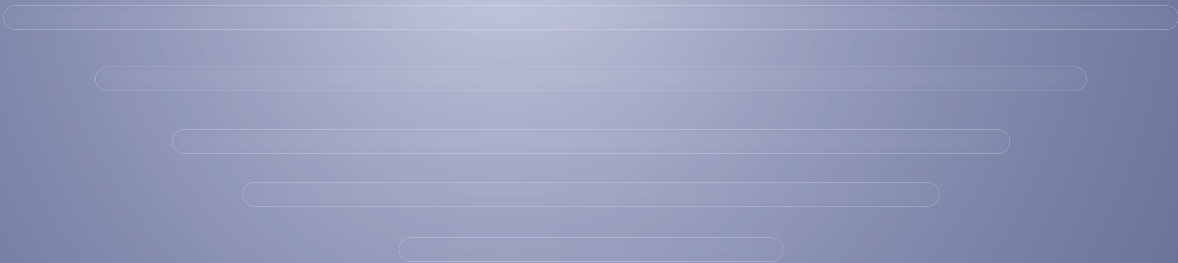


# Harassment Policy

The Workers' Compensation Board of B.C.  
& the Compensation Employees' Union



**WORK SAFE BC**

WORKING TO MAKE A DIFFERENCE

# Statement of Commitment to the Employees of WorkSafeBC

Workers' Compensation Board of British Columbia (WorkSafeBC) and the Compensation Employees' Union (CEU) share a vision of a safe, healthy, and rewarding work environment at WorkSafeBC.

WorkSafeBC and the CEU will not tolerate discriminatory harassment or personal harassment in any interactions connected to work with WorkSafeBC.

Under no circumstances will complaints of harassment be dismissed without due consideration and proper investigation. Complainants will not be told to deal with matters themselves.

WorkSafeBC and the CEU also recognize that WorkSafeBC employees may be subjected to workplace harassment by outside stakeholders; in those circumstances, WorkSafeBC and the CEU acknowledge their responsibility to support and assist persons subjected to such harassment.

WorkSafeBC and the CEU are in full and unequivocal agreement with the purpose and practices set out in the policy and are committed to the effective implementation and administration of the policy. We commit to working in concert with the policy to produce a workplace that is free of harassment.



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David Anderson  
President and Chief Executive Officer  
Workers' Compensation Board of B.C.



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Sandra Wright  
President  
Compensation Employees' Union

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# Policy Statement

WorkSafeBC, in cooperation with the Compensation Employees' Union (CEU), promotes a work environment that is characterized by professionalism, collegiality, and cooperation. This policy prohibits conduct defined below as either discriminatory harassment or personal harassment. WorkSafeBC will not tolerate discriminatory or personal harassment in any interactions connected to work with WorkSafeBC, and where such harassment is found to have occurred it may take remedial action.

This policy is not intended to constrain normal social interactions.

## Purpose

The purpose of this policy is to assist all employees in identifying and preventing discriminatory and personal harassment in the workplace, and to provide procedures for handling and resolving complaints. It is intended to promote the well-being of everyone in the workplace and to foster the values of integrity and trust that are essential for a sound organization.

## Application and scope

This policy applies to all permanent and temporary bargaining unit, management, and exempt employees, as well as to those with whom WorkSafeBC conducts business at all sites where business activities are undertaken for WorkSafeBC. It applies to all situations where activities are connected to work with WorkSafeBC and could impact on employment during and outside of regular business hours at the workplace and away from the workplace. This includes:

- Activities on WorkSafeBC premises
- Work assignments outside of WorkSafeBC premises
- Work-related conferences, training sessions, and seminars
- Work-related travel
- Work-related social functions that are sponsored or organized by WorkSafeBC

# Definitions

**Complainant** – An employee who has brought forward or filed a complaint pursuant to the terms of this policy, alleging that discriminatory or personal harassment has occurred.

**Respondent** – An employee who is alleged to have discriminated against or personally harassed a complainant.

**Investigator** – An individual named by the Chair of the Harassment Committee to investigate, through fact finding, formal complaints of discriminatory or personal harassment.

**Discriminatory harassment** is contrary to the law. Discriminatory harassment is conduct that is related to employment at WorkSafeBC that may occur at or away from the workplace within the Scope section of this policy, and:

- i) is based on or related to a prohibited ground of discrimination set out in the *Human Rights Code of British Columbia*, namely: race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sex, sexual orientation, age, or conviction for a criminal or summary conviction offence that is unrelated to employment; and
- ii) is unwelcome or is of such a nature that it would be reasonable to assume that it is unwelcome; and
- iii) detrimentally affects the work environment or leads to adverse job-related consequences for the complainant.

Examples of discriminatory harassment may include, but are not limited to:

- Displays of offensive, derogatory, or sexually explicit pictures, photographs, cartoons, drawings, symbols, and other material

- Unwanted and unnecessary touching, patting, pinching, or other suggestive physical contact
- Offensive remarks about sexual orientation
- Racist language, slurs, derogatory comments, stereotypes
- Telling racist or ethnic jokes that are by their nature embarrassing or offensive
- Threats or abuse based on colour, language, or ethnic background
- Displaying or distributing racist cartoons, posters, graffiti, books, or pamphlets

**Personal harassment** can take many forms — behaviours, words, or actions — and can consist of a single incident or several incidents over a period of time. Personal harassment prohibited by this policy is conduct that meets the following three criteria:

- i) may or may not be intended to cause harm to the recipient(s); and
- ii) has a clear and demonstrably negative effect on the complainant; and
- iii) would reasonably be known or expected to be offensive or humiliating.

Day-to-day managerial functions and activities such as work assignment, performance management, and progressive discipline are not considered personal harassment under this policy. However, managerial functions and activities that meet the above criteria are not excepted from this policy.

Personal harassment does not include every workplace conflict or interaction that an employee may find unpleasant. The harassment process should not be used to vent feelings of minor discontent or generalized dissatisfaction with life in the workplace.

Personal harassment may include bullying, ostracism, or hazing. Examples of specific behaviours that may constitute personal harassment include, but are not limited to:

- *Verbal harassment*: Epithets, derogatory comments, slurs, jokes, gossip, innuendo, abusive comments, ridicule, or yelling
- *Visual harassment*: Posters, cartoons, drawings, gestures, or displays
  - Physical harassment: Touching, patting, blocking movement, or gestures
  - Threats or demands: Suggestions or statements that certain unreasonable conduct needs to be accepted or that an employee needs to engage in unreasonable conduct in order to protect employment or benefits of a position
  - Retaliation: Any suggestion of retaliation in respect of a complaint made under this policy

**Retaliation** is any action with a negative impact taken, threatened, or suggested against a person in whole or in part because that person:

- i) files a complaint pursuant to this policy; or
- ii) associates with the person who filed a complaint pursuant to this policy; or

- iii) participates in any way in an investigation of a complaint pursuant to this policy; or
- iv) reports any failure to follow through with a decision flowing from an investigation pursuant to this policy.

Examples of retaliation may include, but are not limited to:

- Threat of or actual demotion or involuntary transfer
- Negative changes in terms or conditions of employment
- Denial of opportunities including training opportunities
- Personal harassment, including ostracism or exclusion from normal social and professional interactions

Regardless of the outcome, when a harassment complaint is made in good faith, the complainant and anyone providing information will be protected from all forms of retaliation by co-workers and superiors.

# Guidelines

This policy is intended to respect the rights of all who may be involved in a complaint. The guidelines, requirements, and procedures contained in this policy are designed to ensure that individuals feel as comfortable as possible in coming forward with a complaint without fear of reprisal or retaliation. The procedures are also intended to ensure that the interests of respondents or others who may be involved in the complaint process are protected.

## Confidentiality

A governing principle in respect of any matter that is brought forward pursuant to this policy is confidentiality.

Every effort will be made to keep these matters confidential. Ultimate responsibility for determining the resolution of a complaint lies with WorkSafeBC. Information will be disclosed during the complaint process only to the extent necessary to:

- i) protect the safety or security of any individual involved in a complaint, or any other WorkSafeBC employee; or
- ii) protect people not related to WorkSafeBC if any reasonable concerns for their safety are identified; or
- iii) conduct a proper and fair investigation; or
- iv) comply with the law or litigation.

To the extent that incidents take place in the workplace, other employees may be aware of or have some knowledge of the situation. Steps will be taken to protect incidents of unacceptable behaviour or individuals involved in a complaint from being publicized in the workplace, if possible, without compromising an investigation.

Any party to an investigation or any employee involved in an alleged incident must not disclose the names of any other party or any circumstances related to the complaint except as necessary to report an incident, investigate a complaint, take action flowing from an investigation, or as required by law, including the *Freedom of Information and Protection of Privacy Act*.

Materials or written or electronic information related to a complaint or produced in an investigation will be maintained in secure, locked cabinets and offices, or in password-protected electronic files by those people entitled to handle that information, namely the investigators, the Chair of the Harassment Committee, and the Vice-President, Human Resources & Facilities.

Disclosure of information contrary to the requirements set out above is a breach of this policy and may be subject to disciplinary action.

## Six-month limitation

The Chair of the Harassment Committee will not normally pursue a complaint that is reported more than six months after the date of the incident(s) on which the complaint is based. The limitation period may be extended if the delay was incurred in good faith or if the delay does not result in prejudice against any of the individuals involved.

## Frivolous or vexatious complaints

An investigation may determine that a complaint is not supported or that there is no breach of this policy. Such a finding does not automatically mean that the complaint was frivolous or vexatious.

Frivolous or vexatious complaints are those where the complainant or others know there is no foundation in fact that would suggest a breach of this policy and where the complaint is filed for the purpose of bringing an adverse consequence to the respondent or another employee of WorkSafeBC. Such complaints are, in and of themselves, a breach of this policy and any employee engaged in the presentation or filing of such a complaint may be subject to discipline up to and including dismissal.

# Procedures

These procedures will also apply if either the complainant or the respondent is the Chair of the Harassment Committee. In such cases, the Director of Human Resources will assume the function of the Chair of the Harassment Committee for the purpose of these procedures.

At any time in the process, a resolution may be reached with consent of the parties and the Chair.

## How a complaint will be handled

### 1. Complaint is filed

An employee may file a complaint with the Chair of the Harassment Committee. Only complaints from individuals who believe they have personally experienced discriminatory or personal harassment will be accepted for investigation. Third parties may not submit a formal complaint on behalf of another person.

### 2. Investigators are assigned

The Chair of the Harassment Committee will assign investigators to the case. Investigators will be appropriately trained. The investigators will act as fact-finders. They will not be responsible for determining if there is a breach of the policy or any outcomes from the investigation.

### 3. Investigation is conducted

An investigation will be undertaken as quickly as possible. In all cases, the complainant will be contacted by the investigators within two working days of a complaint being accepted for investigation.

In order to conduct a thorough investigation, the respondent will be provided with the complainant's name and information on the particulars of the complaint, and offered an opportunity to respond.

### 4. Interviews are held

The complainant and the respondent, as well as any individuals who may be able to provide relevant information, will be interviewed individually. At all stages, each party has the right to be accompanied by or represented by a person of choice.

### 5. Investigators' report is filed

When the investigation is complete, the investigators will file a report with the Chair of the Harassment Committee that will set out the allegations, the responses, and the findings of fact made by the investigators. The report will not contain a recommendation on findings of culpability or discipline. The Chair of the Harassment Committee will then forward the report to the Vice-President, Human Resources & Facilities.

### 6. The final outcome

The Vice-President, Human Resources & Facilities, may find either or both or neither of the complainant and respondent in contravention of this policy. Determining culpability and discipline will be the sole responsibility of the Vice-President, Human Resources & Facilities.

The Vice-President, Human Resources & Facilities, will inform the complainant and respondent, in writing, of the final outcome of the investigation as soon as possible.

### 7. Possible results

#### *Not in contravention – No action taken*

If the investigation fails to find sufficient evidence to support the complaint, no documentation concerning the complaint will be placed in either the respondent's or the complainant's file.

#### *Not in contravention – Action taken*

If the investigation fails to find sufficient evidence to support the complaint, but inappropriate personal interactions have occurred, the Vice-President may take action, which may include education to facilitate an understanding of appropriate personal interactions, but exclude disciplinary measures.

#### *Contravention – Action taken*

If there is a finding of harassment, the Vice-President, Human Resources & Facilities, will take action, which may include education to facilitate an understanding of harassment, or disciplinary measures up to and including dismissal.

The disciplinary decisions of the Vice-President, Human Resources & Facilities, will be documented and placed in the culpable person's personnel file. No documentation of any kind will be placed in the aggrieved party's file.

#### *Finding of a frivolous or vexatious complaint*

If there is a finding that a complaint is frivolous or vexatious, the Vice-President, Human Resources & Facilities, may impose discipline up to and including dismissal of the complainant.

In this case, the disciplinary decisions of the Vice-President, Human Resources & Facilities, will be documented and placed in the complainant's personnel file. No documentation of any kind will be placed in the respondent's personnel file.

### 8. Implementation

Where action other than discipline is pursued, the Chair of the Harassment Committee will monitor and report on its implementation to the Vice-President, Human Resources & Facilities, and, separately, to the Harassment Committee.

### 9. Grievance/appeal procedure

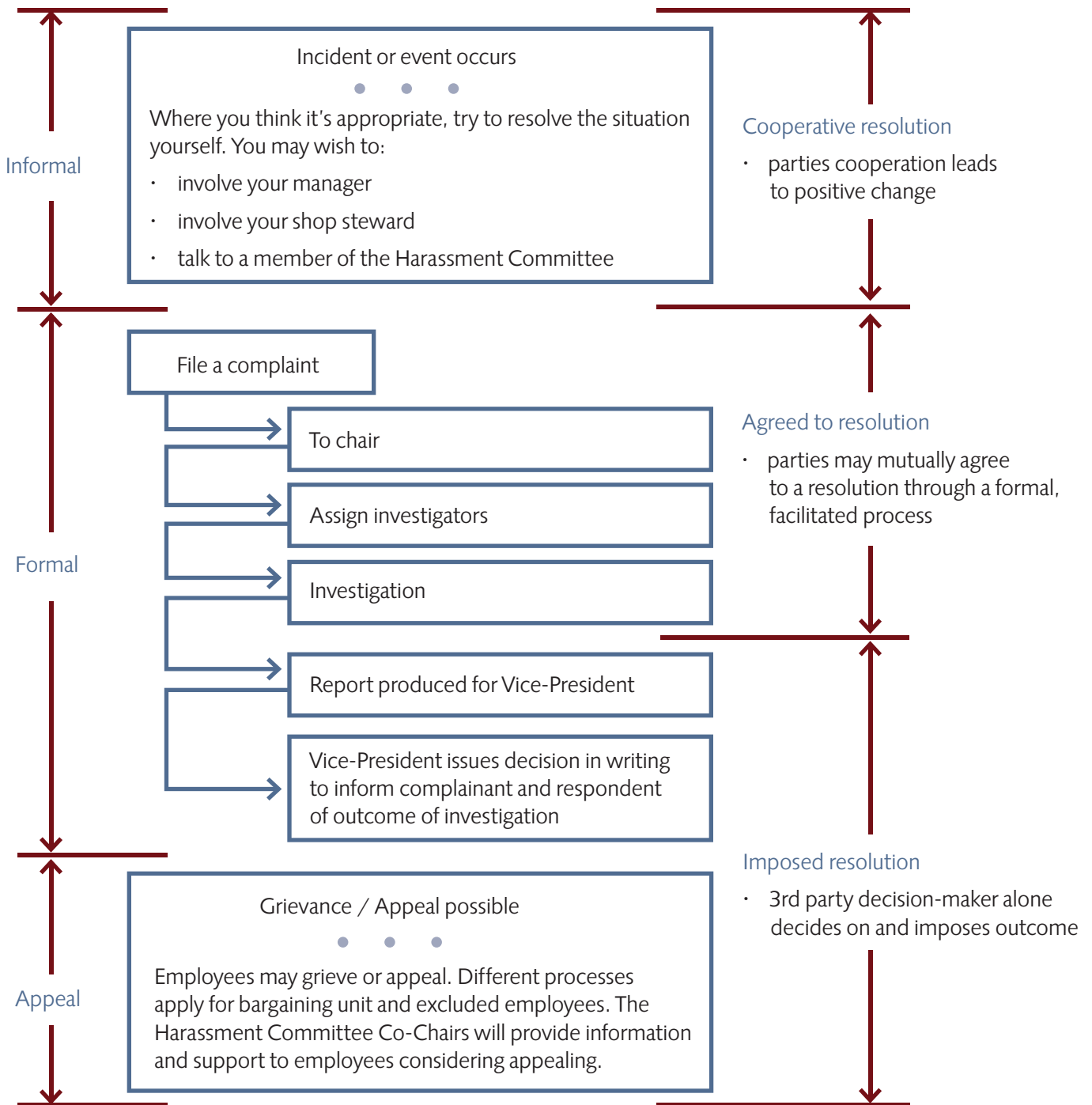
#### *Bargaining unit employees*

Decisions of the Vice-President, Human Resources & Facilities, relating to the timeliness or scope of a complaint, or culpability or discipline for harassment, may be grieved by a member of the bargaining unit.

#### *Management and exempt employees*

The appeal procedure for management and exempt employees is described in a separate policy document (see your HR Advisor for more information).

## Harassment Resolution Processes



This simplified chart is intended to provide a high-level overview of the processes set out in the Harassment Policy. See the Harassment Policy for full details.

# Responsibilities

## All employees

Everyone in the workplace has a role in building a workplace free of harassment. All WorkSafeBC employees must:

- Comply with the Harassment Policy and not participate in discriminatory or harassing behaviour
- Ensure they understand the policy. Lack of awareness of the policy is not a defence for discriminatory or harassing behaviour.
- Attend scheduled training sessions designed to familiarize them with the policy

Employees are encouraged to discuss any behaviour that they may witness and that they believe may be harassing in nature with their manager or shop steward.

## Management

Management employees set the tone in the workplace and are role models for other employees. All managers must:

- Model inclusive and professional behaviour and not participate in discriminatory or harassing behaviour
- Follow the Harassment Policy and ensure that employees follow the policy
- Ensure that all employees are aware of and understand the policy and regularly review it with their staff
- Take action when they receive complaints of, or personally observe, harassment
- Report incidents of harassment to the Harassment Committee

## Chair

The Chair of the Joint Harassment Committee provides leadership to the committee and is the guardian of the Harassment Policy. The Chair works to ensure that the

processes flowing from the policy are fair, thorough, and timely. The Chair must:

- Consult with the union co-chair
- Liaise with union and management to ensure matters are dealt with and due process is followed
- Assign investigators and coordinate investigations. This includes providing advice and support to the investigators.
- Be neutral when receiving reports of possible complaints, gathering information, and processing complaints
- Help complainants access the processes and remedies provided through the policy
- Ensure that complainants, respondents, witnesses, and their representatives are aware of their options and rights under the policy
- Monitor the outcomes of investigations and track the implementation of remedial action

## Committee members

Representatives of management and the CEU jointly administer the Harassment Policy. Committee members:

- Promote appropriate workplace behaviour
- Develop policy and procedures for reporting, processing, and investigating incidents of harassment
- Make recommendations to senior management on how to ensure WorkSafeBC complies with the *B.C. Human Rights Code* and the *Canadian Charter of Rights and Freedoms*
- Make recommendations on education and training sessions for employees, managers, and investigators
- May develop or participate in the development and delivery of employee, manager, and investigator training materials
- Provide advice and support to investigators and employees

## Harassment investigators

The role of the investigators is to conduct investigations of complaints as soon as possible after they are filed. The investigators:

- Must be impartial when conducting investigations and act as fact finders
- Prepare reports on the results of their investigations for the Chair of the Harassment Committee. The reports set out the allegations, responses, and their findings of fact

## Vice-President, Human Resources & Facilities

The Vice-President of Human Resources & Facilities adjudicates (determines the outcome of) harassment complaints. Only the Vice-President can make decisions on the timeliness and scope of a complaint, determine culpability (guilt or fault), and determine if discipline will result from a finding of culpability. The Vice-President:

- Reviews investigation reports and considers the facts to determine the outcomes of complaints
- Informs the complainants and respondents, in writing, of the outcomes of investigations of complaints
- Imposes discipline or takes other action, such as providing education to improve employees' understanding of harassment

## External investigator

In rare instances, an external investigator may be appointed by the Chair following consultation with the co-chair. The external investigator:

- Investigates the complaint in a timely manner
- Must be impartial when conducting investigations and act as fact finder
- Prepares reports on the results of the investigation for the Chair of the Harassment Committee. The reports set out the allegations, responses, and their findings of fact
- In rare circumstances, may be given the authority to determine whether a contravention of the policy has occurred

## WorkSafeBC Senior Executive Committee and CEU executive

The WorkSafeBC Senior Executive Committee and CEU executive are responsible for reviewing and approving, accordingly, all recommendations, policies, and procedures developed by the committee.

## Other Applicable Policies or References

- Collective Agreement:
  - Article 5.04 Personal Harassment Policy
  - Article 5.05 Discrimination

Letter of Understanding B9 – Joint Harassment  
Committee Terms of Reference

## Effective Date

The policy came into effect on August 1, 2007.

The policy was approved by the WorkSafeBC Senior  
Executive Committee and the CEU executive in July  
2007.

## Administration

This policy is administered by Corporate Human  
Resources (HR Initiatives).

# Steps to take if you think you are being harassed

There are several ways to address your concerns:

## 1. Ask for the behaviour to stop, if appropriate

If you think you have been subjected to discriminatory or personal harassment, before filing a formal complaint under the Harassment Policy we encourage you to bring the matter to the attention of the person(s) responsible for the behaviour and ask for the offensive conduct to stop.

In many cases, a brief discussion of the unwanted conduct may lead to a resolution to the situation. Often people don't realize that what they have said or done is inappropriate or harmful. After reflecting on their behaviour they often "get it." So, if it is appropriate you should approach the prospective respondent in a professional and polite manner and advise that person that his or her conduct is unwelcome and that the conduct should stop. Such an approach can be done in person, by phone, by written note, or by e-mail.

If such a request successfully resolves the problem, no further action needs to be taken.

When it is not appropriate for you to bring the matter directly to the attention of the person responsible, or where such an approach is attempted and does not produce a satisfactory result, speak to a member of the Harassment Committee and/or file a complaint.

## 2. Contact a member of the Harassment Committee

Contact a member of the Harassment Committee for advice and support. That individual can listen to your story and may give you some helpful guidance. We encourage you to come forward and talk about work-related harassment you may be experiencing.

## 3. File a complaint

An employee may file a written complaint with the Chair of the Harassment Committee setting out the

particulars of the complaint and the desired outcome. Only complaints from individuals who believe they have personally experienced discriminatory or personal harassment will be accepted for investigation. A friend, a witness, or other third party (including a member of the harassment committee) may not submit a formal complaint on your behalf.

All formal complaints that meet the filing criteria will be investigated promptly, with appropriate confidentiality and discretion. More information on how a complaint will be handled is contained in the Procedures section of the Harassment Policy.

## Additional points

### Keep a record of the incident(s)

We recommend that you keep a record of the incident or incidents (dates, times, locations, possible witnesses, what happened, and your responses). A full record of events is not required to file a complaint, but it may assist in establishing your case and help you to remember details as time passes.

### Witnesses

Colleagues and witnesses are encouraged to bring incidents of harassment that they observe to the attention of the Chair of or a member of the Harassment Committee. However, no investigation under the Harassment Policy will occur without the receipt of a written complaint from the employee allegedly being harassed.

### Professional counselling

You have the option of contacting an Employee and Family Assistance Program (EFAP) counsellor. EFAP counsellors are trained professionals and can provide valuable and confidential assistance over the telephone or in person.

### Other options

You have the option of filing a complaint of harassment with the BC Human Rights Tribunal and the police, if the circumstances warrant it.



