

Staff of the Non-Public Funds  
Canadian Forces



Personnel des fonds non publics  
Forces canadiennes

# Harassment Prevention And Resolution Guidelines

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## **PART 1 – POLICY**

### **1.1 Introduction**

As the delegated authority for the exercise of all powers and functions in relation to personnel management for Staff of the Non-Public Funds, Canadian Forces (“NPF”), the Director General Personnel and Family Support Services (“DGPFSS”) has the obligation, responsibility and accountability to provide a harassment free workplace and supportive work environment. In support of that obligation and responsibility, the DGPFSS has issued the NPF Harassment Prevention and Resolution Policy and these procedural Guidelines.

The *Canadian Human Rights Act* (CHRA) provides that every person in the workplace has a right to freedom from harassment based on race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability and conviction for which a pardon has been granted. These are referred to as prohibited grounds. In addition, the Act deems sexual harassment to be harassment on a prohibited ground. NPF Harassment Prevention Policy (the Policy) addresses not only these types of conduct, but defines harassment to include any improper conduct directed at and offensive to another person that the person ought reasonably to have known would cause offence or harm. The Policy and these Guidelines focus on the prevention and prompt resolution of harassment in the workplace.

It is NPF Policy that a work environment that fosters teamwork and encourages individuals to contribute their best efforts in order to achieve and maintain NPF’s objectives is essential. Mutual trust, support and respect for the dignity and rights of every person are essential characteristics of this environment. Harassment in certain forms is against the law, erodes mutual confidence and respect for individuals, and can lead to a poisoned work environment. As a result, operational effectiveness, productivity, team cohesion and morale are placed at risk.

These Guidelines are intended to provide procedural guidance in support of the Policy and should be used in conjunction with the Policy in preventing, addressing and resolving harassment situations.

It is NPF Policy to provide a respectful workplace by promoting prevention and prompt resolution of harassment. All NPF Personnel have the right to be treated fairly, respectfully and with dignity in a workplace free of harassment, and they have the responsibility to treat others in the same manner. Harassment in any form constitutes unacceptable conduct that will not be tolerated. NPF Personnel shall not subject any person in the workplace to harassment. Disciplinary and/or administrative action may be taken against NPF Personnel who subject other persons to harassment.

The emphasis of the Policy and these Guidelines is on the prevention of harassment. It is NPF Policy to prevent harassment and to resolve harassment situations where they exist. It is everyone's responsibility to ensure that the workplace is free of harassment.

Managers and supervisors have a particular responsibility for creating and maintaining a positive workplace free of harassment, and for responding quickly to problems that arise. Normal managerial/leadership responsibilities and activities in dealing with problems are the best means to ensure a harassment-free workplace and a positive working environment. These procedures are not intended to alter those responsibilities and accountabilities.

All NPF Personnel have a right to have any incident of harassment dealt with in an expeditious, impartial and sensitive manner and without fear of retaliation. However, this right should not interfere with, or restrict in any way, supervisors exercising their responsibilities to maintain order and discipline in the workplace. Supervisors, managers, leaders and advisors are required to perform the normal functions associated with their responsibilities, such as the assignment of work, performance evaluation, counseling, discipline and the provision of advice.

It is the responsibility of all those involved in the processing of a complaint to ensure that a person does not suffer any prejudice, recriminations, or embarrassment as a result of submitting a complaint. Retaliation against any individual for reporting harassment shall not be permitted or tolerated. This prohibition extends to retaliation against those individuals who give testimony as witnesses, assist the Complainant or Respondent, or assist in an investigation. Anyone who engages in such retaliation may be subject to disciplinary or administrative action.

## **1.2 Objective**

The objective of these Guidelines is to:

- Promote a positive environment within Non-Public Property organizations that supports dignity, self-respect, productivity and the personal goals of all personnel.
- Set forth an internal process to prevent and resolve harassment in the workplace by promoting fairness and mutual respect and providing guidance on the standards of behavior expected of and by all persons covered by this policy;
- Inform NPF Personnel of their rights and responsibilities under this policy; and
- Meet NPF legal obligations under the CHRA.

## **1.3 Policy - Application**

### **1.3.1 General**

The NPF Harassment Prevention and Resolution Policy and these Guidelines, and the rights and obligations contained in the Policy and Guidelines, apply to every NPF Personnel member as defined in these Guidelines.

All contractual relationships entered into by NPF should contain a clause requiring adherence to the Harassment Prevention and Resolution Policy.

Any person who falls within the jurisdiction of this policy may submit a complaint. However, in the case of NPF Personnel who has filed a complaint against a Department of National Defence civilian employee or CF member, the Responsible Officer (the RO) must, in consultation with the appropriate CF or Departmental authorities, determine which Harassment Prevention and Resolution Policy and Guidelines are to be followed. Further guidance on “cross-over” complaints is contained in section 4 of these Guidelines.

A complaint will not be dealt with under this procedure unless it is made within one year of the occurrence of the last incident on which the complaint is based or, within a longer period such as considered appropriate by the RO under the circumstances, to ensure fairness to the parties and the best interests of NPF.

### **1.3.2 Authorized Patrons**

Complaints against persons subject to the Policy and Guidelines made by persons not subject to the Policy and Guidelines, including authorized patrons of non-public property programs and services, may be treated in accordance with the spirit and principles of these guidelines.

**NOTE:** It is understood that before filing a complaint the parties should be encouraged, wherever reasonable and possible, to fully explore and contemplate all possible options of pursuing an informal resolution.

## **1.4 Definitions**

**Administrative Investigation** is an examination of the circumstances surrounding a situation, event, incident, occurrence, issue, matter, or complaint conducted by an Investigator or a team of Investigators to determine all relevant factors and circumstances that will assist the RO in making a reasonable decision.

**Alternate Dispute Resolution** is, for the purpose of the Policy and Guidelines, the term used to describe dispute resolution mechanisms and techniques that do not involve the traditional investigative approach. It refers to activities such as self-

help, supervisor intervention, facilitation, mediation, etc. (For amplification of these terms see Part 5, Complaint Resolution)

**Complainant** is the person who submits a harassment complaint.

**Complaint** is a statement submitted to the RO or other person in authority that makes a specific allegation(s) of harassment. An initial complaint may be verbal, however in order to be processed, it must be in writing, dated and signed by the complainant

**Assistant** is a person chosen by the Complainant or the Respondent, such as a friend, colleague, or union representative, who may support, accompany or assist the Complainant or Respondent with a complaint at any point in the process.

**Harassment** is any unwelcome and improper conduct by an individual that is directed at and offensive to another person or persons in the workplace and which the individual knew or ought reasonably to have known would cause offence or harm. It comprises any objectionable act, comment or display that demeans, belittles or causes personal humiliation or embarrassment, or any act of intimidation or threat. It includes harassment within the meaning of the CHRA.

Where harassment involves misuse of the power or authority inherent in an individual's position, it constitutes an abuse of authority.

Conduct involving the proper use of responsibilities or authority related to the provision of advice, the assignment of work, counseling, performance evaluation, discipline, and other supervisory/leadership functions does not constitute harassment. Similarly, the proper exercise of responsibilities or authority related to situations where, by virtue of law, military rank, civilian classification, or appointment, an individual has authority or power over another individual does not constitute harassment.

**Harassment Advisor(s) (HA)** the HRHP&EA and any other NPF employee(s) within their organizations designated by the ROs to provide information and advice to the ROs concerning harassment policy and procedures and the role and responsibilities of the ROs in preventing harassment and resolving harassment situations.

**Human Rights, Harassment Prevention & Ethics Advisor (HRHP&EA)** is the primary resource and HA for all NPP organizations on all harassment prevention and resolution issues, and the advisor to the DGPFS and all ROs on all matters related to the NPF Harassment Prevention and Resolution Policy and Guidelines.

**Respondent** is the person against whom a harassment complaint has been filed.

**Situational Assessment** is a preliminary review of a harassment complaint to determine an appropriate course of action.

**NPF Personnel** means all contractors and employees of Staff of the Non-Public Funds, Canadian Forces (“NPF”), and all CF members and Department of National Defence civilian employees who, in the scope of their official duties and responsibilities, work directly for Non-Public Property organizations.

**Workplace** is the physical work location and the greater work environment where work-related functions and activities take place and work relationships exist.

## **1.5 Indemnity and Legal Assistance**

Provided that NPF Employees involved in harassment complaints under the Harassment Prevention and Resolution Policy acted honestly and without malice within the scope of their duties or employment, and met reasonable employer expectations, it is NPF policy to indemnify them and to provide legal assistance to them in accordance with the spirit and principles contained in the Treasury Board Policy on the Indemnification of and Legal Assistance for Crown Servants.

## **PART 2 – HARASSMENT PREVENTION**

### **2.1 General**

The creation of a positive work environment requires that this policy and procedure be consistently applied throughout Non-Public Property (NPP) organizations. For the prevention and resolution of Harassment to be realized, sound leadership principles must be applied. One of the most important of these principles is the development and maintenance of a supportive ethical environment wherein respect for the rights and dignity of others is regarded as paramount over the fear of punishment. Creating an ethical environment is a primary leadership responsibility that places an obligation upon everyone to recognize the rights of others, and to promote and practice mutual respect, fairness and accountability.

### **2.2 Harassment and Workplace Conflict**

It is recognized that conflict occurs in the workplace from time-to-time. Harassment and/or workplace conflict can severely damage morale and lead to a negative work environment that affects individual well-being and team effectiveness. To re-establish positive working relationships, conflict situations must be promptly addressed and resolved.

Conflict in the workplace can range from private verbal disagreements to extreme behaviors such as yelling and shouting, threats, and even physical assault. It can result from personality differences or from a lack of communication skills, including the inability to understand different points of view.

Conflict and harassment are not synonymous terms. Workplace conflict and harassment may exist independently, together, or one can lead to the other. The exact nature of each situation will depend upon its own facts and circumstances. Harassment and workplace conflict are serious and must be immediately addressed to improve the working environment. A strong effort must be made to address conflict situations that could lead to harassment.

### **2.3 Education and Training**

Effective methods of preventing conflict and harassment include education and training. Sensitivity and awareness education of all Personnel through orientation and information sessions and the use of continual reminders such as staff meetings, memos, e-mail, notices, posters, and videos, is important.

### **2.4 Roles and Responsibilities of NPF Personnel**

#### **2.4.1 Responsibilities**

All NPF Personnel have the responsibility to comply with this policy and to promote and maintain a work and service environment that is free from harassment. All persons have the right to be treated with fairness, dignity and respect and in turn have a corresponding responsibility to treat all others similarly.

#### **2.4.2 Roles**

All NPF Personnel have a role to play that includes:

- a. refraining from conduct that could constitute harassment ;
- b. correcting or reporting, as appropriate to the responsibilities of their position, any possible harassment they observe or experience in the workplace;
- c. taking reasonable action when they believe they are being subjected to harassment; and
- d. encouraging and supporting others to take action in similar circumstances.

### **2.5 Supervisors' Responsibilities**

#### **2.5.1 General Responsibilities**

Supervisors at all levels have the responsibility to ensure that required tasks are accomplished through effective teamwork. Supervisors must promote a harassment-free work environment. They must also work to prevent harassment among NPF Personnel under their direction and must be alert to symptoms of possible harassment in the workplace. Rumors, increased absenteeism, decreased motivation, lower job performance and staff turnover may indicate that conflict and harassment are taking place.

#### **2.5.2 Specific Responsibilities**

Supervisors have a critical role to play in fostering the positive work environment that NPP organizations require. Specific responsibilities include:

- a. providing an example of appropriate workplace behaviour;
- b. ensuring their subordinates are aware of their responsibilities and rights;
- c. taking prompt action to correct their subordinates concerning any inappropriate behaviour before it becomes a problem; and

- d. intervening in alleged harassment and/or conflict situations at an early stage.

## **2.6 Drinking Contests**

Participation in competitions based on immoderate drinking of alcoholic beverages tends to be based on coercion, either expressed or implied. For greater certainty, where such activities offend, demean, belittle or humiliate their participants, they will constitute harassment.

To prevent these activities from developing into conduct constituting harassment, competitions involving drinking of alcoholic beverages are prohibited.

## **PART 3 – NPF HARASSMENT PROGRAM ROLES AND RESPONSIBILITIES**

### **3.1 Responsible Officers (RO)**

#### **3.1.1 Delegation**

ROs are:

- a. the DGPFS with respect to Division Heads, and
- b. Division Heads, with respect to all NPF Personnel under their supervision.

It should be noted that the DGPFS or a Division Head may delegate their authority, dependent upon the specific circumstances surrounding an individual complaint.

#### **3.1.2 Responsibilities**

The ROs have overall managerial and leadership responsibility for ensuring that all NPF Personnel experience a harassment free workplace.

##### **3.1.2.1 General responsibilities**

- a. overseeing harassment prevention, including the provision of harassment awareness training and policy-related communication initiatives;
- b. informing and reminding new and current NPF Personnel of their rights and responsibilities under the NPF Harassment Prevention and Resolution Policy and Guidelines;
- c. ensuring and verifying that all new and current NPF Personnel have received harassment awareness training;
- d. intervening promptly to resolve any apparent harassment situations that they become aware of, whether or not a complaint has been made;
- e. ensuring that supervisors receive appropriate guidance, support and training to carry out their responsibilities under the NPF Harassment Prevention and Resolution Policy and Guidelines, including the resolution of harassment complaints;
- f. designating HAs to serve the NPF Personnel under their direction, and ensuring the availability of the HAs' services as required; and

- g. ensuring that any designated HAs are made available for and receive appropriate training.

### **3.1.2.1 Specific responsibilities**

- a. ensuring that harassment complaints are dealt with appropriately and expeditiously;
- b. ensuring that the HRHP&EA is apprised of all complaints involving allegations of harassment and providing the following information: the nature of the complaint, the name(s) of the Complainant & the Respondent, and all actions taken to resolve the matter;
- c. ensuring that parties are aware of and are offered, ADR so that every effort is made to resolve harassment situations/complaints through these positive early intervention techniques;
- d. ensuring that the persons involved in a situation or complaint are treated fairly;
- e. ensuring that the Respondent to a complaint is informed promptly that a complaint has been filed and is provided with a written version of the allegations;
- f. seeking, as required, the services of the HRHP&EA;
- g. seeking, as required, the services of a mediator acceptable to the parties. If a settlement is reached, which requires the RO's approval, the RO will review and, if satisfied, will approve the Minutes of Settlement;
- h. ensuring that all NPF Personnel involved in a complaint are given the opportunity to have someone accompany/assist them;
- i. convening harassment investigations where required and ensuring that they are conducted fairly, sensitively, impartially and completely and rendering decisions based on their findings;
- j. ensuring that the Complainant and Respondents are advised in writing of the results of an investigation;
- k. determining whether the Complainant and the Respondent should be physically and/or hierarchically separated from each other for the period of the resolution;
- l. determining the necessary corrective, remedial and restorative actions to be taken to resolve a situation or complaint, whether it is founded or not;

- m. monitoring the situation afterwards to ensure that corrective measures have been effective and that problems are not recurring;
- n. treating all information regarding the complaint and resolution process in a discreet and sensitive manner and in accordance with the provisions of the *Privacy Act*;
- o. maintaining records of NPF Personnel who have received training and information on harassment complaints for reporting purposes; and
- p. being alert to the possibility of retaliation against any individual involved in a harassment complaint and to take appropriate action to prevent and/or curtail any retaliation that may arise. Authorized administrative or disciplinary action against a Respondent arising from a founded complaint does not constitute retaliation.

**NOTE:** In every instance where an RO could be in a real or perceived conflict of interest in a harassment case, the RO must immediately consult with the HRHP&EA to assess the appropriate course of action.

### **3.2 Human Rights, Harassment Prevention & Ethics Advisor (HRHP&EA)**

As the primary resource and HA for all NPP organizations on all harassment prevention and resolution issues, and the advisor to the DGPFSS and all ROs on all matters related to the NPF Harassment Prevention and Resolution Policy and Guidelines, the HRHP&EA develops, coordinates and provides harassment awareness and prevention programs for all NPF Personnel, provides appropriate training and support to any HAs designated by ROs, ensures the central maintenance of files and information on harassment complaints (see Section 7.5, Monitoring and Reporting), gathers statistical information and data to support policy analysis and evaluation on a fiscal year basis and, subject to the note below, assists in the resolution of complaints as required, including conducting Administrative Investigations as requested.

**NOTE:** The HRHP&EA does not assume any decision-making responsibilities of an RO, any responsibilities that could directly affect any rights of a Complainant or Respondent, or any responsibilities that could result in the HA being in a real or perceived conflict of interest. (See Potential for Conflict of Interest 3.3.3 below)

### **3.3 Harassment Advisors (HAs)**

#### **3.3.1 Responsibilities**

As advisors to ROs, HAs, in consultation with the HRHP&EA, coordinate harassment awareness and prevention programs, assist in the resolution of complaints, and ensure the maintenance of all related files and information.

In addition to providing general information on the Policy and the Guidelines to ROs, HAs have a role to play in the resolution of specific harassment situations. This includes:

- a. receiving and registering harassment complaints;
- b. providing advice to ROs on applying the Policy and Guidelines to specific harassment situations; and
- c. in consultation with the HRHP&EA, providing advice and assistance to supervisors and ROs during the resolution of harassment situations or complaints, performing such functions as: assisting in the assessment of a situation or complaint to determine an appropriate course of action and helping to ensure that the appropriate resolution process and subsequent follow-up action remains on track.

#### **3.3.2 Skills and Attributes**

ROs must ensure that designated HAs are properly trained. In appointing HAs, ROs should consider the following skills and attributes:

- a. thoroughness;
- b. tact/discretion/judgment;
- c. tolerance for stress;
- d. ability to collect, synthesize and analyze information; and
- e. good written and verbal communications skills.

#### **3.3.3 Potential for Conflict of Interest**

Due to a potential for real or perceived conflict of interest, neither the HRHP&EA nor any HA advises or assists individual NPF Personnel who have lodged, or who are responding to a complaint. However, they may provide general information concerning the NPF Harassment Prevention and Resolution Policy and Guidelines to the Assistants who are assisting individual Complainants and Respondents and to

persons in a position of responsibility from whom individuals may seek such information, provided it is not a conflict of interest for them to do so.

### **3.4 Human Resources Managers (HRMs)**

#### **3.4.1 Roles and Responsibilities**

NPF Human Resources Managers are specifically trained to provide advice and guidance to managers throughout a resolution process in which NPF Personnel are involved.

Because of their expertise in human resources issues and the legislative and administrative framework surrounding those issues, Human Resources Managers can provide meaningful assistance to supervisors, HAs, ROs and the DGPFS in determining appropriate action to resolve conflicts and complaints involving employees. Therefore, it is important that they be consulted during the resolution process.

Further, as it is the exclusive role and responsibility of the Human Resources Managers to provide advice and guidance to the RO on all matters of discipline and other administrative measures with respect to employees, the RO must consult with the Human Resources Managers whenever such measures may be contemplated.

### **3.5 Assistants**

#### **3.5.1 Selection and Appointment**

Complainants and Respondents have the right to be assisted during any resolution processes associated with a complaint by a person of their choice, provided the person is willing and available to do so. It should be noted that NPF Personnel have the responsibility to select their own Assistant and often ask a union representative to fulfill this role.

#### **3.5.2 Role**

The role of Assistants is to support the Complainant and the Respondent. This support is of an administrative nature only and is not to be construed as or intended to be legal advice. Legal assistance to a Respondent or Complainant is not contemplated nor financially covered by this policy. Complainants and Respondents speak on their own behalf during any interviews or meeting associated with the resolution processes being pursued. In exceptional circumstances, the Assistant could speak on their behalf. The Assistant's role could range from providing moral support to:

- a. providing advice and knowledge of the Harassment Prevention and Resolution Policy and Guidelines;

- b. helping evaluate resolution options;
- c. helping prepare statements or material for presentation; and
- d. accompanying the Complainant or Respondent to interviews, sessions or meetings associated with the resolution process in progress.

## **3.6. Complainant**

### **3.6.1 Rights**

The Complainant has the right:

- a. to be treated fairly;
- b. to submit a complaint and have it reviewed in a prompt, sensitive and impartial manner, without fear of embarrassment or reprisal;
- c. to be assisted, as outlined in Section 3.5.2, Role of the Assistant;
- d. that a written complaint is not placed on their personnel file;
- e. to obtain information about the review of their complaint, subject to the *Access to Information Act* and the *Privacy Act*; and
- f. to be informed of any corrective, administrative and disciplinary measures implemented as a result of a founded complaint, subject to the provisions of the *Privacy Act*.

### **3.6.2 Responsibilities**

The Complainant has the responsibility:

- a. where possible and appropriate, to approach the perceived respondent and request that the offending behaviour cease;
- b. to raise the matter with the immediate supervisor, or higher authority if the supervisor is the Respondent;
- c. to clearly state the allegations of their complaint, providing sufficient details of the incident(s) involved, such as time, place and participants,
- d. to facilitate assessment and resolution of the complaint and to do so in writing if so requested by the RO;

- e. to seek information concerning options for the resolution of their complaint and to seriously consider participating in an ADR process (such as mediation);
- f. to participate in a cooperative manner in the resolution process being pursued. This includes responding promptly to requests for information from and being available for meetings with, ROs, managers, mediators or investigators; and
- g. to understand that discussion of a complaint with persons not responsible for its resolution, or other advisors, can be detrimental to achieving a resolution and to rebuilding work relationships afterwards. Therefore, discretion is essential.

### **3.7 Respondent**

#### **3.7.1 Rights**

The Respondent has the right:

- a. to be treated fairly;
- b. to be notified promptly that a complaint has been filed against them;
- c. to be informed of the allegations. In the case of a written complaint, the details of it will be provided in writing;
- d. to respond to the allegations;
- e. to be assisted, as outlined in Section 3.5.2, Role of the Assistant;
- f. that documentation related to the complaint is not placed on their personnel file, if the complaint is not founded; and
- g. to obtain information related to the review of the complaint, subject to the *Access to Information Act* and the *Privacy Act*.

#### **3.7.2 Responsibilities**

The Respondent has the responsibility:

- a. to cease immediately any improper behaviour when requested to do so by a Complainant or a supervisor;
- b. to promptly and clearly respond to the allegations of a complaint against them, providing sufficient details of the incident(s) involved, such as

time, place and participants, to facilitate the assessment of their response and the resolution of the complaint and to do so in writing if so requested by the RO;

- c. to seek information concerning options for the resolution of complaints and to seriously consider participating in an ADR process (such as mediation);
- d. to participate in a cooperative manner in the resolution process. This includes responding promptly to requests for information from and be available for meetings with ROs, managers, mediators or investigators; and
- e. to understand that discussion of a complaint with persons not responsible for its resolution, or other advisors, can be detrimental to achieving a resolution and to rebuilding work relationships afterwards. Therefore, discretion is essential.

### **3.8 Harassment Investigator (HI)**

The Harassment Investigator (HI) is responsible for all matters associated with the handling and conduct of the investigation (see Part 5, Complaint Resolution – Administrative Investigation and Annex C, Competency Profile for HIs).

### **3.9 Sources of Information for NPF Personnel**

ROs must ensure that persons are available and trained to provide information on the NPF Harassment Prevention and Resolution Policy and Guidelines to NPF Personnel in their organization and to ensure that this source of information is well known (see Section 3.1.2, Responsibilities). This requirement exists as NPF Personnel have the right to access information and assistance from a person in a position of responsibility. The fulfillment of this important responsibility is essential so that NPF Personnel are aware of the source of information they may contact when in need of harassment related information.

ROs may wish to designate specific individuals other than HAs to perform this function and will ensure that these individuals are sufficiently trained to do so. Otherwise, the RO may wish to utilize other sources of information such as Employee Assistance Program (EAP) representatives. In all cases, ROs must advise their NPF Personnel of the source of information. NPF Personnel should also be able to obtain this information from their supervisors.

Whereas the Guidelines (Section 3.3) indicate that the HA provides advice to the RO and supervisors, the specific individuals described above are a source of information for NPF Personnel.

## **PART 4 – COMPLAINT SUBMISSION AND ASSESSMENT**

### **4.1 Submitting and Receiving a Complaint**

#### **4.1.1 Submitting a Complaint**

A complaint may be submitted to the immediate supervisor or RO. In cases where the immediate supervisor or RO is the Respondent, the complaint should be submitted to the immediate supervisor's supervisor. Alternatively, the complaint should be submitted to the HA. The complaint should convey a Complainant's specific concerns regarding an alleged harassment situation.

#### **4.1.2 Elements of a Complaint**

While the Complainant is encouraged to express themselves freely, they should, as much as possible, provide the following elements of a harassment complaint:

- a. the name and location of the Complainant;
- b. the Complainant's signature and the date the complaint is signed;
- c. name (s) and location of the Respondent(s);
- d. details of the alleged behaviour;
- e. the date(s), time(s) and location(s) of the specific incident(s); and
- f. names, and contact information of any witnesses.

The format of a written complaint is left to the Complainant's discretion. However, as an option, a Complainant may wish to use the Harassment Complaint Form (see Annex A).

#### **4.1.3 Receiving a Complaint**

A person who receives a complaint shall, within the scope of their authority, take immediate action to:

- a. put a stop to any unacceptable or offensive behaviour that is still ongoing;
- b. forward without delay the complaint to the RO attaching any comments deemed appropriate; and

- c. where the RO is the Respondent, or where the Respondent is of equal or higher rank/classification to the RO, the complaint shall be forwarded directly to the appropriate higher authority.

## **4.2 RO's Initial Action**

On receipt of a complaint, the RO is required to:

- a. advise the HRHP&EA of the complaint;
- b. consult with appropriate advisors, including the HA, HRM and Legal Advisors as required;
- c. acknowledge receipt of the complaint. Under normal circumstances this should take place within five working days from the receipt of the complaint;
- d. ensure that any health and/or safety issues are addressed immediately;
- e. notify the Respondent that a complaint has been received unless it is clear that a criminal offence is evident. Under normal circumstances this should take place within five working days from the receipt of the complaint. As soon as possible, any written allegations with full particulars shall be forwarded to the Respondent; and
- f. ensure that the Complainant and the Respondent are informed of their rights and responsibilities.

## **4.3 Situational Assessment**

### **4.3.1 Consultation**

Upon completing the initial action, the RO will, in consultation with the HA, HRM and Legal Advisor, as required, complete a situational assessment based on the following Harassment Criteria:

- a. the complaint contains the information outlined in the Elements of a Complaint, section 4.1.2 above; and
- b. the allegations, as stated, meet the definition of Harassment in Part 1.

### **4.3.2 Decision**

The situational assessment will lead to one of three possible decisions:

- a. the harassment criteria are met;

- b. the harassment criteria are not met; or
- c. there is a possibility of criminal activity or breach of the National Defence Act.

**NOTE:** The RO may conduct supplemental situational assessments as new information comes to light during any subsequent procedure related to the complaint.

#### **4.4 Harassment Criteria Met**

The RO shall:

- a. ensure that the Complainant and the Respondent are informed of their rights and responsibilities;
- b. ensure that every attempt is made to resolve the complaint using ADR when deemed appropriate;
- c. if ADR is not appropriate, feasible or is unsuccessful, ensure that an investigation is undertaken and a decision rendered;
- d. ensure that the Respondent is given the opportunity to respond either orally, or in writing to the allegations;
- e. ensure that the Complainant and the Respondent have access to an Assistant;
- f. decide whether the Complainant and Respondent should be separated during the complaint resolution process, based on what is both practical, and in the best interests of both parties. Care should be taken to avoid any perception that such action constitutes retaliation or premature judgment of the case;
- g. ensure that the parties are kept informed of developments in the resolution process; and
- h. monitor and follow-up on the situation until satisfied that the situation is resolved and remains resolved.

#### **4.5 Harassment Criteria Not Met**

If the harassment criteria are not met, the HA shall ensure that the matter is dealt with appropriately (separate from the Policy and the Guidelines), and that the Complainant and Respondent are informed of this assessment in a timely manner.

## **4.6 Possible Criminal Act or Breach of NDA**

Where a possible criminal act or Breach of the NDA is alleged, the RO will consult with the appropriate legal advisor and inform the appropriate police authorities.

Where there is a complaint against a military member that may constitute sexual misconduct as defined in CFAO 19-36, (which includes but is not limited to sexual assault, aggravated sexual assault, and indecent exposure) the provisions of that order shall be applied. Any form of investigation into the harassment complaint will be suspended while a military police or Canadian Forces National Investigation Service (CFNIS) investigation is ongoing. Where the investigation carried out in accordance with CFAO 19-36 fails to disclose sufficient evidence to support a charge of sexual misconduct, action to resolve the harassment complaint will be recommended under the provisions of the appropriate Harassment Prevention and Resolution policy.

Where a complaint that may constitute sexual assault or another criminal act is made against a civilian NPP Personnel member, prompt action must be taken to notify civilian police authorities. After discussion with civilian authorities it may be necessary to hold in abeyance any harassment investigation that may have been commenced or is about to commence. This delay or suspension will continue pending the police inquiries, until the RO deems it appropriate to commence or continue the harassment investigation.

## **4.7 Complaints Involving More Than One NPP Organization**

The Complainant, Respondent, and witnesses may at times work in different NPP Organizations or may be transferred during the resolution process. These situations will require all involved ROs to collaborate to ensure resolution. Normally, the RO for the Complainant will take the lead. In cases where this is not practical, the RO where the alleged harassment occurred will do so, and will advise and consult with the ROs for the Complainant and Respondent during the process. This collaboration is particularly important to ensure that where disciplinary or administrative action is contemplated, the appropriate supervisors are involved.

## **4.8 Multiple Complaints**

At times, the RO may receive related complaints from several individuals at the same time and/or cross-complaints (i.e. where the Complainant and the Respondent have mutual complaints against each other). In such cases, it is important for the RO to seek advice from subject matter experts within the supervisory chain before deciding what course of action to take.

## 4.9 “Crossover” Complaints Involving More Than One Jurisdiction

Complaints may be covered by other jurisdictions, however, in these cases, collaboration between NPF and the delegated authority for the DND/CF policy is essential to conduct a situational assessment, particularly where potential disciplinary or administrative action is a possible outcome.

**NOTE: Refer to the Matrix in Annex B as a Guide to Help Identify whether NPF or DND/CF Process should apply**

Possible combinations may include:

- a. Complaints normally processed under NPF policy (Black Squares)
  - Both the Complainant and the Respondent are NPF employees,
  - The Complainant is DND/CF but the Respondent is an NPF employee, or
  - The Complainant is neither an NPF employee nor a DND/CF employee but the Respondent is an NPF employee.
  - The Complainant is a NPF employee but the Respondent is neither NPF nor DND/CF. The NPF Policy and Guidelines will apply to the extent practicable to protect the NPF employee (Black Square); and

**Note:** In all cases, the NPF Division Head, or delegate, will be the RO for NPF employees;
- b. In all other instances the NPF policy does not apply (White Squares).
- c. If neither Complainant or Respondent are NPF or DND/CF Employees then neither process applies., (Grey Square)

“DND/CF Policy” refers to the *DND/CF Harassment Prevention and Resolution Policy* and *DAOD 5012- 0*, which will apply to DND employees and CF members.

The *CSE Policy and Procedures Manual* will apply to Communications Security Establishment (CSE) employees.

The members of the Canadian Cadet Movement and the Junior Canadian Rangers Program are covered by their own harassment policy and guidelines. When a member of the Cadet Instructor Cadre (CIC) alleges harassment, the allegation shall be dealt with in accordance with the DND/CF Harassment Prevention and Resolution Policy.

#### **4.10 Coincidental Complaints and Grievances**

If an individual files a complaint with the Canadian Human Rights Commission (CHRC) and a harassment complaint under this procedure on the same issue, the CHRC may require the Complainant to follow the NPF procedures first, before the CHRC will examine the complaint.

If an individual decides to file a grievance on the same issue as a harassment complaint, the applicable grievance mechanism will apply, and the harassment complaint file will be closed.

#### **4.11 Bad Faith Complaints**

Complaints made in bad faith are those where the Complainant knows the complaint to be false. While such cases are uncommon, they are considered serious and may be dealt with through administrative and disciplinary action.

Appropriate administrative or disciplinary actions may include: a request for a formal apology, attendance at a training course, a reprimand, a suspension and, in rare cases, termination of employment. Steps may also be taken, with the approval of the Respondent, to correct any unwarranted stigma left by such a complaint.

## **PART 5 - COMPLAINT RESOLUTION**

### **5.1 Options Available to Complainants for Addressing Complaints**

The options available to NPF Personnel to resolve harassment complaints include the following:

1. Self Help,
2. Supervisor Intervention,
3. Mediation,
4. Administrative Investigation: and
5. File a complaint with the Canadian Human Rights Commission (CHRC). It should be noted that the CHRC may decline to deal with any complaint filed unless you have already exhausted the grievance or review procedures otherwise available to you.

It is well recognized that early resolution and/or use of Alternative Dispute Resolution (ADR) techniques usually provides for a speedier and more satisfying resolution to conflict situations in general, and harassment situations in particular.

NPF has therefore made a conscious decision to include these mechanisms in its culture and leadership philosophy. In concert with this philosophy, NPF has decided that these techniques should be seriously considered and, unless there are compelling reasons not to do so, recommend and offer ADR techniques as one of the first steps in the resolution of any harassment situation. Additionally, such techniques may become appropriate at any time during the resolution of a complaint and should be utilized.

NPF Personnel who either decide on their own, or request assistance of their RO to resolve a situation using ADR methods, are either: trying to solve the problem informally on their own through self-help methods, enlisting the help of their supervisor; or seeking formal mediation or other third party intervention.

ADR procedures that are sanctioned by the RO will involve official decisions, and may include written documents such as an Agreement to Mediate and Terms of Settlement.

The use of any ADR process does not preclude seeking advice from a supervisor, or any other trusted person or program within or outside the organization, including the Employee Assistance Program (EAP).

## **5.2 Self-Help**

Early resolution of any harassment situation at the most appropriate level is strongly encouraged. Individuals who experience perceived harassment situations are strongly encouraged to take direct action by communicating with the potential respondent at the earliest time possible. Situations that involve interpretation of interpersonal communications or matters requiring some clarification between persons may be quickly and effectively resolved if the parties take the opportunity to communicate with each other in a confidential setting.

If verbal communication is not possible, the potential complainant may then choose to communicate dissatisfaction or concern to the potential respondent in writing. Such communication should describe the incident(s) by relating facts, not judgments, and relate the impact of the situation experienced by the potential complainant. The letter should mention the conduct expected (i.e., "I would like this behaviour to stop."). If possible, the letter should be delivered in person and a copy kept by the potential complainant.

Persons using the self-help process should keep a record of all the incidents and of the way in which they were handled. This record will help the accurate recollection of events and how they were managed over time.

## **5.3 Supervisor Intervention**

If self-help is unsuccessful or inappropriate, then help in resolving the situation using some other ADR method may be sought from the potential complainant's immediate supervisor, or someone higher in the supervisory chain if the potential respondent is the immediate supervisor.

In dealing with harassment situations, supervisors are encouraged to consult the HR&HPA.

Supervisors can be instrumental in the resolution of alleged harassment situations because of their considerable leadership/managerial experience and their knowledge of the parties.

However, because of the requirement for a trained neutral third party in the role of a mediator and the need for the absence of bias, real or perceived, supervisors are not normally in a position to mediate a situation involving their own subordinates (or other persons, as applicable).

Supervisors' ongoing responsibilities provide the following opportunities for coaching aimed at behavioral change: assisting parties in conflict with the identification of the issues and problem-solving approaches; assisting with the development of a resolution plan; and, initiating team development activities.

These three processes constitute the main supervisory tools for effective intervention.

Supervisory actions may also include initiating dialogue among other supervisors or planning the presentation of an awareness session in the workplace on acceptable workplace behaviors.

Closure is an important part of any ADR resolution process. In cases where supervisor intervention is utilized, closure may include any appropriate administrative or disciplinary action deemed necessary by the supervisor or the RO.

## **5.4 Mediation**

### **5.4.1 Overview**

Mediation is a voluntary process in which a trained impartial third party, the mediator, facilitates communication between parties and assists them to reach, on their own, a mutually acceptable resolution to a dispute.

The use of mediation to resolve harassment situations is strongly encouraged, even after a traditional investigation has been initiated. If mediation is chosen, the parties will be informed by the HA, their Assistants, the appropriate Dispute Resolution Centre, or a mediator as to the mediation procedure.

The decision to participate in a mediation process requires that both parties sign an Agreement to Mediate prior to mediation and the Minutes of Settlement at the end of the process. Mediation is a voluntary process and can be terminated by either of the parties at any time.

### **5.4.2 Mediators**

Once the parties have agreed to mediation, a mutually agreeable mediator will be provided as soon as possible. When necessary, assistance in the selection of a mediator may be obtained from the appropriate Dispute Resolution Centre or the HA.

The role of the mediator involves keeping the channels of communication open, helping the parties express their needs, identifying issues that need to be addressed and facilitating problem solving.

In some cases, the use of co-mediation or mediation teams is appropriate. Co-mediation occurs when two mediators, often of different gender, culture, professional backgrounds or skills, work together to help negotiations between the parties in conflict. This team approach works best when there are a number of parties involved, the issues are complex, or when it is important to recognize

gender, racial or cultural differences in order to inspire confidence in the mediation process.

### **5.4.3 Other Interested Parties**

Usually it is the parties in conflict that are at the table with the mediator. Occasionally, other interested parties might also be at the table for the purpose of providing moral support to the parties or perhaps, because part of the Minutes of Settlement or Agreement to Mediate requires approval from an official authority. A case-by-case approach is used in deciding who is required at the table.

### **5.4.4 Treatment of Information**

All information exchanged during this entire procedure shall be regarded as “without prejudice” communications for the purpose of settlement negotiations. Subject to the disclosure requirements of the Queen’s Regulations and Orders, the *Privacy Act*, and any other applicable law, the parties agree to keep all information exchanged during the mediation process confidential.

Any notes or records created during the mediation process must be secured as Protected B material and retained in accordance with the provisions of the *Access to Information Act* and the *Privacy Act*.

### **5.4.5 Resolution Procedures**

Where a complaint has been submitted to the RO, the mediator shall expeditiously forward a report to the RO stating that the mediation between the parties has been resolved/not resolved, and that there is no further involvement of the mediator necessary. The report shall identify the parties to the mediation, and state the issues resolved by the mediation. It must also include a signed statement from the Complainant and the Respondent that the complaint has been resolved and closed.

There may be instances where the potential Minutes of Settlement could include issues over which the parties to the complaint have little or no authority. In such a case the RO should ensure that someone with the requisite authority and mandate participates during the mediation process, usually the RO personally. Where this is not possible, a tentative settlement can be reached, subject to the approval of the RO or other requisite authority. In such a case, if the RO believes that the Minutes of Settlement are not satisfactory, the matter may be sent back for further mediation or, the RO may direct that the matter be resolved by formal investigation.

Where a complaint has not been submitted, but the parties, through self-help or supervisor intervention, have decided that mediation would be suitable, these requirements may not be present.

If mediation results in resolution of the complaint, the signed Minutes of Settlement will constitute administrative closure of the complaint for all parties. If an agreement is reached between the parties, the Minutes of Settlement will constitute full and final settlement of the complaint. If an agreement is not reached, all parties have the right to pursue the appropriate formal investigation, or other resolution mechanism. A copy of the report from the mediator, and the withdrawal of the complaint, where applicable, will be placed on the complaint file. The parties and the RO, where required, will ensure that the Minutes of Settlement are followed.

## **5.5 Administrative Investigation**

### **5.5.1 General**

When ADR has been unsuccessful, is not feasible, or is inappropriate, the RO may initiate an Administrative Investigation.

An Administrative Investigation of a complaint may be suspended by the RO if both parties subsequently agree to an ADR process. If ADR efforts fail, the investigation may resume.

There may be exceptional circumstances where the RO is completely satisfied that he/she has all the facts and the parties have been heard. In such instances, the RO may decide not to undertake a further investigation and make a decision. In doing so, the RO must ensure that the spirit and principles of these Guidelines are met. Additionally, the RO must document the basis for the decision, advise the HA as required, ensure a copy of the decision is placed on the harassment file, and meet all the elements of closure.

### **5.5.2 Harassment Investigators (HIs)**

#### **5.5.2.1 Selection**

The appointed HI must be capable of conducting an independent investigation in a thorough, impartial, unbiased, discreet and sensitive manner, in the language of the parties' choice and should be trained in harassment investigation techniques.

Where possible and practical, the HI or one member of the investigation team should be equal or superior in classification to both the Complainant and the Respondent.

Where either the Complainant or Respondent is a CF member and an investigation team is involved, the team should include both military and non-military members.

At times, it may be necessary to obtain an investigator from outside NPF, or in some circumstances, from outside government. If matters such as gender, disability,

race, national origin, or colour are factors, these should be taken into consideration when appointing a HI.

A HI must meet the HI Competency Profile (see **Annex C**).

#### **5.5.2.2 Roles and Responsibilities**

The HI is responsible for all matters associated with the handling and conduct of the investigation as described in the terms of reference and is accountable for:

- a. gathering, examining and recording of all relevant facts from available documentation;
- b. identifying gaps in information, potential sources of additional information and persons who may be able to supplement or corroborate information obtained, whether this be through additional documentation, or first-hand knowledge;
- c. preparing a written report covering all salient points and an analysis of the facts and circumstances of the case; and
- d. ensuring that witnesses are advised that any information provided during the course of the investigation and during subsequent actions related to administrative decisions resulting from the findings, can be made available under the *Privacy Act* and the *Access to Information Act*.

#### **5.5.2.3 Terms of Reference for Administrative Investigations**

An HI will be appointed and provided with written terms of reference that will authorize and govern the activities associated with the investigation.

The terms of reference should include:

- a. identity of the HI;
- b. a clear and detailed statement of the allegations to be investigated, together with a delineation of the purpose and scope of the investigation to be undertaken;
- c. specific instructions as deemed necessary regarding issues such as security designation, the handling of new allegations, and requirements on the receipt of potential Criminal Code or NDA offence information, or action to be taken if the possibility of ADR becomes evident during the investigation;
- d. an indication of the time frames within which the investigation is to be completed and the date by which the Final Report is required; and

- e. an indication of the nature and extent of the resources available to the HI (clerical, typing, funds, etc.).

**(See Annex D, Terms of Reference for an Administrative Investigation).**

### **5.5.3 Stages of an Investigation**

The normal stages of an investigation are:

- a. the research and planning stage;
- b. the interview stage;
- c. the analysis stage;
- d. the HI's report; and
- e. the ROs decision.

**(For further details, See Annex D, Stages of an Administrative Investigation)**

### **5.5.4 Investigator's Reports**

#### **5.5.4.1 Overview**

The HI shall prepare a Draft Report and Final Report. These investigation reports should be clear and concise. The reports should not refer to, or contain, the Social Insurance Number, Service Number, Personal Record Identifier (PRI) or Employee Number of any person interviewed during the investigation or referred to in the report.

The Draft Report shall contain a detailed and chronological description of the salient facts, a description of the evidence gathered and an analysis and assessment of the facts. The Final Report will contain all of the above and in addition, findings as to whether or not harassment has occurred. This Final Report will be forwarded to the RO for decision. All evidence and the investigator's notes will be gathered and forwarded separately to the RO for retention.

If during the course of investigating a specific harassment complaint, the HI discovers broader underlying factors that led to the complaint, the investigator's report should identify these issues.

#### **5.5.4.2 Draft Report**

The HI shall forward a copy of the Draft Report to the RO. Once the RO is satisfied that the investigation conforms to the Terms of Reference, the Draft Report shall be

forwarded to the Complainant and the Respondent, after the completion of any severance required by the *Access to Information Act* and *Privacy Act*. The Complainant and Respondent will have fourteen (14) days, or such longer period, as determined by the RO, to respond. Upon receipt of responses, the HI will consider any additional information provided prior to completing the Final Report or re-opening the investigation if required.

#### **5.5.4.3 Final Report**

The Final Report should be signed and dated by the HI and submitted for decision to the RO who convened the investigation.

#### **5.5.5 The RO'S Decision**

The RO will assess the Final Report and will direct further investigation, if required. Once satisfied as to the completeness of the Final Report, the RO may, in whole or in part, accept, reject or vary the findings as to whether or not harassment has occurred. In any case where the RO does not fully accept the HI's findings, the RO must provide the written rationale as to whether or not harassment has occurred. The RO will further decide what administrative, restorative and/or disciplinary action, within his/her authority, is to be taken. The RO shall finalize his decision within the 6-month timeframe normally allotted for the completion of the investigation, unless unusual circumstances are present. The RO shall document the unusual circumstances and inform the Complainant and the Respondent in writing of the extension.

Where the HI, during the investigation of a specific harassment complaint, has identified broader underlying factors which led to the complaint or widespread workplace problems in a unit, the RO shall ensure that these matters are reviewed and, as necessary, an appropriate strategy devised.

The RO will inform the Complainant and Respondent of his/her decision on the complaint, the appropriate remedies and corrective measures to be taken and the rationale for these decisions. The RO will provide them a copy of the severed Final Report. When harassment has been found, subject to the provisions of the *Access to Information Act* and the *Privacy Act*, the RO may disclose to the Complainant the nature of any disciplinary or administrative action taken against an individual as a result of the decision, if the RO makes a determination that it is both appropriate and necessary to achieve closure.

The RO will ensure that follow-up action is implemented and the principal parties advised. The decision letters sent to the Complainant and Respondent will constitute a Letter of Administrative Closure for the harassment complaint resolution process. Copies of the Letters of Administrative Closure will only be placed on the complaint file. ROs or those with delegated authority are encouraged to meet with the principal parties to facilitate this phase of the process.

### **5.5.6 Grieving the Decision**

CF members may seek a redress of grievance in accordance with the appropriate QR&O. DND civilian employees may file a grievance under the established Staff Relations Grievance Procedure.

A Respondent NPF employee may file a grievance under established grievance procedures if s/he believes that a disciplinary action that has been imposed (e.g. suspension or reprimand) either lacks just cause or is excessive. Respondents may not grieve administrative actions taken by the Responsible Officer (e.g. request for formal apology or requirement to take a training course).

There are no internal procedures for a Complainant to grieve or appeal the decision of the RO. Complainants who are NPF employees who have not entered into a Settlement Agreement with respect to their complaint may file a complaint with the Canadian Human Rights Commission once they have exhausted the procedures available to them under the Policy.

## **PART 6 – RE-ESTABLISHING POSITIVE WORKING RELATIONSHIPS**

### **6.1 Options**

Once a harassment situation has been administratively resolved, it is everyone's responsibility to work together to restore good working relationships. All NPF Personnel have a responsibility to take action as quickly as possible to restore a positive, harassment-free working environment. A start can be made to change workplace culture by ROs giving a strong, clear message that respect and dignity are paramount.

After a harassment situation has been administratively resolved, it may continue to have effects on morale and productivity. One option to resolve this situation is to arrange educational or training sessions on techniques to improve communications, understanding and co-operation in the workplace. The HA can assist by providing materials for training sessions, suggesting topics and approaches for discussion and/or coordinating the assistance of qualified resource people.

ROs should also consider arranging group intervention by trained health or human resource professionals who help deal with the detrimental effects of harassment in the workplace.

Another option is to ensure that all NPF Personnel in the workplace are aware of counseling and support services that are available and to encourage them to use such services if they have a need. Services will vary depending on locations.

### **6.2 Rumours and Speculation**

ROs must be sensitive to the negative impact of rumors and speculation concerning a harassment situation or investigation. In such cases, the RO should take immediate steps to set the record straight and dispel the rumors. In so doing, the RO must ensure that personal information is protected and the sensitivities of the parties are taken into account.

## PART 7 - SIGNIFICANT ISSUES

### 7.1 Disclosure

One vital component to the successful resolution of any harassment complaint is the disclosure of information to both parties during the resolution process. To respect the requirements of the *Privacy Act* and the *Access to Information Act*, and the requirement that the process be fair to all the parties, the following general principles guide the release of information:

- a. personal information about third parties as defined in Section 3 of the *Privacy Act* is to be severed;
- b. individuals have a right to their own personal information (note that the view of one person about another person becomes the personal information of the latter, not the former);
- c. individuals referred to in a report have the right to know what has been said about them, and by whom; unless the disclosure is reasonably believed to imperil the safety of the individual concerned, as indicated in Section 25 of the *Privacy Act*;
- d. the Complainant and Respondent have a right to see the Draft and Final Reports except for personal information about third parties or about one another, if the personal information is not directly related to the complaint;
- e. third parties have a right to see their own personal information in a report;
- f. the names of witnesses who were interviewed are not to be severed, unless the disclosure is reasonably believed to imperil the safety of the individual concerned, as indicated in Section 25 of the *Privacy Act*;
- g. any written documentation held by a NPF Personnel member involved in a harassment complaint as part of their duties, in relation to that complaint, may be called for under the *Access to Information Act* but would be severed appropriately if considered suitable for release; and
- h. the following information, severed in accordance with the aforementioned principles, is released:
  - (1) the Complainant's allegations are forwarded to the Respondent by the RO,

- (2) the HI's terms of reference, immediately upon approval by the RO, will be forwarded by the RO to the Respondent and the Complainant,
- (3) the HI's Draft Report, immediately upon completion, will be forwarded by the HI to the RO. Once the RO is satisfied that the investigation conforms to the Terms of Reference, the Draft Report shall be forwarded to the Complainant and Respondent, after the completion of any severance required by the *Access to Information Act* and *Privacy Act*,
- (4) the HI's Final Report, immediately upon completion, will be forwarded to the RO. The RO will forward it to the Complainant and the Respondent after the RO's decision-making has been completed, and
- (5) when harassment has been found, subject to the provisions of the *Access to Information Act* and the *Privacy Act*, the RO may disclose to the Complainant the nature of any disciplinary or administrative action taken against an individual as a result of the decision, if the RO makes a determination that it is both appropriate and necessary to achieve closure.

## **7.2 Privacy**

All persons must respect the dignity and privacy of people involved in harassment situations by treating all information with discretion. Gossip and rumors can aggravate the situation and increase stress in the workplace. All NPF Personnel should show respect for others and not engage in idle talk and speculation concerning potential harassment situations.

The HI informs the Complainant, Respondent and all witnesses that while their statements will be treated with sensitivity and discretion, all information provided may be used for any purpose consistent with the investigation. The information is also subject to the *Privacy Act* and the *Access to Information Act*.

## **7.3 Correspondence and Documentation**

Copies of complaints and investigation reports must be treated as sensitive material and shall not be placed on personnel files. If a complaint was founded, or was found to have been made in bad faith, only the documentation relating to administrative or disciplinary action taken should be placed in the Respondent's or Complainant's personnel files, as appropriate, in accordance with any applicable regulations or orders. All correspondence and documentation related to a harassment situation or complaint shall bear an appropriate designation, normally Protected B and shall be retained a minimum of five years after the last administrative use of the information

(in accordance with Section 4 of the *Privacy Act* regulations) or for such longer period of time as required by the *Defence Subject Classification and Disposition System* (DSCDS) and then subsequently archived for three additional years before disposal of in accordance with the DSCDS.

#### **7.4 Timeliness**

Complaints should be handled as expeditiously as possible and treated as a priority. In general, any complaint resolution process should be completed without undue delay, normally, within six months or less. In addition, ROs should acknowledge receipt of a complaint and notify the Respondent within five working days of receiving the complaint. It is expected that ROs will establish other timelines, on a case-by-case basis, with the parties and their Assistants.

#### **7.5 Monitoring and Reporting**

The HRHP&EA will query the supervisory chain for statistical information and data to support policy analysis and evaluation on a fiscal year basis, and report thereon to the DGPFS.

**ANNEX A**

**HARASSMENT COMPLAINT FORM**

**SECTION A – Identity of Complainant**

Full Name	Phone Number	Position	Location/Organization

**SECTION B – Identity of Respondent**

Full Name	Phone Number	Position	Location/Organization

**SECTION C – Specific Allegation(s)**

Detailed particulars of the conduct, comment, gesture, display or other behaviour alleged to constitute harassment, including the date, time and location of that conduct.

**SECTION D**

Complainant’s perception.

The above information is true and correct.

**Complainant’s Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**ANNEX B**

**MATRIX TO HELP IDENTIFY WHETHER  
NPF OR DND/CF PROCESS SHOULD APPLY**

**NOTE: Specific circumstances surrounding each individual complaint will vary and collaboration may be required between NPF and DND/CF to clarify jurisdiction.**

		<b>R E S P O N D E N T</b>		
		<b>NPF Employee</b>	<b>DND/CF</b>	<b>Neither DND/CF nor NPF Employee</b>
<b>C O M P L A I N T A N T</b>	<b>NPF Employee</b>	<b>NPF Process</b>	<b>DND/CF Process NPF to Follow Up</b>	<b>NPF Process To protect NPF Personnel</b>
	<b>DND/CF</b>	<b>NPF Process</b>	<b>DND/CF Process</b>	<b>DND/CF Process</b>
	<b>Neither DND/CF nor NPF Employee</b>	<b>NPF Process</b>	<b>DND/CF Process</b>	<b>Neither NPF nor DND/CF Process Applies</b>

## ANNEX C

### COMPETENCY PROFILE FOR HIs

1. The HI should have the following personal attributes:
  - a. impartiality/fairness;
  - b. thoroughness;
  - c. tact/discretion/judgment;
  - d. respect and professionalism; and
  - e. tolerance for stress.
  
2. The HI has knowledge of:
  - a. harassment investigation and interviewing techniques;
  - b. principles of procedural fairness;
  - c. Treasury Board and NPF Policy on harassment in the workplace, *Access to Information Act*, *Privacy Act*, *Canadian Human Rights Act* and other pertinent legislation, regulations and practices, if required;
  - d. the rules of evidence; and
  - e. organizational structures, cultures and contexts.
  
3. The HI is able to:
  - a. collect and synthesize, and analyze information obtained through research, including the review of pertinent documentation and interviews with the parties and witnesses;
  - b. identify key issues and facts relating to the allegations;
  - c. conduct a thorough analysis of the evidence;
  - d. develop logical and substantiated conclusions;
  - e. communicate effectively orally;
  - f. write clear concise reports;
  - g. listen actively;
  - h. handle difficult situations and sensitive subject matter with tact and diplomacy; and
  - i. speak and write fluently in both English and French, if required.
  
4. In making his selection, the RO should pay special attention to the HI's experience in relation to the nature and complexity of the complaint. The RO must also ensure that the selected investigator holds the security clearance commensurate with the matter being investigated.

## ANNEX D

### TERMS OF REFERENCE FOR AN ADMINISTRATIVE INVESTIGATION

#### PROTECTED B (WHEN COMPLETED)

File Number:

Date:

#### **TERMS OF REFERENCE HARASSMENT INVESTIGATION INTO ALLEGATIONS BY (NAME, INITIALS)**

References:

- A. Harassment Complaint dated: \_\_\_\_\_
- B. Harassment Prevention and Resolution Guidelines

1. (Name of HI(s)) is/are appointed to conduct a thorough investigation into the harassment complaint at Reference A. This investigation is considered to be a primary responsibility. The investigation shall be conducted with the utmost sensitivity and discretion in accordance with Reference B. The investigating officer shall suspend the investigation if he/she uncovers any evidence of a criminal or NDA offence and the matter shall be brought to the attention of the RO for further direction.

2. The HI shall conduct an investigation in the following stages:

#### **Administrative Investigation Stages**

3. **Research and Planning Stage.**

- a. review all applicable legislation, regulations and orders, the NPF *Harassment in the Workplace Policy*;
- b. ensure that the specific allegations referred to in the complaint are clear and have been provided in writing to the Respondent with the opportunity to respond;
- c. confirm whether the Complainant and Respondent understand their rights and responsibilities and that they have access to Assistants prior to the commencement of the investigation;

- d. obtain and review all documents relevant to the matters under investigation;  
and
  - e. discuss with the RO the details prior to continuing with the investigation  
should opportunities for ADR arise during the investigation process.
4. **Interview Stage.** Interview the Complainant and Respondent cited in the complaint and other witnesses as required with respect to each allegation, to ascertain all relevant facts relating to the complaint. In particular, respond to the following:
- a. is there information to support the allegations? If yes, what;
  - b. what was the period of time over which the conduct took place;
  - c. what motive for the conduct has become evident? Explain;
  - d. is there information available to suggest that the conduct was intentional?  
Explain;
  - e. does it appear that the conduct was persistent, pervasive? Explain;
  - f. has the Complainant and/or Respondent had to seek assistance to cope with  
the situation? Explain;
  - g. has the situation had career implications for the Complainant and/or the  
Respondent? Explain; and
  - h. should additional allegations be made during the course of the investigation,  
such allegations are to be submitted to the RO to determine whether they  
should be considered as part of the mandate for this investigation. If these  
allegations become part of this investigation, they are to be presented in  
writing to the Respondent.
5. **Analysis Stage.**
- a. determine and identify the substance of each allegation;
  - b. determine if the conduct satisfies the definition of harassment quoting  
references; and
  - c. comment on any underlying factor(s) encountered during the course of the  
investigation that may have contributed to the complaint or may have had a  
negative effect on the work environment.

6. **Investigator's Report Stage.**

a. **Draft Report.** Prepare the Draft Report in accordance with the following format:

- (1) a summary of the harassment complaint;
- (2) a description of the allegation(s);
- (3) a description of the background and evidence that supports and does not support, each allegation; and
- (4) an analysis of the evidence in respect to each allegation as to its credibility but not whether or not the conduct satisfies the definition of harassment.

Submit the Draft Report to the RO. Once the RO is satisfied that the investigation conforms to the Terms of Reference, forward the Draft Report, severed in accordance with the *Privacy Act* and *Access to Information Act*, to the Complainant and the Respondent. The Complainant and Respondent will have 14 calendar days to provide written comment; and after all of the information has been reviewed, consider any additional information provided by the parties and incorporate it into the report if it is deemed appropriate to do so.

b. **Final Report.** Prepare the Final Report using the information from the Draft Report and add the information from items (5) and (6) identified below:

- (1) a summary of the harassment complaint;
- (2) a description of the allegation(s);
- (3) a description of the background and evidence that supports and does not support, each allegation;
- (4) an analysis of the evidence in respect to each allegation;
- (5) a statement as to whether each allegation is supported or not; and
- (6) determination as to whether or not the behaviour described in each allegation constitutes harassment.

7. All expenses associated with the conduct of this investigation are to be charged to (Financial Code).

8. The Final Report is due by (date). If an extension is deemed necessary, a request in writing shall be submitted.

SIGNATURE BLOCK

**PROTECTED B (WHEN COMPLETED)**