suspended where a complaint has been held in abeyance.

12. Absences

- 12.1. Where it becomes apparent that the Harassment-Free Workplace Manager is on leave for a period of time that will impact the progress of an investigation, it is the responsibility of the Public Service Commission to appoint an individual to act in this capacity pending the return of the incumbent.
- 12.2. Where it becomes apparent that an Investigator's leave will impact the progress of an investigation, it is required that the Investigator(s) contact the Harassment-Free Workplace Manager at the earliest opportunity to advise of the absence.
- 12.3. Where the absence of an Investigator will impact the progress of an investigation, the Harassment-Free Workplace Manager has the discretion to appoint a replacement Investigator. The replacement Investigator shall continue the work of the original Investigator; however, the replacement Investigator may verify earlier actions taken during the investigation.
- 12.4. Where a party to a complaint or a witness is absent or unavailable, an investigation shall continue unless the Harassment-Free Workplace Manager provides contrary direction under the Policy (e.g. extend timelines, hold complaint in abeyance, etc.).
- 12.5. Where a Party to a complaint ceases/has ceased employment with the Government of Newfoundland and Labrador, the Harassment-Free Workplace Manager, in consultation with the relevant Deputy Minister(s) and the Department of Justice and Public Safety, will review any ongoing resolution processes to determine the appropriateness of proceeding

under the Policy. If file closure is recommended, the reasons for this decision shall be documented in writing to the Parties. In all cases, the Employer retains the right to initiate a workplace investigation and/or other appropriate actions and/or interventions outside the scope of the Policy.

13. Conflict of Interest/Reasonable Apprehension of Bias (“Conflict”)

- 13.1. The Harassment-Free Workplace Manager shall immediately advise the Chair of the PSC upon becoming aware of facts that may place the HFW Manager in a potential Conflict.
- 13.2. It is the responsibility of the Chair of the PSC to determine if the Harassment-Free Workplace Manager is in Conflict and, if required, appoint an individual to act in this capacity in relation to the complaint.
- 13.3. Prior to commencing an investigation, an Investigator must sign a declaration confirming that no Conflict exists in relation to their involvement with the complaint.
- 13.4. If an Investigator becomes aware of a potential Conflict, or if any such Conflict is alleged during the course of the investigation, it shall be disclosed to the Harassment-Free Workplace Manager immediately, who shall determine if a Conflict exists.
- 13.5. A party can request that an Investigator withdraw due to a Conflict at the outset of the investigation or as soon as the party has knowledge of circumstances that could justify such a finding. Such requests shall be considered by the Harassment-Free Workplace Manager. In the absence of such a request, the Investigator shall be deemed acceptable to the Parties.
- 13.6. Where it has been determined that an Investigator is in a Conflict, a new Investigator shall be assigned by the Harassment-Free Workplace Manager, who may also provide necessary direction under the Policy (e.g. extend timelines, verify earlier actions taken during the investigation, etc.).
- 13.7. Where a Deputy Minister declares a Conflict, or is determined to be in a Conflict, in relation to a complaint, an alternate Deputy Minister or the Clerk of the Executive Council shall be given the role of the Complainant’s Deputy Minister in this process.

14. Confidentiality and Protection of Privacy

- 14.1. Complaints of harassment shall be received and managed in a confidential manner. Information shall be used for its intended purpose only.
- 14.2. Notwithstanding 14.1, information created or gathered in connection with a complaint and/or resolution process shall be managed in accordance with the Access to Information and Protection of Privacy Act, 2015 or as otherwise required by law.

- 14.3. All Complainants, Respondents, Witnesses, and other persons involved with a complaint under the Policy shall ensure that all matters remain confidential, both in relation to their involvement with the complaint and the content therein.
- 14.4. Breaches of confidentiality may be reported at any time during or after a complaint and/or resolution process to the Harassment-Free Workplace Manager and/or a representative of the Employer. Those who are found to have breached confidentiality may be subject to disciplinary action.

15. Disclosure

- 15.1. Disclosure of information shall be in accordance with the Policy and the Access to Information and Protection of Privacy Act, 2015. At all times, the privacy of Parties shall be respected; employees shall not be privy to disciplinary and/or corrective information regarding others.
- 15.2. Complainants and Respondents shall be entitled to receive copies of all statements and relevant information created or gathered in connection with a complaint and/or resolution process. Witnesses shall be entitled to receive a copy of their statement.
- 15.3. Information that is not relevant to the investigation and constitutes an unreasonable invasion of personal privacy can be redacted (e.g. medical and/or therapeutic records, etc.). If necessary, consultation with the Harassment-Free Workplace Manager and/or the Department of Justice and Public Safety shall occur. The release of information in one instance shall not be considered or deemed “precedent setting” or binding in another instance.
- 15.4. Any redaction of a statement/document must be clearly identifiable. The relevant text shall be blackened out; under no circumstances should the text simply be deleted from the material disclosed.
- 15.5. Wherever possible, all disclosed documents must be watermarked with “Confidential” and the name of the person to whom the material was provided. Audio recordings and/or video evidence shall be played for the Parties when such disclosure is required by the Policy.

16. Records

- 16.1. Records of temporary usefulness, having no ongoing value beyond an immediate and minor transaction or the preparation of a subsequent record (i.e. materials containing information that is otherwise preserved), are to be considered transitory records. Transitory records may be disposed of when they are no longer of value, through secure shredding or secure electronic erasure.

- 16.2. All materials created or gathered in connection with a complaint and/or resolution process shall be housed electronically as scanned documents within an approved digital document management system to be maintained by the Harassment-Free Workplace Manager. Scanned materials must be inspected visually to ensure they are complete, accurate, and legible prior to disposal of the original material/transitory record.
- 16.3. Original evidence may be retained at the discretion of the Harassment-Free Workplace Manager when satisfied that the substance of the evidence cannot be digitally preserved. Where retained, original evidence shall be stored securely in a location maintained by the Harassment-Free Workplace Manager.
- 16.4. All records shall be managed in accordance with approved records retention and disposition schedules.

17. General Principles of Resolution

- 17.1. The four resolution options pursuant to the Policy are mutually exclusive in application. Upon the selection of an option, any ongoing resolution process under the Policy shall be discontinued in favour of the most recent selection.
- 17.2. Notwithstanding 17.1, the Employer retains the right to proceed with appropriate actions and/or interventions, including the initiation/continuation of a workplace investigation.
- 17.3. There shall be no “informal investigation” of complaints of harassment. All complaints must be addressed in accordance with the Policy and procedures.
- 17.4. Should delays in the resolution process be unavoidable, due to exceptional circumstances as defined within the Policy, the Complainant and/or Respondent shall be advised in writing of the reasons for the delay and the impact on the required timelines.
- 17.5. Following resolution of a complaint, copies of all correspondence and other materials created or gathered (with the exception of that held confidentially by the Employee Assistance Program/Respectful Workplace Program) shall be submitted to the Harassment-Free Workplace Manager for file review, audit, and closure purposes. All records shall be maintained by the Harassment-Free Workplace Manager.

18. Informal Resolution Options

Individual Intervention

- 18.1. Following the selection of the Individual Intervention resolution option by the Complainant, the Harassment-Free Workplace Manager shall acknowledge the selection of the resolution option in writing to both the Complainant and Respondent.

- 18.2. Following the meeting identified in 7.6, the Harassment-Free Workplace Manager shall notify the Complainant that the meeting occurred. After receiving this notification, the Complainant shall communicate with the Respondent, either in person or in writing, to advise that their behaviour is unwelcome and request that the behaviour cease.
- 18.3. The Harassment-Free Workplace Manager shall follow-up with the Complainant to determine whether the complaint has been resolved within 14 days of the Complainant receiving notification as per 18.2. If the Complainant indicates that the complaint has been resolved, the Harassment-Free Workplace Manager shall confirm the file closure in writing to the Complainant and Respondent with a copy to their Deputy Minister. If the Complainant wishes to pursue an alternate avenue of resolution, the Harassment-Free Workplace Manager shall confirm the selection in writing and subsequently follow the procedures outlined for that resolution option.

Management Intervention

- 18.4. Following the selection of the Management Intervention resolution option by the Complainant, the Harassment-Free Workplace Manager shall acknowledge the selection of the resolution option in writing to both the Complainant and Respondent.
- 18.5. The Harassment-Free Workplace Manager shall meet with the Complainant's Manager/Supervisor/Administrator (the "Manager") to provide the Manager with a copy of the complaint, if necessary, and discuss resolution. In appropriate circumstances, with the concurrence of the Harassment-Free Workplace Manager, another manager or supervisor may be engaged in this process.
- 18.6. The Manager, following consultation with the Harassment-Free Workplace Manager and/or their appropriate Human Resource Division, shall meet with the Respondent to advise that the behaviour is unwelcome to the Complainant. A record of this meeting shall be kept by the Manager. The Manager shall be responsible for completing and/or facilitating any action items resulting from the meeting, in consultation with their appropriate Human Resource Division as required.
- 18.7. Following the meeting outlined in 18.6, the Manager shall immediately provide the meeting record to the Harassment-Free Workplace Manager.
- 18.8. Following receipt of the meeting record as per 18.7, the Harassment-Free Workplace Manager shall follow-up with the Complainant within 14 days to determine whether the complaint has been resolved. If the Complainant indicates that the complaint has been resolved, the Harassment-Free Workplace Manager shall confirm the file closure in writing to the Complainant and Respondent with a copy to their Deputy Minister(s) and Manager(s). If the Complainant wishes to pursue an alternate avenue of resolution, the

Harassment-Free Workplace Manager shall confirm the selection in writing and subsequently follow the procedures outlined for that resolution option.

Respectful Workplace Program Intervention

- 18.9. Following the selection of the RWP Intervention resolution option by the Complainant, the Harassment-Free Workplace Manager shall acknowledge the selection of the resolution option in writing, to both the Complainant and Respondent.
- 18.10. The Harassment-Free Workplace Manager shall make a formal referral in writing to the RWP for both the Complainant and Respondent in relation to the complaint.
- 18.11. During the Complainant's and Respondent's involvement with RWP, the Harassment-Free Workplace Manager may request status updates from the RWP Coordinator regarding participation in the program. These updates shall provide information that the RWP Coordinator deems necessary to inform on the progress of resolution.
- 18.12. Where a complaint has been resolved through RWP Intervention, the terms of resolution shall be documented in a written agreement which shall be provided to the Harassment-Free Workplace Manager, the Parties, and their respective department's Deputy Minister(s) at the conclusion of the process.
- 18.13. Following receipt of the written agreement, the Harassment-Free Workplace Manager shall confirm the file closure in writing to the Complainant and Respondent with a copy to their Deputy Minister(s).
- 18.14. Should it be determined by the RWP Coordinator that resolution is not possible through RWP Intervention, the RWP shall notify the Harassment-Free Workplace Manager in writing, who shall advise the Complainant of alternate resolution options under the Policy.

19. Formal Resolution Option – Initiating an Investigation

- 19.1. Following the selection of the formal resolution option by the Complainant, the Harassment-Free Workplace Manager shall acknowledge the selection of the resolution option in writing to both the Complainant and Respondent.
- 19.2. The Harassment-Free Workplace Manager shall appoint the Investigator(s) to the file within 10 days following notification of the Respondent as per 7.6. Subject to 13.3, the Harassment-Free Workplace Manager shall outline the Investigation mandate in writing and provide a copy of the complaint. The Harassment-Free Workplace Manager shall advise the Complainant and Respondent of the appointed Investigator(s) in writing.

- 19.3. Where possible and subject to availability, when an investigation involves Parties who are determined to be employees of NLSchools, an Investigator will be assigned from the NLSchools HR Division.
- 19.4. Investigations shall commence within five days of receipt of the complaint by the Investigator(s) and shall be completed (i.e. final report submitted to the Deputy Minister of the Complainant's Department) within 90 days.

20. Investigating Complaints with Multiple Parties

- 20.1. At the discretion of the Harassment-Free Workplace Manager, complaints which arise from the same incident(s), event(s), or workplace(s) may be investigated jointly or may be investigated individually. In exercising this discretion, the Harassment-Free Workplace Manager may consider, amongst other things, the nature of the incident(s) or event(s), the location of the workplace(s), the availability of resources, the views of the Parties on joint investigation, the likelihood of overlapping witnesses and/or evidence, etc.
- 20.2. Subject to the provisions of the Policy, the discretion outlined in 20.1 can be exercised subsequent to the start of an investigation. The resulting joint investigation shall be completed within 90 days of this discretion being exercised. The Harassment-Free Workplace Manager will notify all relevant Parties of this decision in writing.
- 20.3. Complainants and/or Respondents to a joint investigation shall be entitled to all relevant information created or gathered for the purpose of the investigation as per the Access to Information and Protection of Privacy Act, 2015.

21. Investigation File

- 21.1. The investigation file shall be organized as follows:
 - a) Original written complaint
 - b) Activity log
 - c) Correspondence to/from the Harassment-Free Workplace Manager
 - d) Complainant statements and documentation, including correspondence
 - e) Respondent statements and documentation, including correspondence
 - f) Witness statements and documentation, including correspondence
 - g) Other documentation/evidence
 - h) Materials created and gathered but not determined to be relevant

- 21.2. The Investigator(s) shall highlight any information in the investigation file which is not relevant to the investigation that could potentially be sensitive and/or necessary to redact in the case of file disclosure (i.e. personal medical information, disciplinary history, etc.).
- 21.3. The Investigator(s) shall, upon completion of the investigation and submission of a finalized report, ensure all documentation in the investigation file that is included in the final report is deleted/securely disposed of, and any information obtained that is not contained within the report is documented and available in .pdf format in the “Materials created and gathered but not determined relevant” folder of the investigation file.

22. Investigation

- 22.1. The Investigator(s) shall meet with all Parties to a complaint, conduct interviews, and prepare signed statements recording the interviewees’ comments. Statements (including any documents referenced/provided) should be reviewed by the interviewee who shall initial each page and sign the statement.
- 22.2. Parties are entitled to provide any documentation which supports their statements to the Investigator. A Party can request access to their own documentation (e.g. emails, files, text messages, etc.) for this purpose if, for any reason, they no longer have access. Requests shall be made to the Investigator(s) who shall address the request with the Harassment-Free Workplace Manager and/or the Department.
- 22.3. The Investigator(s) shall have discretion over how interviews will be conducted (e.g. in-person, by telephone, by videoconference).
- 22.4. The use of video or audio recording devices in interviews is not permitted; however, exceptions may be approved in writing at the discretion of the Harassment-Free Workplace Manager.
- 22.5. The Investigator(s) shall have discretion over the scheduling of interviews and the order in which interviews are conducted.
- 22.6. Subject to 22.5, in most circumstances, the Investigator(s) shall interview the Complainant(s), provide a copy of the Complainant’s statement(s) to the Respondent(s), interview the Respondent(s), provide a copy of the Respondent’s statement(s) to the Complainant(s), and interview witnesses, in that order.
- 22.7. Subsequent to 22.6, after the completion of witness interviews, the Investigator shall provide witness statements and relevant materials created or gathered to the Parties for the purpose of informing their response for the Investigator’s consideration. All witness statements and evidence must be presented to the Parties for response prior to the preparation of the investigation report.

- 22.8. Witnesses can be suggested to the Investigator(s) by any party; however, the Investigator shall make the final determination about whom shall be interviewed. Witnesses who have not observed incidents relevant to the complaint and are identified for the purpose of providing information concerning a party's reputation or character shall not be interviewed.
- 22.9. If an Investigator(s) require access to third-party documents in the course of their investigation (e.g. email audit, hard drive/device search, etc.), the Investigator(s) must comply with the established process and obtain necessary authorization(s). Documentation of such authorization(s) must be included in the investigation file under 21.1 (g).
- 22.10. The complaint and/or resolution process shall proceed regardless of the refusal of a party or witness to participate. A failure to respond or cooperate at any stage in the complaint and/or resolution process shall, in the absence of justification acceptable to the Harassment-Free Workplace Manager, be deemed a refusal to participate, which shall be confirmed in writing by the Harassment-Free Workplace Manager to the party or witness.
- 22.11. The Investigator(s) shall provide written (e.g., email) notification to the Complainant and Respondent on the status of the investigation process at least every 30 days throughout the course of the investigation.
- 22.12. Status updates and/or inquiries from a Deputy Minister and/or designate regarding the investigation shall be directed to the Harassment-Free Workplace Manager.
- 22.13. Investigation reports shall comply with the template approved by the Harassment-Free Workplace Manager.
- 22.14. Principles considered by Investigator in making investigation findings shall include, but are not limited to, the following:
 - 22.14.1. The onus or burden of proof rests with the person making the statement;
 - 22.14.2. The onus of proof is a balance of probabilities (i.e., it is more likely than not that the allegations/statements are founded/unfounded);
 - 22.14.3. Corroborating evidence is relevant, but is not required to make a factual determination;
 - 22.14.4. Issues of credibility may be considered and relied upon by Investigator;
 - 22.14.5. Admissions do not require proof and can be assumed as fact;
 - 22.14.6. Denials will be considered in the context of relevant evidence; and
 - 22.14.7. When weighing evidence, facts are given more weight when actions and statements are consistent and given less weight when such consistency is absent.

23. Concluding an Investigation

- 23.1. The Investigator shall provide a draft investigation report to the Harassment-Free Workplace Manager, which appends a copy of the documents identified in 21.1 a) to g).
- 23.2. The Harassment-Free Workplace Manager shall review the draft investigation report to ensure compliance with the mandate and that any documentation referenced in the draft investigation report has been appended. Issues of concern may be referred back to the Investigator(s) for clarification.
- 23.3. Immediately following the actions outlined in 23.2, the Investigator(s) shall provide the Harassment-Free Workplace Manager a signed investigation report, which appends a copy of the documents identified in 21.1 a) to g).
- 23.4. The Harassment-Free Workplace Manager shall provide the investigation report per 23.3 to the Deputy Minister of the Complainant's Department.

24. Post-Investigation Departmental Action

- 24.1. Within five days of receiving the investigation report, the Deputy Minister of the Complainant's Department shall provide a copy to the Complainant and Respondent for their review.
- 24.2. The Complainant and Respondent shall have 14 days from the receipt of the investigation report to submit a response to the Deputy Minister of the Complainant's Department.
- 24.3. Following the expiry of the 14 day response period or the receipt of all responses by the Deputy Minister of the Complainant's Department, whichever occurs first, the Deputy Minister of the Complainant's Department shall within 15 days:
 - 24.3.1. Make a decision as to whether to accept the investigation findings in whole, in part, or at all.
 - 24.3.2. Provide a copy of the investigation report and communicate the decision made in accordance with 24.3.1 to the Deputy Minister of the Respondent's Department, if applicable, at the earliest possible opportunity.
 - 24.3.3. In consultation with the Deputy Minister of the Respondent's Department, if applicable, communicate the decision made in accordance with 24.3.1 to the Complainant and Respondent.
- 24.4. The Deputy Minister(s) shall consult with their appropriate Human Resource division regarding any disciplinary and/or corrective action resulting from the investigation.