



National  
Defence

Défense  
nationale

A-PM-007-000/FP-001

# HARASSMENT PREVENTION AND RESOLUTION INSTRUCTIONS

(Available in French)

**(Supersedes A-PM-007-000/FP-001 dated 2002-05-01 and Change 1 dated 2004-15-07)**

Issued on Authority of the Chief of the Defence Staff

OPI: DHRD  
DCLR

2017-01-27

## Contents

<b>PART 1 POLICY</b> .....	<b>6</b>
1.1 INTRODUCTION.....	6
1.2 POLICY – APPLICATION .....	7
1.3 WORKPLACE CONFLICT AND HARASSMENT .....	7
1.4 INITIATION RITES.....	7
1.4.1 Policy.....	7
1.4.2 Commanding Officer’s (CO’s) Role.....	8
1.5 VIOLENCE IN THE WORKPLACE VS HARASSMENT .....	8
<b>PART 2 HARASSMENT PREVENTION</b> .....	<b>9</b>
2.1 GENERAL.....	9
2.2 L1 HARASSMENT PLAN.....	9
2.3 EDUCATION AND TRAINING .....	9
2.3.1 Mandatory training .....	9
2.4 OBLIGATIONS OF MANAGERS/SUPERVISORS AND DND EMPLOYEES AND CAF MEMBERS.....	10
2.4.1 Managers and Supervisors Obligations .....	10
2.4.2 DND Employees and CAF Member’s Obligations .....	10
<b>PART 3 ROLES AND RESPONSIBILITIES</b> .....	<b>12</b>
3.1 INTRODUCTION.....	12
3.2 ASSISTANT DEPUTY MINISTER (HUMAN RESOURCES CIVILIAN (ADM (HR-CIV)) AND CHIEF OF MILITARY PERSONEL (CMP)).....	12
3.2.1 ADM(HR-CIV)/Director General Workplace Management (DGWM)/ Director Civilian Labour Relations (DCLR) .....	12
3.2.2 CMP/ Director General Military Personnel (DGMP) / Director Human Rights and Diversity (DHRD) .....	13
3.3 LEVEL ONE ADVISORS AND COMMANDERS OF COMMANDS.....	13
3.3.1 General .....	13
3.3.2 Specific.....	13
3.4 LEVEL ONE HARASSMENT ADVISORS (L1 HA) .....	14
3.4.1 General .....	14
3.5 RESPONSIBLE OFFICERS .....	14
3.5.1 ROs : .....	14
3.5.2 Responsibilities .....	15
3.6 UNIT HARASSMENT ADVISORS (HA) AND LABOUR RELATIONS OFFICERS (LRO) .....	17
3.6.1 Responsibilities .....	17
3.6.2 Complaints .....	17
3.7 POTENTIAL FOR CONFLICT OF INTEREST .....	19
3.8 THE ROLE OF THE WORKPLACE RELATIONS ADVISOR.....	19
3.9 COMPLAINANT.....	19
3.9.1 Rights .....	19
3.9.2 Responsibilities .....	20

**3.10 RESPONDENT ..... 20**

3.10.1 Rights ..... 20

3.10.2 Responsibilities ..... 21

**3.11 ASSISTANTS AND UNION REPRESENTATIVES..... 21**

3.11.1 Selection and Appointment ..... 21

3.11.2 Role ..... 22

**3.12 HARASSMENT INVESTIGATORS ..... 22**

**3.13 SOURCES OF INFORMATION FOR CAF MEMBERS AND DND EMPLOYEES ..... 22**

**PART 4 COMPLAINT SUBMISSION AND ASSESSMENT ..... 23**

**4.1 BASIC PRINCIPLES: ..... 23**

**4.2 SUBMITTING A COMPLAINT ..... 23**

4.2.1 Elements of a Complaint ..... 23

4.2.2 New Facts ..... 24

4.2.3 Receiving a Complaint ..... 24

**4.3 RO’S INITIAL ACTION ..... 24**

**4.4 SEPARATING THE PARTIES..... 24**

**4.5 SITUATIONAL ASSESSMENT (SA)..... 25**

**4.6 CRITERIA OF THE DEFINITION ..... 26**

4.6.1 Repetitious behaviour versus single event ..... 26

4.6.2 Intention ..... 26

4.6.3 Reasonableness ..... 26

4.6.4 One single incident..... 27

**4.7 HARASSMENT CRITERIA MET ..... 27**

**4.8 HARASSMENT CRITERIA NOT MET ..... 27**

**4.9 POSSIBLE CRIMINAL ACT OR BREACH OF THE NDA..... 28**

4.9.1 DND Employees..... 28

4.9.2 CAF Members ..... 28

**4.10 HARASSMENT COMPLAINT AGAINST ANOTHER INDIVIDUAL IN THE WORKPLACE FOR INPROPER CONDUCT ON SOCIAL MEDIA ..... 28**

**4.11 COMPLAINTS INVOLVING MORE THAN ONE UNIT ..... 29**

**4.12 COMPLAINTS INVOLVING OTHER DEPARTMENTS/ORGANIZATIONS..... 29**

**4.13 CONTRACTORS ..... 29**

**4.14 MULTIPLE COMPLAINTS ..... 29**

**4.15 COMPLAINTS INVOLVING MORE THAN ONE POLICY ..... 29**

4.15.1 Personnel Support Program (PSP) ..... 29

4.15.2 Violence in the Workplace ..... 30

**4.16 COINCIDENTAL COMPLAINTS AND GRIEVANCES ..... 30**

4.16.1 DND Employees..... 30

4.16.2 CAF Members ..... 30

**4.17 BAD FAITH COMPLAINTS..... 30**

**4.18 TIMELINES ..... 31**

**4.19 HARASSMENT COMPLAINT FILE ADMINISTRATION ..... 31**

**4.20 MONITORING AND REPORTING ..... 31**

**4.21 LEGAL ASSISTANCE/ADVICE ..... 31**

**PART 5 COMPLAINT RESOLUTION – INFORMAL AND ALTERNATIVE DISPUTE RESOLUTION (ADR)..... 32**

**5.1 NOTICE OF DISSATISFACTION (NOD) (CAF MEMBERS ONLY)..... 32**

5.1.1 Purpose ..... 32

5.1.2 Guidelines ..... 32

**5.2 ALTERNATIVE DISPUTE RESOLUTION..... 32**

**5.3 SELF-HELP ..... 33**

**5.4 SUPERVISOR INTERVENTION..... 33**

**5.5 MEDIATION ..... 34**

5.5.1 Overview ..... 34

5.5.2 Mediators ..... 34

5.5.3 Other Interested Parties ..... 34

5.5.4 Security and handling of Information ..... 34

5.5.5 Resolution Procedures..... 35

**5.6 ADMINISTRATIVE CLOSURE ..... 35**

**PART 6 COMPLAINT RESOLUTION – ADMINISTRATIVE/HARASSMENT INVESTIGATION ..... 36**

**6.1 GENERAL..... 36**

**6.2 RO’S DECISION BASED ON EVIDENCE, NOT REQUIRING AN INVESTIGATION..... 36**

6.2.1 Decision to Conduct an Investigation – Some of the Key Factors for Consideration (List is not Exhaustive):..... 36

**6.3 HARASSMENT INVESTIGATORS (HI) ..... 36**

6.3.1 Selection ..... 36

6.3.2 Roles and Responsibilities ..... 37

6.3.3 Terms of Reference (TOR) for Administrative/Harassment Investigations..... 37

**6.4 STAGES OF AN ADMINISTRATIVE/HARASSMENT INVESTIGATION..... 38**

**6.5 INVESTIGATOR’S REPORTS ..... 38**

6.5.1 Overview ..... 38

6.5.2 Draft Report..... 38

6.5.3 Final Report..... 39

**6.6 THE RO’S DECISION..... 39**

**6.7 ADMINISTRATIVE CLOSURE..... 39**

**6.8 INVOLUNTARY DEPLOYMENT OF DND EMPLOYEE FOLLOWING A FOUNDED HARASSMENT COMPLAINT. .... 40**

**6.9 OVERTURNED DECISIONS (CAF MEMBERS)..... 40**

**6.10 MONITORING AFTER CLOSURE OF COMPLAINT ..... 40**

**6.11 GRIEVING THE DECISION ..... 40**

**PART 7 RE-ESTABLISHING POSITIVE WORKING RELATIONSHIPS..... 41**

**7.1 OPTIONS ..... 41**

**7.2 RUMOURS AND SPECULATION..... 41**

**PART 8 DISCLOSURE, SECURITY AND PRIVACY ..... 42**

**8.1 DISCLOSURE..... 42**

**8.2 PRIVACY ..... 43**

**8.3 CORRESPONDENCE AND DOCUMENTATION ..... 43**

**PART 9 MILITARY AND CIVILIAN DIFFERENCES ..... 44**

**9.1 MILITARY AND CIVILIAN DIFFERENCES ..... 44**

**PART 10 DEFINITIONS..... 45**

**ANNEX A ..... 47**

Submit this report to ..... 50

**ANNEX B ..... 54**

**ANNEX C ..... 57**

**ANNEX D ..... 58**

**ANNEX E ..... 61**

**ANNEX F ..... 63**

**ANNEX G..... 66**

**ANNEX H ..... 67**

## PART 1

### POLICY

#### 1.1 INTRODUCTION

The Deputy Minister and the Chief of Defence Staff have obligations, responsibilities and accountability to provide a harassment-free workplace and supportive work environment. On their behalf, the Chief Military Personnel (CMP) and the Assistant Deputy Minister (Human Resources – Civilian) (ADM (HR-Civ)) have issued the Harassment Prevention and Resolution Policy (DAOD 5012-0) and these procedural instructions, in support of these responsibilities. The Department of National Defence/Canadian Armed Forces (DND/CAF) Policy and Instructions flow directly from and are consistent with the Treasury Board of Canada Secretariat Policy on the Prevention and Resolution of Harassment in the Workplace. In order to better serve our needs, the expanded DND/CAF Policy and Instructions apply in preventing and resolving harassment in the workplace.

**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 an offence for which a pardon has been granted or in respect of which a record suspension has been ordered. These are referred to as prohibited grounds. The Treasury Board Secretariat (TBS), DND and the CAF go beyond this requirement by addressing other types of workplace harassment and by focusing on the prevention and prompt resolution of harassment situations.

DND and the CAF affirm that a work environment that fosters teamwork and encourages individuals to contribute their best effort in order to achieve Canada's defence objectives is essential. Mutual trust, support and respect for the dignity and rights of every person are essential characteristics of this environment. Not only is harassment in certain forms against the law, but it 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 Instructions provide procedural direction in support of the Harassment Prevention and Resolution Policy (DAOD 5012-0) and must be used in conjunction with the Policy in preventing, addressing and resolving harassment situations.

DND and the CAF are committed to providing a respectful workplace promoting the prevention and prompt resolution of harassment. All members and employees 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. Any person who has been found to have harassed another person may be subject to administrative and/or disciplinary action.

The emphasis of the Policy and these Instructions is on the prevention and resolution of harassment. DND and the CAF are committed to preventing harassment and resolving harassment situations, where they exist. It is everyone's responsibility to ensure that the workplace is free of harassment.

It is the responsibility of all those involved in the processing of a complaint to ensure that a person does not suffer any prejudice, retaliation, or embarrassment as a result of submitting a complaint. Retaliation against any individual for reporting harassment shall not be permitted nor 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 and/or administrative action.

The Harassment Prevention and Resolution Policy (DAOD 5012-0) and these Harassment Prevention and Resolution Instructions must be read in conjunction with *the DND/CAF Code of Value and Ethics* and the DND/CAF Alternative Dispute Resolution mechanisms.

## **1.2 POLICY – APPLICATION**

Every person who works in the DND/CAF workplace, regardless of their organizational membership, is to be treated with dignity and respect and has the right to expect this treatment. The Policy, as well as these Instructions and all the rights, obligations and responsibilities contained in these procedures, apply to DND employees and CAF members.

Any DND employee or CAF member may submit a complaint under the Harassment Prevention and Resolution Policy and these Harassment Prevention and Resolution Instructions. However, a complaint will not be dealt with under this procedure unless it is made in writing. In addition, the complaint must be submitted within one year of the occurrence of last incident or, within a longer period such as considered appropriate by the Responsible Officer (RO) under the circumstances, to ensure fairness to the parties and the best interests of DND/CAF.

Notwithstanding the above, complaints against current DND employees or CAF members, from individuals other than DND employees or CAF members, should be treated in accordance with the spirit and principles of these Instructions. Further, it is expected that every person who works in the DND/CAF workplace will adhere to the principles enunciated in the Harassment Prevention and Resolution Policy. The appropriate DND/CAF authorities that are involved in the formal engagement of services should ensure that this expectation of required behaviour and treatment of others is clearly understood by such persons immediately upon the commencement of their employment in the DND/CAF workplace. In the case of contracted individuals, for instance, the contract for their services should specifically include a clause requiring their adherence to the Harassment Prevention and Resolution Policy.

In this document, users are given instruction on resolution methods and investigation procedures. Where such resolution methods and investigation procedures are impractical due to operational reasons, the spirit and principles of these Instructions must be applied.

## **1.3 WORKPLACE CONFLICT AND HARASSMENT**

DND and the CAF recognize 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, this type of situation must be promptly addressed and resolved.

Conflict in the workplace can range from private verbal disagreements to extreme behaviours such as yelling and shouting, threats and even physical assault. It can result from personality differences or from a lack of communication, 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. As per DAOD 5012-0, Section 3.4, steps must be taken by the Chain of Command/senior management to address conflict situations, specifically those that could lead to harassment.

## **1.4 INITIATION RITES**

### **1.4.1 Policy**

Participation in unauthorized initiation rites, such as hazing ceremonies, and in competitions based on drinking of alcoholic beverages, tends to be based on coercion, either expressed or implied. Such activities constitute harassment.

The following practices are prohibited:

- a) competitions involving drinking of alcoholic beverages; and
- b) all initiation rites, unless authorized by a CO (as per Annex C ).

#### **1.4.2 Commanding Officer's (CO's) Role**

Unauthorized initiation rites or activities are forbidden. A CO may pre-approve, in writing, activities that will not harm or humiliate participants. A CO who authorizes an initiation rite shall ensure that:

- a) He/she has signed the form at Annex C acknowledging and sanctioning the activity. The original signed form is to be forwarded to DHRD prior to the activity taking place to ensure appropriate safeguards are put in place;
- b) the activity will be both conducted and supervised by senior personnel;
- c) no person is, or will be, coerced, either expressly or implicitly, into participation in the activity;
- d) the activity does not include acts of violence, however minor, nudity, or competitions involving the drinking of alcoholic beverages; and
- e) all activities conducted are consistent with the promotion of morale and esprit de corps and are conducted with respect for the dignity of all participants.

#### **1.5 VIOLENCE IN THE WORKPLACE VS HARASSMENT**

Harassment is not necessarily in and of itself an act of violence as some behaviours associated with harassment do not present a danger or cause harm in the form of injury or illness. However, harassment may be a risk factor or may lead to acts of workplace violence. Hence an allegation may be both simultaneously. Consequently, it is very important that the DND and CAF promptly and fully address all allegations of harassment since, at the very least, harassment can be a precursor to violence.

Sexual and physical assaults are defined in the *Criminal Code* and other offences of violence are also defined in the *National Defence Act*. Such acts are dealt with under that legislation. Any DND employee or CAF member who has been subjected to an act of violence should seek assistance immediately by contacting their supervisor and/or the police/Military Police.

It is important to note that if an RO or manager receives a Violence in the Workplace complaint, he or she must follow the procedures specified under the *DND/CAF Violence in the Workplace* program to handle the complaint. For further information on the *DND/CAF Violence in the Workplace* program refer to the *General Safety Program, Vol 1, Chapter 6; Occupational Safety, Section 5; Prevention of Violence in the Workplace*.



## HARASSMENT PREVENTION

### 2.1 GENERAL

Sound leadership at all levels is essential to the creation and maintenance of a supportive work environment and effective team work in order to prevent harassment. All persons in the DND/CAF Defence Team should be aware of the evolution of our workplace within society, as seen in its increased cultural richness and changing norms. They also have a responsibility to deal with interpersonal issues/conflict as soon as they arise.

One of the most important factors in preventing and dealing with harassment is the development and maintenance of a positive and supportive ethical climate. The ideal organizational foundation is one of respect for the rights and dignity of others, rather than fear of punishment. Creating this ethical foundation is a direct obligation of leadership. The Defence Ethics Programme requires leaders to act ethically and to build ethical organizations. As specified in the *DND and the CAF Code of Values and Ethics*, this entails treating every person with respect and fairness and maintaining a workplace that is free from harassment and discrimination.

### 2.2 L1 HARASSMENT PLAN

The success rate of preventing a conflict and/or harassment situation increases when prevention strategies have been put into practice. However, positions, duties and workplace environments differ throughout the Department and as such a one size fits all harassment prevention strategy may not necessarily be successful. Consequently, each Level One (L1) organisation will create a Harassment Prevention Strategy as well as an Implementation Plan which is tailored to their organisation's requirements. L1s should review and update their Harassment Prevention Strategy and Implementation Plan regularly to ensure they are meeting their organization's unique needs. Detailed information on the establishment of a baseline DND/CAF Harassment Prevention Strategy will be published and made available on the harassment website when promulgated. For CAF members, Director Human Rights & Diversity of CMP will periodically review L1 Harassment Prevention Strategies to provide oversight of the DND/CAF Harassment Policy as well as its implementation. For DND employees, Director General Workplace Management (DGWM) will provide annual feedback to L1s on the effectiveness of their Harassment Prevention Strategy and Implementation Plan based on specific indicators. When the L1's target goals have not been met, DGWM may give assistance in designing interventions activities to address particular shortcomings.

### 2.3 EDUCATION AND TRAINING

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

#### 2.3.1 Mandatory training

##### 2.3.1.1 DND EMPLOYEES

DND employees are required to have taken the Learning and Career Centre's (LCC) Harassment Prevention for employees' course, or a similar course offered by another department at least once in their career. New Public Service employees must be enrolled in the LCC's Harassment Prevention course for employees.

All employees exempted from attending the LCC course for the reason described in the above paragraph must partake in the employee refresher course following their appointment to the department.

All current DND employees are required to take the employee harassment refresher course every five years following the date of the most recent harassment training received.

### **2.3.1.2 SUPERVISORS OF DND EMPLOYEES**

All Supervisors of civilian employees, both military and civilian, must enrol in the Learning and Career Centre's Harassment Prevention and Resolution for Supervisors.

### **2.3.1.3 CAF MEMBERS**

CAF members must receive harassment awareness training upon entering the CAF as part of their basic qualification training as well as throughout leadership courses within the different developmental periods in their career. In addition, annual unit harassment awareness training must be provided to ensure ongoing awareness and prevention.

## **2.4 OBLIGATIONS OF MANAGERS/SUPERVISORS AND DND EMPLOYEES AND CAF MEMBERS**

### **2.4.1 Managers and Supervisors Obligations**

Supervisors and managers at all levels have the responsibility to ensure that required tasks are accomplished in a healthy and harassment-free work environment. They must also work to prevent harassment among DND employees and CAF members under their direction and must be alert to symptoms of possible harassment in the workplace. Rumours, increased absenteeism, decreased motivation, lower job performance and staff turnover may indicate that conflict and/or harassment is taking place. Supervisors and managers have a critical role to play in fostering the positive work environment that DND and the CAF 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 potential harassment and/or conflict situations at an early stage.

### **2.4.2 DND Employees and CAF Member's Obligations**

All DND employees and CAF members have a responsibility to contribute to a harassment-free workplace. All persons have the right to be treated fairly and respectfully. Each employee and member also has the responsibility to treat everyone in a manner that respects individual differences. Therefore, dignity and respect are the cornerstones of a respectful work environment.

In support of the overall objective for a respectful work environment, all persons in the DND/CAF have a role to play. This includes:

- a) refraining from conduct that could constitute harassment;
- b) correcting or reporting any possible harassment that they witness;
- c) taking action when they believe they are being subjected to harassment;
- d) encouraging and supporting others to take action in similar circumstances, and
- e) encouraging the use of early conflict resolution processes as appropriate.

## **PART 3**

### **ROLES AND RESPONSIBILITIES**

#### **3.1 INTRODUCTION**

In addition to the roles and responsibilities identified in the DAOD 5012-0 Responsibility Table for the key roles in a harassment prevention and resolution, the following are the responsibilities within each organization and L1.

#### **3.2 ASSISTANT DEPUTY MINISTER (HUMAN RESOURCES CIVILIAN (ADM (HR-CIV)) AND CHIEF OF MILITARY PERSONEL (CMP)**

##### **3.2.1 ADM(HR-CIV)/Director General Workplace Management (DGWM)/ Director Civilian Labour Relations (DCLR)**

###### **3.2.1.1 GENERAL**

- a) is responsible for the Harassment Prevention and Resolution Policy for DND employees;
- b) reports on behalf of DND on matters of harassment to Parliament, Media Inquiries, Ombudsman, Grievance Authority, etc.; and
- c) is responsible to assist L1 Harassment Advisors, other federal government departments etc. with policy interpretation on complex cases.

###### **3.2.1.2 SPECIFIC**

- a) establish the Policy and Instructions on harassment prevention and resolution;
- b) oversee the effectiveness of DAOD 5012-0 for DND employees;
- c) oversee Level 1 Harassment Prevention Plan and the application of DAOD 5012-0 and these Instructions;
- d) establish the harassment prevention training standards for new employees and supervisors of civilian employees, as well as the Harassment Advisor for LRO's course;
- e) provide subject matter input into (Canadian Forces Individual Training Education System (CFITES) courses on the topic of harassment (for example, HA, HI, WRA etc.) and on Qualification Standards and Training Plans.

### **3.2.2 CMP/ Director General Military Personnel (DGMP) / Director Human Rights and Diversity (DHRD)**

#### **3.2.2.1 GENERAL**

- a) is responsible for the Harassment Prevention and Resolution Policy in the CAF;
- b) reports on behalf of the CAF on matters of harassment to Parliament, Media Inquiries, Ombudsman, Grievance Authority, etc.; and
- c) is responsible to assist L1 Harassment Advisors, other federal government departments etc. with policy interpretation on complex cases.

#### **3.2.2.2 SPECIFIC**

- a) establish the Policy and Instructions on harassment prevention and resolution;
- b) oversee the effectiveness of DAOD 5012-0 for CAF members;
- c) oversee Level 1 Harassment Prevention Plan, and the application of DAOD 5012-0, and these Instructions; and
- d) provide subject matter input into CFITES courses on the topic of harassment (for example, HA, HI, WRA etc.) specially on Qualification Standards and Training Plans.

### **3.3 LEVEL ONE ADVISORS AND COMMANDERS OF COMMANDS**

#### **3.3.1 General**

- a) The L1 Authority's primary responsibility is to oversee the implementation of the Harassment Prevention and Resolution Policy and Instructions within their organizations; and
- b) L1 Authority will appoint an L1 HA and will ensure the HA has the appropriate qualifications to assist in the L1s coordination of prevention & resolution activities.

#### **3.3.2 Specific**

- a) Develop and submit annually, upon request, Harassment Prevention & Resolution Harassment Prevention Plan to DHRD and DCLR;
- b) ensure appropriate L1 harassment policy prevention activities are conducted annually;
- c) ensure appropriate measures (MOUs, etc) are in place for personnel serving outside of Canada (i.e. OUTCAN, operations, etc) in terms of harassment prevention and resolution;
- d) oversee the Harassment Prevention and Resolution administration and the reporting of statistics in the electronic database;
- e) ensure the promotion of ADR as a key process in resolving workplace conflicts;
- f) ensure proper procedures are followed regarding the administration of the complaint files;
- g) ensure that HAs/HIs have the appropriate qualifications in their units; and

- h) seek advice from policy OPIs on unique harassment situations, when required.

### 3.4 LEVEL ONE HARASSMENT ADVISORS (L1 HA)

#### 3.4.1 General

- a) participate in additional periodic training provided by policy OPIs;
- b) assist the L1 Authority in the prevention and resolution of harassment in their L1;
- c) maintain a current list of all unit HAs and HIs in their respective L1 organization;
- d) review that the list of HAs/HIs to ensure they have the appropriate qualifications;
- e) regularly liaise with unit HAs (i.e. through email/annual gatherings/community of practise/L1 Website updates);
- f) ensure unit harassment complaint file copies are compliant with Defence Subject Classification and Disposition System (DSCDS)<sup>1</sup>;
- g) act as the Point of Contact for the unit ROs and unit HAs;
- h) participate in annual Harassment Prevention networking sessions with Policy OPIs in accordance with DAOD Authorities Table;
- i) liaison with other L1 HAs as appropriate;
- j) ensure awareness of policy/program is maintained (websites, articles etc.) within their L1 organisation; and;
- k) seek advice from policy OPIs (military and civilian) on unique harassment situations when required.

### 3.5 RESPONSIBLE OFFICERS

#### 3.5.1 ROs are:

- a) a director general at National Defence Headquarters;
- b) a superior of a director general at National Defence Headquarters in the case of a complaint of harassment involving a director general or superior of a director general;
- c) an officer commanding a command or formation
- d) a chief of staff or equivalent officer at a command or formation if directed by the applicable commander;
- e) a commanding officer of a formation headquarters if directed by the formation commander in the case of any complaint of harassment made by a CAF member;
- f) any other commanding officer; or
- g) a senior civilian manager who is a head of a lodger or integral unit in a region or formation.

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<sup>1</sup> DSCDS: <http://img-apps.ottawa-hull.mil.ca/DSCDS/>

### 3.5.2 Responsibilities

ROs have overall managerial and leadership responsibility for ensuring that DND employees and CAF members work in a harassment-free workplace. Harassment prevention is an integral part of a RO's leadership and managerial role.

#### 3.5.2.1 General Responsibilities include:

- a) focussing on harassment prevention, the creation of a respectful workplace and early resolution of complaints;
- b) overseeing harassment prevention in their units, including the provision of annual unit harassment awareness training and policy-related communication initiatives;
- c) informing and reminding new and current employees/members of their rights and responsibilities under the DND/CAF Harassment Prevention and Resolution Policy and Instructions;
- d) ensuring and verifying that all new employees and members have received harassment awareness training;
- e) intervening promptly to resolve any apparent harassment situations that they become aware of, whether or not a complaint has been made;
- f) ensuring that supervisors receive appropriate guidance, support and training in carrying out responsibilities under the DND/CAF Harassment Prevention and Resolution Policy and Instructions on the resolution of harassment complaints;
- g) ensuring and approving the selection of HAs for the units under their responsibility and ensuring the availability of their services when required;
- h) ensuring that HAs and Investigators are made available for, and receive, appropriate training;
- i) ensuring that persons are available and trained to provide information on DND/CAF Harassment Prevention and Resolution Policy and Instructions to members and employees of their organization and that such information is disseminated (see Section 3.14, Sources of Information for Members and Employees).
- j) implementing their respective L1 Harassment Prevention Harassment Prevention Plan;
- k) ensuring collective agreements are respected whenever dealing with a harassment situation involving DND employees; and;
- l) responding to CMP/DHRD and ADM (HR-Civ)/DCLR requests for information on individual harassment complaint files.

#### 3.5.2.2. Specific responsibilities include:

- a) ensuring that harassment complaints are dealt with appropriately and expeditiously in accordance with DAOD 5012-0 and these Instructions;
- b) ensuring that the Situational Assessment (SA) is completed and sent to both the Complainant and Respondent within 14 calendar days following the receipt of the complaint. If the RO is unable to complete the SA within 14 calendar days, he or she must inform both the Complainant and Respondent of the delay and advise them of the new completion date. If after 21 calendar days of submitting the complaint, the complainant has not received any communication from the RO regarding the completion of the SA, he or she can advise the next level in the Chain of Command (CoC). The CoC may then

- decide to direct the RO to complete the SA or take any action deemed appropriate and IAW these Instructions;
- c) ensuring that parties are aware of, and are offered, ADR so that every effort is made to resolve harassment situations/complaints through early intervention techniques;
  - d) when harassment has not been founded but a workplace conflict exists, taking appropriate measures to resolve the workplace conflict. The RO will ensure a proper examination is made of the workplace conflict allegation(s) and will ensure the findings of this are documented in the CAF member's or DND employee's complaint file;
  - e) ensuring that the persons involved in a situation or complaint are treated fairly ensuring that the Respondent to a complaint is informed promptly that a complaint has been filed and is provided with the allegations in writing.
  - f) 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 ADR Minutes of Settlement;
  - g) appointing Assistants for military Complainants and Respondents;
  - h) respecting the role of union representation in providing assistance to civilian employees;
  - i) providing support to unrepresented and excluded employees in finding someone to accompany them;
  - j) convening administration/harassment investigations where required and ensuring that they are conducted fairly, sensitively, impartially and completely and rendering decisions based on their findings;
  - k) ensuring that the Complainant and Respondents are advised in writing of the results of an investigation;
  - l) determining whether the Complainant and the Respondent should be physically and/or hierarchically separated from each other for the period of the resolution;
  - m) determining the necessary corrective, remedial and restorative actions to be taken to resolve a situation or complaint, whether it is founded or not;
  - n) monitoring the situation afterwards to ensure that corrective measures have been effective and that problems are not recurring;
  - o) treating all information regarding the complaint and resolution process in a discreet and sensitive manner and in accordance with the proper handling of classified information and the *Privacy Act*;
  - p) ensuring all complaints are entered into the DND/CAF electronic online database (see Annex F, Appendix II);
  - q) maintaining records of employees and members who have received any type of harassment training;
  - r) maintaining a file on every harassment complaint for the period of time as per DSCS guidelines (see Annex F, Appendix I); and
  - s) being alert to the possibility of retaliation against any individual involved in a harassment complaint and taking 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.



### **3.6 UNIT HARASSMENT ADVISORS (HA) AND LABOUR RELATIONS OFFICERS (LRO)**

Harassment Advisors (HA) and Labour Relations Officers (LRO) play a key role in advising the Responsible Officer (RO) when dealing with harassment complaints. The HA advises the RO when a complaint involves CAF members and the LRO advises the RO when a complaint involves DND employees. The HA is also the advisor for the coordination of harassment and prevention programs within their unit.

#### **3.6.1 Responsibilities**

##### **3.6.1.1 Prevention and Awareness**

Harassment Advisors (HAs) must be appointed by the Responsible Officer to assist him/her in the coordination of unit harassment awareness and prevention programs within their unit for both CAF and DND employees. Responsibilities include:

- a) ensuring comprehensive and ongoing prevention strategies are in place within their unit;
- b) ensuring posters and other communication materials are distributed within their units;
- c) assisting the RO to ensure that CAF members and DND employees have had their respective mandatory harassment prevention and resolution training; and
- d) liaising and/or consulting with L1 HAs as appropriate.

#### **3.6.2 Complaints**

##### **3.6.2.1 Involving only CAF Members (Harassment Advisor)**

When a complaint involves only CAF members, the HA is the advisor to the Responsible Officer. Responsibilities include:

- a) receiving harassment complaints and forwarding, without delay, the complaint to his/her RO;
- b) providing advice to ROs on applying the Policy and Instructions to specific harassment situations;
- c) 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;
- d) assisting in the identification, contracting and/or selection of Harassment Investigators where it is deemed that a formal investigation is required and assist in the development of Terms of Reference where a formal administrative/harassment investigation is deemed required;
- e) ensuring the maintenance of files and statistical information held in the electronic tracking system (see Section 4.19 - Harassment Complaint File Administration and Annex F);
- f) advising RO of appropriate administrative or disciplinary action when a complaint has been founded; and
- g) liaising with their L1 HA or other HA's when requiring advice.

### 3.6.2.2 Complaint involving only DND Employees (Labour Relations Officers)

Labour Relations Officers (LRO) are specifically trained to provide advice and guidance to ROs throughout a resolution process in which DND employees are involved.

Because of their expertise in civilian human resources issues and the legislative and administrative framework surrounding those issues, LROs can provide meaningful assistance to supervisors and ROs in determining appropriate action to resolve conflicts and complaints. Consequently, when a complaint involves only DND employees, the LRO is the advisor to the Responsible Officer. Their responsibilities include:

- a) Receiving harassment complaints and forwarding, without delay, the complaint to his/her RO;
- b) Providing advice to ROs on applying the Directive and Instructions to specific harassment situations;
- c) 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;
- d) Assisting in the identification or contracting of Harassment Investigators where it is deemed that a formal investigation is required and assist in the development of Terms of Reference where a formal administrative/harassment investigation is deemed required;
- e) Ensuring the maintenance of files and statistical information held in the electronic tracking system (see Section 4.19 - Harassment Complaint Files Administration);
- f) Advising RO on appropriate administrative or disciplinary action when a complaint has been founded; and
- g) Liaising with other LROs when requiring advice.

### 3.6.2.3 COMPLAINT INVOLVING BOTH CAF MEMBERS AND DND EMPLOYEES (HARASSMENT ADVISOR AND LABOUR RELATIONS OFFICER)

When a complaint involves both a CAF member and a DND employee the HA and LRO will both be advisors to the RO. They will work collaboratively to ensure that the rights of both the CAF member and DND employee are respected. The RO will decide who between the LRO and the HA will take the lead on administering the complaint.

### 3.6.2.4 HA/LRO TRAINING, SKILLS AND ATTRIBUTES

ROs must ensure that HAs are properly trained and have successfully undergone the approved CAF/DND harassment advisor training prior to advising on any complaints. LROs must have successfully completed the LRO Harassment training before providing advice to an RO. HAs and LROs should attend *Privacy/Access to Information Act* training to ensure they are compliant with those regulations.

In appointing HAs, ROs should consider the following skills and attributes (for more detailed information refer to Annex D):

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

### **3.7 POTENTIAL FOR CONFLICT OF INTEREST**

The role of an HA/LRO is to advise the RO. However, due to a potential for real or perceived conflicts of interest, HA/LRO do not advise or assist individual civilian employees or CAF members who have lodged, or who are responding to, a complaint. However, they may provide general information concerning the Harassment Prevention and Resolution Policy and Instructions to the Assistants and representatives who are assisting individual Complainants and Respondents. Provided it is not a conflict of interest for them to do so, the HA/LRO may also provide information to persons in a position of responsibility on a need to know and as required basis.

### **3.8 THE ROLE OF THE WORKPLACE RELATIONS ADVISOR**

Some Commands and Groups have adopted the term "Workplace Relations Advisor" (WRA) to describe an HA trained individual not acting in the role of HA who assists the HA in the coordination of awareness and prevention programs. Whereas the Instructions (Section 3.4) indicate that the HA provides advice to the RO and supervisors, the WRA can be a source of information on prevention activities for DND employees and CAF members.

The WRA is not involved in the details of the ongoing complaints but only assists in policy/instructions guidance. The role of providing advice to Complaints/Respondents is the responsibility of the Assistant or the union representative (see Section 3.12 Assistant) In some cases, a WRA may be appointed as an assistant for the respondent and/or complainant. However once they are appointed, they are no longer considered to be acting in the WRA role. ROs must ensure there is no real or perceived conflict of interest when this occurs.

### **3.9 COMPLAINANT**

#### **3.9.1 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) have receipt of their complaint acknowledged within five working days of its submission to the RO;
- d) receive a completed SA within 14 calendar days of the submission of the complaint. If a Complainant is not informed in writing by the RO that there are delays which are preventing

the RO from completing the SA, the Complainant may advise the next level in the Chain of Command (CoC) if they have not received a response from the RO after 21 calendar days following the submission of their complaint.

- e) to be assisted, as outlined in Section 3.12, Role of the Assistant;
- f) to be advised that a written complaint will not be placed on their departmental personnel file;
- g) to obtain information about the review of their complaint, including being provided a copy of the final investigation report if applicable and subject to the protection provisions required by the Privacy Act; and
- h) to be informed of any corrective, administrative and disciplinary measures implemented as a result of a founded complaint, subject to the protection provisions required by the Privacy Act, if the RO believes that it will assist in bringing closure to the file.

### **3.9.2 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, to facilitate assessment and resolution of the complaint and to do so in writing;
- d) to ensure that the complaint does not contain language or comments that are insubordinate or otherwise constitute a breach of discipline, unless the language or comments are necessary to state circumstances surrounding the harassment situation;
- 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 obtain information about the review of their complaint, including being provided a copy of the final investigation report if applicable and subject to the protection provisions required by the Privacy Act;
- g) 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
- h) 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.

## **3.10 RESPONDENT**

### **3.10.1 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 provided with the written allegations and adequate time to respond to those allegations;
- d) to be assisted, as outlined in Section 3.12, Role of the Assistant;
- e) to know that documentation related to the complaint is not placed on their departmental personnel file, if the complaint is not founded;
- f) to obtain information related to the review of the complaint, subject to the protection provisions required by the Privacy Act and

### **3.10.2 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 his or her response and the resolution of the complaint and to do so in writing within the timeframe as requested by the RO. **Note:** the written response will only be considered after the Situational Assessment has been completed;
- 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;
- 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; and,
- f) the respondent is not to interfere with the process in any manner including speaking with or attempting to influence potential witnesses.

## **3.11 ASSISTANTS AND UNION REPRESENTATIVES**

### **3.11.1 Selection and Appointment**

#### **DND Employees**

DND Complainants and Respondents have the right to be accompanied during any resolution processes associated with a complaint by a person of their choice, provided the person is readily and locally available to do so.

It will be noted that ROs are not to appoint Assistants for DND employees as civilian employees have the responsibility to select a person of their choice and often ask a union representative to fulfil this role. However, ROs can appoint an assistant if requested by the employee.

#### **CAF Members**

CAF Complainants and Respondents have the right to be assisted during any resolution processes associated with a complaint by a person appointed by the RO, who is, if possible, a person of the Complainant's and Respondent's choice.

### **3.11.2 Role**

The role of Assistants is to support either the Complainant or 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 CAF/DND Harassment Prevention and Resolution Policy and Instructions;
- b) helping evaluate resolution options;
- c) helping prepare statements or material for presentation;
- d) accompanying the Complainant or Respondent to interviews, sessions or meetings associated with the resolution process in progress; and
- e) ensuring discussions between all the parties and information divulged during the harassment process remain confidential.

### **3.12 HARASSMENT INVESTIGATORS**

The Harassment Investigator (HI) is responsible for all matters associated with the handling and conduct of the investigation (see Part 6, Complaint Resolution – Administrative Investigation for Roles and Responsibilities for HIs and Annex D, Competency Profile for HIs). HIs are normally selected based on the Competency Profile listed for HIs. Any time a civilian DND Complainant or Respondent is involved in a complaint, the HI is required to meet the additional experience qualifications noted in Annex D

### **3.13 SOURCES OF INFORMATION FOR CAF MEMBERS AND DND EMPLOYEES**

ROs must ensure that persons are available and trained to provide information on the DND/CAF Harassment Prevention and Resolution Policy and Instructions to members and employees of their organization and to ensure that this source of information is well known (see Section 3.5.2, Responsibilities). This requirement exists as CAF members and DND employees 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 employees and members are aware of the source of information they may contact when in need of harassment related information. ROs may wish to designate specific individuals to perform this function and will ensure that these individuals are sufficiently trained to do so.

## PART 4

### COMPLAINT SUBMISSION AND ASSESSMENT

#### 4.1 BASIC PRINCIPLES:

When dealing with a harassment complaint, the RO must ensure adherence to the principles of procedural fairness which include:

- a) the Respondent's right to be informed of the allegation(s) made against him/her and a right to a reasonable opportunity to respond;
- b) the right to an impartial Investigator;
- c) the Complainant's and the Respondent's right to be heard (present their version of the facts) and to present evidence;
- d) the Complainant's and the Respondent's right to be accompanied (i.e. Assistants);
- e) the Complainant's, the Respondent's and Witnesses' right to review their statement to verify and confirm their accuracy; and
- f) the Complainant's and the Respondent's right to access and to rebut/respond to the findings before a final report is drafted.

#### 4.2 SUBMITTING A COMPLAINT

**For the formal complaint process to be initiated, a written complaint is required.** The complaint should convey a Complainant's specific concerns regarding an alleged harassment situation. A complaint can be submitted to the unit Harassment Advisor (HA) for CAF members or DND employees, or Labour Relations Officer (LRO) for DND employees only, or the RO in writing. In cases where the RO is the Respondent, the complaint should be submitted to the next superior in the chain of command.

##### 4.2.1 Elements of a Complaint

The Complainant is encouraged to express him/herself freely and should include the following elements in the complaint:

- a) name of Respondent(s);
- b) alleged behaviour(s) specifying approximate time, date and location of incident(s);
- c) Witnesses (if any);
- d) Complainant's perceptions; and
- e) Complainant's remedy/resolution sought.

The format of a written complaint is left to the Complainant's discretion however use of the Harassment Complaint Form (see Annex A) is strongly encouraged. A list of DND/CAF resources is provided at the end of the Complaint Form to provide general assistance/information and support to Complainants and Respondents.

#### 4.2.2 New Facts

Once a complaint has been submitted, a Complainant may only tender new facts/information to the RO if the facts were unknown, or could not reasonably have been known by the Complainant, at the time the complaint was submitted. The RO may take these new facts into consideration. Any new such information must be disclosed to the Respondent and the Respondent given an opportunity to respond/comment.

#### 4.2.3 Receiving a Complaint

The HA/LRO) who receives a complaint shall, within the scope of their authority, take immediate action to:

- a) forward, without delay, the complaint to his/her RO, attaching any comments deemed appropriate; and
- b) 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.

#### 4.3 RO'S INITIAL ACTION

On receipt of a complaint, the RO shall:

- a) ensure that any health and/or safety issues are addressed immediately;
- b) consult with appropriate advisors (if complaint only involves CAF members consult HAs; if only civilians involved consult LRO or if the complaint involves a CAF member and a DND employee consult both (HA/LRO));
- c) put a stop to any unacceptable or offensive behaviour that is still ongoing;
- d) ensure supervisor(s) where the alleged incident occurred are informed of the complaint and decide who else in the chain of command "needs to know" keeping in mind the sensitive nature and the confidentiality of the complaint;
- e) ensure that the written complaint is submitted within 12 months of the last incident or event of alleged harassment unless there are extenuating circumstances;
- f) acknowledge the receipt of the complaint. Under normal circumstances this should take place within five working days from the receipt of the complaint;
- g) ensure that the Complainant and the Respondent are informed of their rights and responsibilities; and
- h) ensure that parties are offered the options of informal resolution from the outset and throughout the process, unless inappropriate.

#### 4.4 SEPARATING THE PARTIES

In some cases, the RO will want to assess whether the parties should be physically or hierarchically separated from each other. Such a decision should be considered carefully, rationalized in writing, and included in the file for reference in the event that that action becomes the substance of a new complaint. Situations where separation could be considered include those where a high level of hostility exists between the parties such that unit productivity will be significantly affected or where one party is experiencing significant levels of fear of the other. However, this action should not be taken unless absolutely necessary because:



- a) Removing the Respondent from the workplace creates the appearance that he/she is being treated as “guilty” without proof;
- b) Removing the Complainant from the workplace results in an impression that the individual has been victimized twice. Even if he/she requests, volunteers, or agrees to removal, the end result is often feelings of having been penalized for making a complaint; and
- c) Separating the parties will likely make ADR options less likely to succeed.

#### 4.5 SITUATIONAL ASSESSMENT (SA)

Upon completing the initial action, the RO will complete a written Situational Assessment (SA). The SA must be conducted by the RO and cannot be delegated. The SA is focused on answering the following two questions:

- a) Does the complaint contain all the elements required to proceed (see 4.6.1 Criteria of the Definition below); and
- b) Do the allegations as stated, and if founded, meet the definition of Harassment?

The SA will lead to one of three possible outcomes. The reasons underlying the RO’s decision must be set-out in the SA. These are:

- a) the harassment criteria are met;
- b) the harassment criteria are not met; or
- c) there is the possibility of an offence under the *Criminal Code* or *Code of Service Discipline*, in which case, the appropriate authority needs to be engaged (i.e. Military Police, Civilian Police, JAG).

The SA is to be completed using only the information received in the allegations from the Complainant. This finalizes the SA step. The Respondent’s submission is not to be considered during the SA phase but at a later stage once it is determined that the harassment criteria are met and that an investigation may be required.

The RO will ensure that the SA is completed and sent to both the Complainant and Respondent within 14 calendar days following the receipt of the complaint. If the RO is unable to complete the SA within 15 calendar days, he or she must inform both the Complainant and Respondent of the delay and include when the SA will be completed. If after 21 calendar days of submitting the complaint, the Complainant has not received any communication from the RO regarding the completion of the SA, he or she can advise the next level in the Chain of Command (CoC). The CoC may then decide to direct the RO to complete the SA or take any action deemed appropriate, and IAW these Instructions.

**Note:** The RO may have to conduct additional situational assessments as new information comes to light during a subsequent procedure related to the complaint. This new information must be shared with the Complainant and the Respondent in writing. The RO will document in writing all his/her decision(s) including the reasons for arriving at the decision.

## 4.6 CRITERIA OF THE DEFINITION

The following six criteria, as set out in the definition of harassment in section 2 of the DAOD, must be met for harassment to have occurred:

- a. improper conduct by an individual;
- b. the individual knew or ought reasonably to have known that the conduct would cause offence or harm;
- c. directed at another individual;

**Note:** Behaviour not directed at any one identifiable person becomes harassment only when it relates to a prohibited ground of discrimination (such as displaying sexually explicit material or telling racist or religious jokes).

- d. offensive to that individual;
- e. was a series of incidents, or one severe incident which had a lasting impact on that individual; and
- f. occurred in the workplace.

### 4.6.1 Repetitious behaviour versus single event

It is important to consider the severity and impropriety of the behaviour (act, comment or display) in the circumstances and context of each situation. Essentially, the definition of harassment means that more than one act or event need to be present in order to constitute harassment and that taken individually, this act or event need not constitute harassment. It is the repetition that generates the harassment. In other words, workplace harassment consists of repeated and persistent behaviours towards an individual to torment, undermine, frustrate or provoke a reaction from that person. It is a behaviour that with persistence, pressures, frightens, intimidates or incapacitates another person. Each behaviour, viewed individually, may seem inoffensive; however, it is the synergy and repetitive characteristic of the behaviours that produce harmful effects.

Please note that one single incident can constitute harassment when it is demonstrated that it is severe and has an important and lasting impact on the complainant.

### 4.6.2 Intention

In order to conclude that harassment occurred, the intent of the Respondent to cause offence or harm by his/her acts, comments or displays does not need to be demonstrated; it is the impact on the other person that is taken into account. However, if this intent was present and can be demonstrated, it will be a factor in the determination of the corrective and/or disciplinary measures.

### 4.6.3 Reasonableness

To determine if a person ought to have reasonably known that the behaviour was improper, one must ask what a reasonable person, well informed of all the circumstances and finding himself or herself in the same situation as that of the complainant, would conclude. The behaviour in question is not only assessed by the impact or effect on the person, but it is also assessed against a reasonably objective standard. Did the

behaviour exceed the reasonable and usual limits of interaction in the workplace? Would a reasonable person be offended or harmed by this conduct?

#### **4.6.4 One single incident**

It is also important to note that a single incident may be viewed to be more significant in circumstances when the parties' relationship at work is one where the respondent has influence or power over the complainant with regard to career advancement, performance review, work assignment, and when the incident(s) leads to adverse job related consequences for the complainant.

#### **4.7 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. If not appropriate, the RO will record the reasons in the file for not offering ADR or if ADR was unsuccessful;
- c) if ADR is not appropriate, feasible or is unsuccessful, ensure that an administrative investigation is undertaken and a decision rendered;
- d) ensure that the Respondent is given the opportunity to respond either verbally, or in writing to the allegations and if the Respondent chooses to respond verbally – the RO should ensure notes are taken and reviewed and signed by the Respondent for the complaint file;
- e) ensure that the Complainant and the Respondent have access to an Assistant, IAW sections 3.11;
- f) decide whether the Complainant and Respondent (See section 3.5.2.2) 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 judgement 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 (see PART 7; Re-Establishing Positive Working Relationships)

#### **4.8 HARASSMENT CRITERIA NOT MET**

If the harassment criteria are not met, the RO shall ensure that the matter is dealt with appropriately and that the Complainant and Respondent are informed of this assessment in a timely manner. However if the matter is considered to be workplace conflict (without harassment), the RO will take steps to try to rectify the issue separate from the harassment process, then close the file as per these Instructions ensuring the proper recording in the electronic tracking system. The RO will ensure a proper examination is made of any workplace conflict allegation(s) and will also ensure the findings of this aspect are documented in the employee or member's complaint file.

#### **4.9 POSSIBLE CRIMINAL ACT OR BREACH OF THE NDA**

Where a possible criminal act or breach of the NDA is alleged, the RO will consult with the appropriate legal advisors and inform the appropriate police authorities. Once the criminal procedures have been concluded and if criminal charges are not pursued by police authorities, the RO must follow-up and resume the harassment complaint procedures set-out in these Instructions.

##### **4.9.1 DND Employees**

Where a complaint that may constitute sexual assault or another criminal act is made against a DND employee, prompt action must be taken to notify civilian police authorities. After discussion with civilian authorities it may be necessary to hold in abeyance any administrative/harassment investigation that may have 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 administrative/harassment investigation.

##### **4.9.2 CAF Members**

Where there is a complaint against a CAF member that may constitute Sexual Misconduct and Sexual Disorders as defined in DAOD 5019-5, (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 NIS investigation is ongoing. Where the investigation carried out in accordance with DAOD 5019-5 fails to disclose sufficient evidence to support a charge of sexual misconduct, action to resolve the harassment complaint will be recommenced under the provisions of the Harassment Prevention and Resolution policy.

#### **4.10 HARASSMENT COMPLAINT AGAINST ANOTHER INDIVIDUAL IN THE WORKPLACE FOR INPROPER CONDUCT ON SOCIAL MEDIA**

The DND and CAF Code of Values and Ethics directs DND employees and CAF members to respect the dignity and values of every person. The obligations and expected behaviours outlined in the Code apply to the use of the internet/intranet tools in the workplace, be it for professional or personal ends.

In order to decide whether an individual's conduct on social media constitutes a breach of the Policy on Harassment Prevention and Resolution, one of the criteria is whether the behaviour occurred in the workplace or at any location or any event related to work.

Each allegation of harassment is managed on a case-by-case basis, and the facts of the case are established to determine when and where the incidents took place.

It may be necessary for the employee/member to contact the police if the activity is occurring outside the workplace or at an event not related to work and outside the hours of work. DND employees and CAF members should also be aware that online comments about a colleague may be subject to scrutiny under the terms of the DND and the CAF Code of Values and Ethics and the Code of Service Discipline whether or not the comment was made in the workplace.

In keeping with the intent of the Policy, management should be aware of any consequences spilling over into the workplace, and address and resolve any potential situations of harassment in a timely and efficient manner.

#### **4.11 COMPLAINTS INVOLVING MORE THAN ONE UNIT**

The Complainant, Respondent and Witnesses may at times be in different units or may be posted 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 chains of command are involved.

#### **4.12 COMPLAINTS INVOLVING OTHER DEPARTMENTS/ORGANIZATIONS.**

A complaint may be submitted by a DND employee or CAF member against an employee from another department/organisation. In such cases, the written complaint should be sent to the RO of the department where the alleged incident of harassment occurred. Discussions should then be held with the other department/organizations to determine the best approach to deal with the complaint. If the complaint is made against a DND employee or CAF member then the RO of the complainant's organization would be the lead RO and would work closely in collaboration with the DND/CAF RO.

#### **4.13 CONTRACTORS**

Although contractors do not fall under the DND/CAF Harassment Prevention Policy, the RO must deal with the situation as per the spirit of the policy. When the complaint involves a contractor, the contracting company should be consulted to determine how the harassment process will proceed. The RO should work together with the contracting company to determine the process to be followed.

#### **4.14 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 (i.e. L1 HA, other unit HAs, LRO's etc.) within the chain of command before deciding what course of action to take.

#### **4.15 COMPLAINTS INVOLVING MORE THAN ONE POLICY**

These Instructions apply directly to DND employees and CAF members. However, other parties to a complaint may be covered by different policies. In these cases, collaboration between the DND/CAF chain of command and the delegated authority for the other policy is essential, particularly where disciplinary or administrative action against a DND employee and/or CAF member is a possible outcome. For example, the Non Public Funds (NPF) Human Resources Policy and Procedures Manual will apply to NPF employees.

The members of the Cadet Organizations Administration and Training Service ((COATS) or members of the Cadet Movement General Service Officers, Cadet Instructors Cadre and General Service NCMs) and the Junior Canadian Rangers Program are covered by their own harassment policy and instructions. When a member of the COATS alleges harassment against a DND employee or CAF member the allegation shall be dealt with in accordance with the DND/CAF Harassment Prevention and Resolution Policy.

##### **4.15.1 Personnel Support Program (PSP)**

When a complaint is made by a PSP employee against another PSP employee, consult the PSP policy on Harassment Prevention and Resolution. When a complaint is made which involves a DND employee or a CAF member, collaboration between the DND/CAF chain of command and the delegated authority for the PSP policy is essential.

#### **4.15.2 Violence in the Workplace**

Incidents of violence including alleged threats should be handled through the DND/CAF Violence in the Workplace Program. For further information on the DND/CAF Violence in the Workplace program refer to the General Safety Program, Vol 1, Chapter 6; Occupational Safety, Section 5; Prevention of Violence in the Workplace.

### **4.16 COINCIDENTAL COMPLAINTS AND GRIEVANCES**

#### **4.16.1 DND Employees**

If a DND employee files a grievance on the same situation/issue as a harassment complaint, the applicable grievance mechanism will apply and the harassment complaint file will be closed.

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 DND/CAF procedures first, before the CHRC will examine the complaint.

#### **4.16.2 CAF Members**

If a CAF member files a grievance on the same issue/situation as a harassment complaint, the applicable grievance file will be placed into abeyance until the harassment complaint process has been completed. If a grievance contains any element of harassment, the grievance will be placed into abeyance until the harassment complaint has been completed.

If a CAF member 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 DND/CAF procedures first, before the CHRC will examine the complaint.

Workplace Violence Policy - In cases of CAF members, a Complainant may still submit a grievance on the outcome of the decision of the workplace violence mechanism, if they are not satisfied.

### **4.17 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 will be dealt with through administrative and/or disciplinary action. The standard for establishing that a harassment complaint was made in bad faith is high. It entails more than just poor judgment or negligence. It implies the conscious doing of a wrong for a dishonest purpose or due to moral underhandedness on the part of the complainant. It is characterized by an intention to mislead.

This also may include vexatious or frivolous complaints. A vexatious or frivolous complaint is when a party submits a complaint with the goal to embarrass and annoy the other party. A harassment complaint should not

be characterized as vexatious if the evidence demonstrates a reasonable basis for filing and pursuing it. This is one of the reasons why the screening process to determine whether the complaint is admissible, is crucial.

A complaint can be characterized as vexatious or made in bad faith if no practical outcome would be achieved by its pursuit. In such cases, there may be some indication that the same issues raised by the Complainant were addressed by proceedings under another redress process for which a remedy has already been granted.

Appropriate administrative or disciplinary actions when having determined that a complaint was submitted in bad faith, vexatious or frivolous, may include: a request for a formal apology, attendance at a remedial training course, a reprimand, a suspension and, in rare cases, termination of employment or release. Steps may also be taken, with the approval of the Respondent, to correct any unwarranted stigma left by such a complaint.

#### **4.18 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 7 calendar 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. In addition, when operational deployments or extended sick leave occurs, the complaint may be put into abeyance and the clock will stop counting towards the six month time limit. ROs will inform both parties, in writing, when the file goes into abeyance or extensions have been granted. The clock will re-start and be continued when the members/employees return. This is not to say that the process will be stopped, but it will be put into abeyance until the parties are available to complete the process.

#### **4.19 HARASSMENT COMPLAINT FILE ADMINISTRATION**

All information related to the harassment complaint is to be kept on file in accordance DSCDS (see Annex F, Appendix I). In addition, all complaints are to be logged into the DND/CAF electronic monitoring system (see Annex F, Appendix II).

#### **4.20 MONITORING AND REPORTING**

NDHQ may query the chain of command for statistical information and data to support policy analysis and evaluation on a fiscal year basis (see Annex F for the detailed requirement of statistical data that must be retained locally for each complaint and on training activities).

See also requirement for annual Level One Harassment Prevention reporting (Para 2.2).

#### **4.21 LEGAL ASSISTANCE/ADVICE**

In accordance with QR&O 101.11, Defence Counsel Services will provide legal advice to a CAF member who is the subject of an investigation under the Code of Service Discipline or is a Respondent in an administrative/harassment investigation if it is conducted by way of Summary Investigation or Board of Inquiry.

Legal assistance will normally be provided to DND employees and CAF members who are Respondents if a complaint, determined to be unfounded at Departmental level, is pursued in the Courts or at Tribunal.

## PART 5

### COMPLAINT RESOLUTION – INFORMAL AND ALTERNATIVE DISPUTE RESOLUTION (ADR)

#### 5.1 NOTICE OF DISSATISFACTION (NOD) (CAF MEMBERS ONLY).

The Notice of Dissatisfaction (NoD) is a voluntary process designed to help both the potential member complainant and the chain of command.

##### 5.1.1 Purpose

The overall purpose of the NOD process is early resolution. More specifically, the purpose of the NoD is twofold:

- a. to signal to the chain of command (i.e. supervisor/manager) that a CAF member has an issue for which they are considering submitting a formal complaint, thus, allowing the chain of command the opportunity to engage the issue early, identify the best form of resolution and possibly resolve the matter; or
- b. if the chain of command is not able to resolve the matter, then it will be able to provide early assistance to the CAF member with the preparation and/or drafting of the complaint.

##### 5.1.2 Guidelines

Upon completion of Annex B, the CAF member submits the form to initiate an information discussion about the CAF member's dissatisfaction. It is not intended to interfere with a CAF member's right to file a complaint. The NoD is not intended to be used to extend the existing timeline for submission of a harassment complaint. However, if attempts to resolve the issue informally through the submission of a NoD are unsuccessful, a late submission of a complaint may be accepted by the RO.

For more detailed information concerning the NoD process consult Annex B.

#### 5.2 ALTERNATIVE DISPUTE RESOLUTION

It is well recognized that early resolution and/or use of ADR processes (i.e. conflict coaching, facilitation, mediation, group intervention – see Director General Alternative Dispute Resolution (DG ADR) website) usually provide for speedier and more satisfying resolution to conflict situations in general and harassment situations in particular. DND/CAF has therefore made a conscious decision to include these mechanisms in its culture and leadership philosophy. In concert with this philosophy, DND/CAF has decided to make serious consideration of these processes and offer their usage, unless there are compelling reasons not to do so, as one of the first steps in the resolution of any harassment situation. Additionally, such processes may become appropriate at any time during the resolution of a complaint and should be utilized when parties indicate their interest in same.

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



ADR processes that are formalized by a RO will involve official decisions and may include written documents such as an Agreement to Mediate and Minutes of Settlement. These latter two documents typically form part of an ADR process conducted by an ADR SME (ie mediator).

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 unit or organization. This includes an Employee Assistance Program (EAP) representative, and the Canadian Armed Forces Member Assistance Program (CAFMAP).

### **5.3 SELF-HELP**

Early resolution of any harassment situation at the most appropriate level is strongly encouraged where appropriate. 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. For example, in a situation involving two individuals where one makes inappropriate comments, it can be as simple as saying, “please don’t speak to me that way”, or something to that effect, to stop the behaviour in question.

If verbal communication is not appropriate, 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 judgements 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. The letter could also include an offer to participate in an ADR process with a SME in order to resolve issues and pave the way for healthy working relationships moving forward.

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 with the accurate recollection of events and how they were managed over time.

### **5.4 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 chain of command, if the potential respondent is the immediate supervisor.

In dealing with harassment situations, supervisors are encouraged to seek the services of their HA. 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, in some cases there is a requirement for a trained neutral third party in the role of a mediator and the need for the absence of bias, real or perceived, and therefore 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 behavioural 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. Supervisors may access the services of the Conflict Resolution Centres (CRC) in order to better equip them in the utilization of these supervisory tools.

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

## **5.5 MEDIATION**

### **5.5.1 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 CRC, 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 Minutes of Settlement at the end of the process if an agreement has been reached. Mediation is a voluntary process and can be terminated by either of the parties at any time.

### **5.5.2 Mediators**

Once the parties have agreed to mediation, a mediator will be assigned to the case as soon as possible. The use of ADR services always begins with a one-on-one consultation between each party and the mediator to determine the appropriate process (typically mediation, but sometimes facilitation), and to address any questions and concerns the parties might have prior to commencing mediation. Parties can contact the CRC themselves, or, be referred to the CRC via an HA/LRO, a supervisor, or any other appropriate individual.

The role of the mediator includes 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 the parties in conflict work towards resolution. 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.

### **5.5.3 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. If the RO is not at the table, notification of the outcome needs to be provided to the RO and the complaint appropriately closed or actioned.

### **5.5.4 Security and handling 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, Access to Information Act, 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 departmental retention standards.

### **5.5.5 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 resolved/not resolved the issue and that there is no further involvement of the mediator necessary. The report shall identify the parties to the mediation and, where applicable, include a copy of the signed Minutes of Settlement. It must also include a signed statement from the Complainant and the Respondent that the complaint has been resolved and closed, and giving their permission to the mediator to communicate with the RO and disclose the information as described above.

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 Mediator and 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 administrative 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.

### **5.6 ADMINISTRATIVE CLOSURE**

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.

If mediation results in a 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 administrative 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.

## PART 6

### COMPLAINT RESOLUTION – ADMINISTRATIVE/HARASSMENT INVESTIGATION

#### 6.1 GENERAL

When ADR has been unsuccessful, is not feasible, or is inappropriate, the RO may initiate an administrative investigation. Boards of Inquiry (BOI) and Summary Investigations (SI) will not normally be convened in this process. BOIs shall never be utilized in cases where the Complainant or Respondent is a DND employee. 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 will resume.

#### 6.2 RO'S DECISION BASED ON EVIDENCE, NOT REQUIRING AN INVESTIGATION

There may be circumstances where the RO is completely satisfied that he/she has all the necessary and relevant facts and that the parties have, in accordance with the principles of procedural fairness, been adequately heard. In such instances, the RO may decide to make a determination without further investigation. In doing so, the RO must ensure that the spirit and principles of these Instructions are fully met. The RO will provide the decision in writing to both parties. Additionally, the RO must document the basis for the decision and place a copy on the harassment file, as well as meet all the elements of closure.

##### **6.2.1 Decision to Conduct an Investigation – Some of the Key Factors for Consideration (List is not Exhaustive):**

- a. If key facts are in conflict, an investigation is often appropriate;
- b. Even if key facts are not in conflict (e.g., the Respondent has admitted the alleged conduct), the RO may need to determine the number of persons affected or the extent of harm; or
- c. Allegations may call for an "organizational assessment" instead of an "investigation" (e.g., friction within a work group).

#### 6.3 HARASSMENT INVESTIGATORS (HI)

##### 6.3.1 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. The HI should be trained in administrative/harassment investigation techniques and must meet the HI Competency Profile (see Annex D).

Where possible and practical, the HI or one of the investigation team<sup>2</sup> should be equal, or superior in rank or civilian classification, to both the Complainant and the Respondent. Where both a DND employee and CAF member are involved in the complaint as Complainant or Respondent and an investigation team is involved, the team should include both military and civilian members.

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<sup>2</sup> Team – there may be complaints that are complex or involve a large number of witnesses that can be at multiple geographic locations – in these situations the RO may decide more than one investigator is required.

In addition, to ensure perception of impartiality of the process, it is strongly encouraged to look outside of one's unit, if feasible, for an HI to conduct an investigation within the unit.

At times, it may be necessary to obtain an investigator from outside DND and the CAF, 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 an HI.

When selecting an HI, especially an HI outside of DND/CAF it is recommended that an interview protocol be established and reference checks be conducted to ensure appropriate and knowledgeable investigators are hired.

### **6.3.2 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 to determine if incidents occurred as alleged 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 may be requested pursuant to the Privacy Act and/or the Access to Information Act; however, any release of information will be made in accordance with the limited and specific protections required by those Acts.

### **6.3.3 Terms of Reference (TOR) for Administrative/Harassment Investigations**

An HI will be appointed and provided with written TORs that will authorize and govern the activities associated with the administrative investigation. Once the HIs TORs have been finalized and approved, the RO will immediately forward the TORs to the Respondent and Complainant;

The TORs should include:

- a) details on 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, 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 investigator (clerical, typing, funds, etc.).

(See Annex E, Terms of Reference for an Administrative/Harassment Investigation).

## 6.4 STAGES OF AN ADMINISTRATIVE/HARASSMENT INVESTIGATION

The normal stages of the investigation are:

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

(For further details, see Annex E, Stages of an Administrative Investigation)

## 6.5 INVESTIGATOR'S REPORTS

### 6.5.1 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, or Personal Record Identifier (PRI) 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 must contain all of the above and in addition, findings as to whether or not harassment has occurred. This Final Report is to be forwarded to the RO for decision. All evidence and the investigator's notes must 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.

### 6.5.2 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 TORs, the Draft Report shall be forwarded to the Complainant and the Respondent, after the application of any severances required by the *Privacy Act*. The Complainant and Respondent will have 14 calendar 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.

### 6.5.3 Final Report

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

## 6.6 THE RO'S DECISION

### 6.6 THE RO'S DECISION

The RO has the responsibility and authority to make a final determination on whether harassment has occurred or not.

When receiving the Final Report, the RO will assess and will direct further investigation, if required. Once satisfied with 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 Treasury Board requires that all complaint resolution processes be completed within 12 months, unless there are extenuating circumstances. However, due to the detrimental effect a complaint has on a unit, the DND/CAF requires that the RO finalize the decision within 6-months of receiving the initial complaint, unless unusual circumstances are present. The RO shall document the unusual circumstances and inform the Complainant and the Respondent in writing of any extension (See Section 4.18; Timeliness).

When the RO finds that the allegations of harassment are founded but the Respondent is no longer at the RO's unit, the RO will ensure the recommendations are sent to the new RO who will take corrective action, if required. The responsibility for the closure of the file remains with the initial RO.

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, devise an appropriate strategy (see Section 2.2, Workplace Conflict).

## 6.7 ADMINISTRATIVE CLOSURE

The RO will inform the Complainant and Respondent in writing of his/her decision on the complaint. The RO will provide them a copy of the Final Report severed in accordance with the *Privacy Act*. When harassment has been found, the RO has the discretion to disclose to the Complainant the nature of any disciplinary and administrative action taken against an individual as a result of the decision, where the RO deems it appropriate and necessary on a case-by-case basis to achieve closure. In the case where the RO has disclosed to the Complainant the discipline or administrative action(s) taken, the RO will inform the Complainant of their obligation to keep this information confidential.

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 harassment complaint file and not on the Complainant's or Respondent's personnel file. ROs or those with delegated authority are encouraged to meet with the principal parties to facilitate this phase of the process.

## **6.8 INVOLUNTARY DEPLOYMENT OF DND EMPLOYEE FOLLOWING A FOUNDED HARASSMENT COMPLAINT.**

The *Public Service Employment Act* (PSEA) gives deputy heads the authority to deploy a DND employee within the Department and his or her consent is not required, if the employee is found to have harassed another person in the course of employment, following investigation. This authority has been sub-delegated to Level B, or equivalent, in the Instrument of Delegation of Labour Relations Authorities and cannot be sub-delegated below this level. While the decision to involuntarily deploy any employee does not constitute a disciplinary measure, it is a very serious decision and should only be applied in exceptional cases. Whenever such action is being contemplated, DGWM must be consulted in advance. For further information about deployments for DND employees, consult DAOD 5029-0. An employee who has been deployed in these circumstances is entitled to present an individual grievance in accordance with the Departmental civilian grievance procedure.

## **6.9 OVERTURNED DECISIONS (CAF MEMBERS)**

If a harassment complaint decision is subsequently overturned by a higher authority (i.e. Judicial Review or the Final Authority for military grievances), the CAF member's harassment complaint file may be destroyed if this is part of the remedies.

## **6.10 MONITORING AFTER CLOSURE OF COMPLAINT**

The ROs should monitor the unit after a harassment complaint has been closed to ensure a positive workplace has been established (See PART 7; Restoration of the Workplace).

## **6.11 GRIEVING THE DECISION**

Any person not satisfied with the RO's decision on a harassment case may file a grievance.

- a) CAF Members may seek a redress of grievance in accordance with DAOD 2017-0, Military Grievances and 2017-1, Military Grievance Process.
- b) DND employees may file a grievance under the established labour relations grievance procedure under DAOD 5026-0, Civilian Grievances and DND Guidelines for Civilian Grievances.



## PART 7

### RE-ESTABLISHING POSITIVE WORKING RELATIONSHIPS

#### 7.1 OPTIONS

Once a harassment situation has been administratively resolved, it is everyone's responsibility to work together to restore good working relationships. All CAF members and DND employees of the organization 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 and that any harassment conduct will not be tolerated.

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. An HA can assist by providing materials for training sessions, suggesting topics and approaches for discussion and/or coordinating the assistance of qualified resource people. Learning Career Centres (LCC) provide a number of relevant courses to military and civilian personnel. Other courses are available outside of DND through external agencies.

ROs should also consider arranging a group intervention by trained health or human resource professionals who can help provide assistance in dealing with the detrimental effects of harassment on the work environment. ADR services are available internally, however, when certain services are not available, then external ADR services can be found on the Standing Offer List (SOL) at PSPC.

Another option is to ensure that all CAF members and DND employees in the work unit are aware of counselling 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. Most locations have, for example, social workers, medical officers, padres and the Canadian Armed Forces Military Assistance Program (CAFMAP), for support of military personnel and the Employee Assistance Program (EAP), for civilians.

Treasury Board Secretariat (TBS) has developed a Manager's Guide entitled, "Restoring the Workplace Following a Harassment Complaint" which can be found at the following link (<http://www.tbs-sct.gc.ca/psm-fpfm/healthy-sain/prh/rwfhc-eng.asp>). This guide outlines a number of options to restore the workplace and can be very helpful.

#### 7.2 RUMOURS AND SPECULATION

ROs must be sensitive to the negative impact of rumours 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 rumours. In so doing, the RO must ensure that the personal information is protected and the sensitivities of the parties are taken into account.

## PART 8

## DISCLOSURE, SECURITY AND PRIVACY

## 8.1 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 *Access to Information Act*, and the requirement that the process be fair to all the parties, the following general principles will guide the release of information:

- a) personal information as defined in Section 3 of the *Privacy Act* about third parties (neither the Complainant nor the Respondent) is to be severed;
- b) individuals have a right to their own personal information (note that the personal view of one person about another person becomes the personal information of both);
- 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, in accordance with 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, in accordance with Section 25 of the *Privacy Act*;
- g) all records<sup>3</sup> under the control of a government institution are subject to request under the *Access to Information Act* and/or *Privacy Act*, including any records created or collected in relation to an administrative/harassment investigation, and may be released pursuant to a request made under either the *Access to Information Act* or the *Privacy Act*, subject to review by the Directorate Access to Information and Privacy, and will be severed in accordance with the protection provisions required by those Acts. The National Defence Security Instruction (NDSI) 26 provides instructions on the mandatory criteria (i.e. need to know, possession of appropriate security and that it has been authorized by the releasing authority) that must be met in order to access the information as well as defining who the responsible authority is that can grant/authorize the release of information.

The following information, severed in accordance with the aforementioned principles, will be released:

- a) the Complainant's allegations will be forwarded to the Respondent by the RO;
- b) the HI's TORs, immediately upon approval by the RO, will be forwarded by the RO, to the Respondent and Complainant;
- c) 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 TORs, the Draft Report shall be forwarded to the Complainant and Respondent, subject to the limited and specific protections provided by the *Privacy Act*;
- d) 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 subject to the limited and specific protections provided by the *Privacy Act*; and

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<sup>3</sup> "records" is defined under the Library and Archives of Canada Act .

- e) when harassment has been founded, the RO has the discretion to disclose to the Complainant the nature of any disciplinary and administrative action taken against an individual respondent as a result of the decision, where the RO deems it appropriate and necessary to achieve closure.

## **8.2 PRIVACY**

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

An HI shall inform the Complainant, Respondent and all witnesses that their statements will be treated with sensitivity and discretion, and uses must be in accordance with the original purpose as described in the “description” or the “consistent uses” section of Personal Information Bank (PIB) 919. The information is also subject to request pursuant to the *Privacy Act* and/or the *Access to Information Act*.

## **8.3 CORRESPONDENCE AND DOCUMENTATION**

Copies of complaints and investigation reports must be treated as sensitive material and shall not be placed on the 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 the applicable regulations or orders and as described in the Info Source Personal Information Bank (PIB) PSU 901 and 911.<sup>4</sup> 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 (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 in accordance with the DSCDS.

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<sup>4</sup> Info Source Personal Information Bank <https://www.tbs-sct.gc.ca/hgw-cgf/oversight-surveillance/atip-airp/ai/spib-frpo-eng.asp>

## PART 9

### MILITARY AND CIVILIAN DIFFERENCES

#### 9.1 MILITARY AND CIVILIAN DIFFERENCES

In most respects, there are no differences in the treatment of CAF members and DND employees under the Policy or these Instructions. However, there are five exceptions to be aware of:

- a) The HI competency profile. Where a civilian is a party to a complaint, the higher standard for HI experience must be met (see Annex D, Part II);
- b) Appointment of Assistants. Whereas the RO appoints Assistants for CAF members, DND employees are free to name their own Assistants. For represented DND employees, a union representative usually fulfils this role. The RO may be requested to help an un-represented or excluded civilian to identify an appropriate person to assist;
- c) Boards of Inquiry and Summary Investigations. Although occasionally used in military harassment complaints, Boards of Inquiry and Summary Investigations are NEVER used for DND employees;
- d) Notice of Dissatisfaction is only to be used by CAF members (See Annex B);and
- e) ROs seek advice from both LRO (when complaint involves DND employees) and HAs (when a complaint involves CAF members).

## PART 10

### DEFINITIONS

#### **harassment** (*harcèlement*)

Improper conduct by an individual, that is directed at and offensive to another individual in the workplace, including at any event or any location related to work, and that the individual knew or ought reasonably to have known would cause offence or harm. It comprises objectionable act(s), comment(s) or display(s) that demean, belittle, or cause personal humiliation or embarrassment, and any act of intimidation or threat. It also includes harassment within the meaning of the *Canadian Human Rights Act* (i.e. based on race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability, pardoned conviction and conviction for which a record suspension has been ordered). Harassment is normally a series of incidents but can be one severe incident which has a lasting impact on the individual. (Based on the *Policy on Harassment Prevention and Resolution*, Treasury Board)

**Note 1** – Harassment may include the abuse or misuse of authority inherent in the position of an individual. However, if an individual has authority over another individual in a situation by virtue of law, military rank, civilian classification or appointment, the proper exercise of that authority is not harassment. This includes the proper exercise of authority related to the provision of advice, the assignment of work, counselling, performance evaluation, discipline and other supervisory and leadership functions.

**Note 2** – Any ceremony or other event, such as an initiation rite that involves participation, as a result of expressed or implied coercion, and that demeans, belittles or causes personal humiliation or embarrassment, is harassment.

#### **responsible officer** (*agent responsable*)

- a director general at National Defence Headquarters;
- a superior of a director general at National Defence Headquarters in the case of a complaint of harassment involving a director general or superior of a director general;
- an officer commanding a command or formation
  
- a chief of staff or equivalent officer at a command or formation if directed by the applicable commander;
- a commanding officer of a formation headquarters if directed by the formation commander in the case of any complaint of harassment made by a CAF member;
- any other commanding officer; or
- a senior civilian manager who is a head of a lodger or integral unit in a region or formation.

#### **workplace** (*milieu de travail*)

Includes the physical work location and the greater work environment where work-related functions and other activities take place and work relationships exist.

##### a) DND Employees:

The greater work environment includes activities such as on travel status, employer sponsored events, (work-place conferences, employer training activities/information sessions, social events etc.) and other activities where work relationships exist.

##### b) CAF Members:

The greater work environment includes activities such as where Canadian Forces duties are undertaken (i.e. see Universality of Service DAOD 5023-0) and includes social events, living quarters, messes, barracks etc.

### **harassment complaint**

Is a written statement submitted through the HA to the RO or other person in authority that makes a specific allegation, or allegations, of harassment. To initiate the formal complaint process, as set out in the Instructions, the complaint must be in writing.

### **Alternative Dispute Resolution (ADR)**

Is, for the purpose of the Harassment Prevention and Resolution Policy and Instructions, 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 – ADR).

### **Administrative/Harassment 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. In the case of complaints involving CAF members as both Complainant and Respondent, it may also be in the form of a Summary Investigation or Board of Inquiry.

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

Are DND employees and CAF members who have been appointed by the RO to provide information and advice to the RO concerning harassment policy and instructions and the role and responsibilities of the RO in preventing harassment and resolving harassment situations. LROs become the harassment advisor to ROs, when a harassment complaint has been submitted and a DND employee is either the Complainant or Respondent.

### **The Complainant**

Is a DND employee or CAF member who submits a harassment complaint.

### **The Respondent**

Is a DND employee or CAF member against whom a harassment complaint has been filed.

### **A Situational Assessment**

Is a preliminary written review of a harassment complaint to determine the appropriate course(s) of action. See Section 4.5 for further details.

### **excluded employee (*poste exclu*)**

Means a DND employee occupying a position identified by the employer pursuant to the PSLRA as not being represented by a bargaining agent due to the nature of the duties of the position. This would include positions in the executive group, of the Treasury Board, employees responsible for providing advice on labour relations, staffing or classification matters, etc.

### **unrepresented employee (*employé non représenté*)**

Is a person appointed to a position not represented by a bargaining agent.

ANNEX A

**CAF/DND HARASSMENT – COMPLAINT FORM**

- References:
- A. DADO 5012-0, Harassment Prevention and Resolution Policy and Instructions
  - B. DAOD 5046-0, Alternative Dispute Resolution Policy
  - C. DAOD 5019-0, Sexual Misconduct Policy
  - D. CFAO 19-43 Racist Conduct
  - E. DAOD 5516-0 Human Rights
  - F. Occupational Health and Safety Regulations – 8 - Violence Prevention in the Workplace

See Annex A, Appendices 1 & 2 for definition and support services

For more information on the Harassment Prevention & Resolution Policies and associated documents:  
[http://hr.forces.mil.ca/harassment/engraph/home\\_e.asp](http://hr.forces.mil.ca/harassment/engraph/home_e.asp)

A complaint must not contain language or comments that are insubordinate or otherwise constitute a breach of discipline, unless the language or comments are necessary to state circumstances surrounding the harassment situation.

**SECTION A: BACKGROUND INFORMATION**

1a). Date of Complaint: \_\_\_\_\_

1 b). Date of the Incident (If multiple incidents have occurred note the approximate time frame of incidents):  
\_\_\_\_\_ to \_\_\_\_\_

2. Military Only: Are you a member of designed group? (women, visible minority, aboriginal, persons with disability)  
YES \_\_\_\_\_ NO \_\_\_\_\_

3. Previous attempted steps to resolution (if applicable (see definitions of each category in paragraphs 5.1 to 5.5) of the Harassment Prevention and Resolution Instructions)

i. **Self Help** (Yes, No, Comments)

ii. **Supervisor Intervention** (Yes, No, Comments)

iii. **Mediation** (Yes, No, Comments)

iv. **Notice Of Dissatisfaction** (CAF members only (Yes, No, Comments)

2. Have you used other avenues to resolve this situation? \_\_\_ **YES** \_\_\_ **NO**

If YES, please specify,

\_\_\_ Grievance

\_\_\_ Violence in the Workplace

\_\_\_ **Canadian** Human Rights Commission Complaint

\_\_\_ Alternative Dispute Resolution

\_\_\_ Other, please specify \_\_\_\_\_

**SECTION B: COMPLAINT/RESPONDENT INFORMATION**

<b>Complainant's Name/Rank</b>	<b>Respondent's Name/Rank:</b>
Position Title :	Position Title (if known):
Unit	Unit:
Assistance's name (if known)	
Assistant's Unit/phone # (if known)	

**Additional Respondents, if applicable.** (if there is more than one respondent, please use an additional complaint form for each respondent) (i.e. Section B & C are to clearly outline which Respondent corresponds to which allegation (s)).**SECTION C: - WITNESSES** If there are more than three witnesses, please attach the additional information to this form

<b>Witness: Name/Rank</b>	<b>Witness Name/Rank:</b>
Position Title (if known): :	Position Title (if known):
Unit:	Unit:
Work Phone:	Work Phone:
<b>Witness: Name/Rank</b>	<b>Witness Name/Rank:</b>
Position Title (if known): :	Position Title (if known):
Unit:	Unit:
Work Phone:	Work Phone:



## SECTION D – NATURE OF THE ALLEGATION(S)

**Complainant's Report:** Alleged behaviour to include the detailed description of the comment, gesture, display, physical contact or other conduct believed to constitute harassment. Include information as to date(s), time(s) and location(s) of the incidents. Please attach any additional information to this form. Use extra space as required.

<p><b>Primary Allegation:</b></p>  <p>Witnesses:</p>  <p>Supporting Evidence/documents:</p>
<p><b>Allegation # 2</b> (if additional allegations, please add additional sections to this section)</p>  <p>Witnesses:</p>  <p>Supporting Evidence/documents</p>
<p>Summary:</p>  <p>Complainant's Perception:</p>    <p>Complainant's Recommended Resolution:</p>

*I hereby certify that to the best of my knowledge the above-mentioned information is true, accurate and complete. I acknowledge that making false or frivolous allegations is in violation of this Policy and subject to disciplinary or administrative actions or both.*

---

Signature of Complainant

Date

**Submit this report to**

This complaint is to be submitted to the unit Harassment Advisor (original) or it can also be submitted to Labour Relations Advisor (LRO) for DND employees – the Harassment Advisor or LRO will immediately provide a copy to the Responsible Officer (RO).

The RO will direct the HA or LRO to supply additional copies on a Need-to-Know basis. The information contained in the complaint will be severed in accordance with the protections required by the *Privacy Act*

Confidentiality: A severed copy of your complaint will be provided to the Respondent(s).

In addition, individuals who are directly involved will also be informed of the complaint. Any information provided to those individuals will be severed in accordance with the protections required by the *Privacy Act*. Files are held in accordance with guidelines set out by the Defence Subject Classification and Disposition System (DSCDS) for the Harassment Prevention and Resolution Policy (DAOD 5012-0).

**harassment (*harcèlement*)**

Improper conduct by an individual, that is directed at and offensive to another individual in the workplace, including at any event or any location related to work, and that the individual knew or ought reasonably to have known would cause offence or harm. It comprises objectionable act(s), comment(s) or display(s) that demean, belittle, or cause personal humiliation or embarrassment, and any act of intimidation or threat. It also includes harassment within the meaning of the *Canadian Human Rights Act* (i.e. based on race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability, pardoned conviction and conviction for which a record suspension has been ordered). Harassment is normally a series of incidents but can be one severe incident which has a lasting impact on the individual. (Based on the *Policy on Harassment Prevention and Resolution*, Treasury Board)

Note 1 – Harassment may include the abuse or misuse of authority inherent in the position of an individual. However, if an individual has authority over another individual in a situation by virtue of law, military rank, civilian classification or appointment, the proper exercise of that authority is not harassment. This includes the proper exercise of authority related to the provision of advice, the assignment of work, counselling, performance evaluation, discipline and other supervisory and leadership functions.

Note 2 – Any ceremony or other event, such as an initiation rite that involves participation, as a result of expressed or implied coercion, and that demeans, belittles or causes personal humiliation or embarrassment, is harassment.

## CAF SERVICE PROVISION CONTACT NUMBERS

**CANADIAN FORCES MEMBER ASSISTANCE PROGRAM (CFMAP)** 1-800-268-7708  
 Hearing Impaired Line (Mon-Fri 7:30 a.m. to 11 p.m. E.T.) 1-800-567-5803  
<http://www.forces.gc.ca/health-sante/ps/map-pam/default-eng.asp>  
 24 hours a day, 365 days a year

The CFMAP is a voluntary and confidential service, initiated by the CAF to help members and family members who have personal concerns that affect their personal well-being and/or work performance. Offered by the Employee Assistance Services of Health Canada in partnership with the Canadian Forces.

**THE CENTRE FOR CARE AND SUPPORT OF INJURED AND RETIRED SERVICE MEMBERS AND THEIR FAMILIES** 1-800-883-6094  
[www.cmp-cpm.forces.gc.ca/cen/index-eng.asp](http://www.cmp-cpm.forces.gc.ca/cen/index-eng.asp)

The CENTRE is designed to bring the joint efforts of both the Department of National Defence and Veterans Affairs Canada together in providing information and services to injured and retired CAF members and their families. The CENTRE is an initial contact point and referral service. All calls are confidential and in addition to the original consultation and referral, follow-up calls are made to ensure that an individual's concerns or issues have been resolved and they have received all of the assistance to which they are entitled.

**DND/CAF Ombudsman** 1-888-828-3626  
[Http://www.ombudsman.forces.gc.ca/](http://www.ombudsman.forces.gc.ca/)

**CANADIAN ARMED FORCES HEALTH INFORMATION LINE** 1-877-633-3368  
<http://www.cmp-cpm.forces.gc.ca/pd/pi-ip/06-04-eng.asp>

The Canadian Armed Forces Health Information Line is a call centre designed to provide CAF members with convenient telephone access to health care advice, general health information, and guidance on where and how to access health care services. The service is available to all eligible A members, and is operated on a 24 hour/day, 7 day/week basis.

**CANADIAN FORCES CHAPLAIN GENERAL** 1-866-502-2203  
[http://hr.ottawa-hull.mil.ca/chapgen/engraph/home\\_e.asp](http://hr.ottawa-hull.mil.ca/chapgen/engraph/home_e.asp)

**OPERATIONAL TRAUMA AND STRESS SUPPORT CENTRES** 1-877-705-8880 613-945-1060  
<http://www.forces.gc.ca/health-sante/cfhsc-co-cssfco/services/brch/brch-otssc-cstso-eng.asp>

Provides assessment, individual and group treatment for members suffering from an Operational Stress Injury. CAF H Svcs C (O) will provide assistance to serving members of the Canadian Forces and their families dealing with stresses arising from military operations, in particular, UN and NATO deployments abroad

**CANADIAN/MILITARY FAMILY RESOURCE CENTRES (C/MFRC)**  
[Http://www.cfpsa.com/en/psp/dmfs/mfrccontact/index.asp](http://www.cfpsa.com/en/psp/dmfs/mfrccontact/index.asp)

## CIVILIAN SERVICE PROVISION CONTACT NUMBERS

### EMPLOYEE ASSISTANCE PROGRAM

**1-800-268-7708**

**1-800-567-5803** (for the hearing impaired)

DND's Employee Assistance Program (EAP) provides support to employees and their eligible family members who are experiencing personal or professional difficulties that may have an adverse effect on their personal well-being and/or work performance. The EAP is a confidential, voluntary and short-term solution focused service provided through DND Peer Referral Agents (RAs) and Mental Health Professionals through the Employee Assistance Services at Health Canada (EAS-HC). For more information on the program, visit the EAP Portal at [hrciv-rhciv.mil.ca](http://hrciv-rhciv.mil.ca). For immediate 24/7 assistance contact EAS-HC at 1-800-268-7708 or 1-800-567-5803 (for the hearing impaired).

### DND/CAF Ombudsman

1-888-828-3626

[Http://www.ombudsman.forces.gc.ca/](http://www.ombudsman.forces.gc.ca/)

## ANNEX B

### NOTICE OF DISATISFACTION (NOD) (CAF PERSONNEL ONLY)

#### PURPOSE

1. The overall purpose of the NoD is EARLY RESOLUTION. Specifically:
  - a. to signal to the chain of command/manager that the member has an issue for which they are considering submitting a formal complaint, thus, allowing the chain of command the opportunity to engage the issue early, identify the best form of resolution and possibly resolve the matter; and
  - b. if the chain of command is not able to resolve the matter, then it will be able to provide early assistance (i.e. informal resolution) or providing an assistant with the preparation and/or drafting of the complaint.

#### GUIDELINES

2. The NoD is a voluntary process designed to help both the member and the chain of command. This process is not meant to interfere with a member's/employee's right to file a complaint through the appropriate mechanism.
3. The NoD is not intended to be used to extend the existing time lines for submission IAW the relevant policies. However, if attempts to resolve the issue informally through the submission of a NoD are unsuccessful, a late submission of a complaint may be accepted.

#### RESPONSIBILITIES

##### 4. **CAF Member**

- a. is responsible for considering the use of a NoD;
- b. must complete and sign the NOD, and
- c. must consider the use of the assistance offered.

##### 5. **Chain of Command (i.e Supervisor)** Upon receipt of a NoD:

- a. will interview complainant to:
  - (1) determine issue;
  - (2) determine if an informal resolution of the issue is appropriate; and
  - (3) identify the best mechanism for resolution of the issue.
- b. offer to assign someone to assist if the mechanism chosen is to file a formal complaint,;
- c. have the NoD signed by the commanding officer – the CO signature is to provide him/her with notification of the situation but not the details for the complaint as he/she will be more involved in the details if/when an official complaint is submitted. The supervisor will assist the member in achieving an early resolution of the issue; and
- d. provide the member with a completed copy .

The NoD will be kept on file (file under 5000-6 Harassment and Complaints) unless a formal complaint is submitted. Once the member/employee submits a formal complaint, the NoD shall become part of the member's/employee's complaint file IAW Defence Subject Classification and Disposition System (DSCDS).

**NOTICE OF DISATISFACTION (NoD) – CAF Members**

*(Ensure a copy of this NoD is provided to the Unit Harassment Advisor)*

***A NoD must not contain language or comments that are insubordinate or otherwise constitute a breach of discipline, unless the language or comments are necessary to state the nature of the complaint.***

I, \_\_\_\_\_ hereby give notice to my

SN	Rank	Surname	Initial(s)
----	------	---------	------------

Chain of Command (i.e. supervisor or next level if supervisor is implicated) that I am considering submitting a formal complaint under the appropriate harassment policy.

Brief Description:

  

\_\_\_\_\_

Signature of the CAF Member	Date
-----------------------------	------

I have met with \_\_\_\_\_ and discussed his/her concerns. We will discuss the various informal resolutions etc. available in an attempt to resolve this issue.

I have assigned, \_\_\_\_\_.

(name of WRA/Assistant), if required

  

\_\_\_\_\_

Signature of Supervisor (or next level as appropriate)	Date
--	------

**To Be Completed by the Responsible Officer**

I have read your Notice of Dissatisfaction and am aware that your supervisor will assist you in this matter informally, if possible. If you are not satisfied with the outcome, you may then submit a formal complaint IAW DAOD 5012-0.

  

\_\_\_\_\_

Signature of the RO	Date
---------------------	------

**NOTICE OF DISSATISFACTION (NOD):**

**Consideration of Alternative Dispute Resolution Mechanisms**

1. The use of voluntary and confidential Alternative Dispute Resolution (ADR) processes for managing conflict is being actively promoted by the Chief of Military Personnel. It is being increasingly used within the Department of National Defence/Canadian Forces for finding solutions to a wide range of issues.

2. When a CAF member submits a complaint, both the member and the chain of command are encouraged to consider selecting an ADR process to help resolve identified problems.

- a. early use of ADR processes often makes a dispute easier to resolve;
- b. win/win solutions that deal with all the issues in question are more likely;
- c. the parties keep control of the process and make their own decisions;
- d. the process is confidential and voluntary; and,
- e. the CAF member can choose to continue with a formal complaint if a resolution is not reached through ADR.

3. The success of ADR lies in its informal or interest-based approach, which shifts discussion from initial demands of the respective parties to understanding why these are important and what really matters. ADR provides a less formal way for individuals to voice their concerns, reach a greater understanding of the other party's needs and perceptions, generate options for the resolution and identify solutions that are agreeable to both parties. ADR enables parties to maintain more control over the discussion and the resolution of their differences, and to preserve and/or improve the existing working relationship.

4. Further information about ADR is available at DWAN [http://cmp-cpm.forces.mil.ca/adr-marc/engraph/home\\_e.asp](http://cmp-cpm.forces.mil.ca/adr-marc/engraph/home_e.asp) or Internet [www.cmp-cpm.forces.gc.ca/adr-marc](http://www.cmp-cpm.forces.gc.ca/adr-marc).



**ANNEX C**

**CO'S ACKNOWLEDGEMENT OF SANCTIONED INITIATION RITES (CAF MEMBERS ONLY)**

As Commanding Officer of \_\_\_\_\_(unit) I hereby acknowledge the following sanctioned activity as taking place under my authority.

I acknowledge the following:

- that the activities will be conducted and supervised by senior personnel;
- that no person is, or will be coerced, either expressly or implicitly, into participation in the activities;
- that the activities do not include acts of violence, however minor, nudity or competitions involving the drinking of alcoholic beverages; and
- that all activities conducted are consistent with the promotion of morale and esprit de corps and will be conducted with respect for the dignity of all participants.

Date: \_\_\_\_\_

Place: \_\_\_\_\_

Name of Unit & UIC code: \_\_\_\_\_

Nature of the Activity: \_\_\_\_\_

OPI in Charge: \_\_\_\_\_

\_\_\_\_\_  
Name of Commanding Officer (print)

\_\_\_\_\_  
Signature of Commanding Officer /(date)

Place a copy of this on unit file under Harassment and Complaints (5000-6) each time a sanctioned activity is taking place and send one copy to DHRD

## ANNEX D

### COMPETENCY PROFILE FOR HARASSMENT INVESTIGATORS AND/OR HARASSMENT ADVISORS

#### **Part I: Harassment Investigators and Harassment Advisors**

1. The HI/HA should have the following personal attributes:
  - a) impartiality/fairness;
  - b) thoroughness;
  - c) tact/discretion/judgement;
  - d) respect and professionalism; and
  - e) tolerance for stress.
  
2. HI/HA should have the following knowledge and skills:
  - a) ability to advise senior level management/senior leaders; and
  - b) knowledge of relevant Harassment DAOD & Instructions.

#### **Part II: Harassment Investigators also have to have the following Knowledge and skills:**

3. The HI should have knowledge of:
  - a) administrative/harassment investigation and interviewing techniques;
  - b) principles of procedural fairness;
  - c) Treasury Board policies on harassment in the workplace (i.e. General Safety Program, Vol 1, Chapter 6; Occupational Safety, Section 5; Prevention of Violence 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 applicable to Administrative/Harassment Investigations; and
  - e) organizational structures, cultures and contexts.
  
4. The HI is able to:
  - a) collect, 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 English or French, as required.

In making the 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.

Any time a DND employee is involved in a complaint as either the Complainant or the Respondent, the HI must meet the following additional experience qualifications:

- (a) a proven track record that demonstrates consistent quality investigations and reporting;
- (b) Canada Public Service School or HI training or equivalent combination of training and experience; and
- (c) must have completed a minimum of **three Harassment Investigations** within **the past two year period** relating to harassment in the workplace in either the private or the public sector.



**ANNEX E****TERMS OF REFERENCE FOR AN HARASSMENT INVESTIGATION**

File Number:

Date:

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

References:

- A. Harassment Complaint dated: \_\_\_\_\_
- B. DAOD 5012-0 Harassment Prevention and Resolution
- C. Harassment Prevention and Resolution Instructions

1. (Name of HI(s)) is/are appointed to conduct a thorough investigation into the harassment complaint at Reference A. Pursuant to Reference B, this investigation is considered to be a primary responsibility. The investigation shall be conducted with the utmost sensitivity and discretion in accordance with Reference C. The investigating officer shall suspend the investigation if he/she suspects that an offence under the *Criminal Code*, *NDA*, or other Federal Statute has been committed 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/HARASSMENT INVESTIGATION STAGES****3. Research and Planning Stage:**

- a) review all applicable legislation, regulations and orders, specifically DAOD 5012-0 and the Harassment Prevention and Resolution Instructions;
- 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;

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 and meets the 6 criteria; 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

- 1) Prepare the Draft Report in accordance with the following format:
  - a) a summary of the harassment complaint;
  - b) a description of the allegation(s);
  - c) a description of the background and evidence that supports and does not support, each allegation; and
  - d) an analysis of the evidence in respect to each allegation as to its credibility but not whether or not the conduct satisfied the definition of harassment;
- 2) 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 protection provisions by the *Privacy Act*, to the Complainant and the Respondent. The Complainant and Respondent will have 14 calendar days to provide written comment; and
- 3) 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

- 1) Prepare the Final Report using the information from the Draft Report and add the information from items (e) and (f) identified below:
  - a) a summary of the harassment complaint;
  - b) a description of the allegation(s);
  - c) a description of the background and evidence that supports and does not support, each allegation;
  - d) an analysis of the evidence in respect to each allegation;
  - e) a statement as to whether each allegation is supported or not; and
  - f) a 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 and the reasons for the delay explained.

SIGNATURE BLOCK

PROTECTED B (WHEN COMPLETED)

## **ANNEX F**

### **HARASSMENT FILE INFORMATION AND COMPLAINT TRACKING INFORMATION**

The DND and CAF maintains a filing system held at the unit level (Appendix I: File Information) and a Protected A electronic system (DND and CAF wide) for tracking statistical data used to report to senior leadership and Parliament (Appendix II: Tracking System). The RO is responsible for ensuring that files are properly maintained and all harassment complaints are entered in the electronic database.

**APPENDIX I: File Information**

The RO must maintain unit file records as follows:

1 Harassment-Related Training:

- a) the name and classification/rank of all DND employees and CAF members who have received training including unit annual awareness sessions; and
- b) details of the training received, including the title, location, source and duration of the course or training.

2. Complaint Files (Protected B once initiated).

For each complaint, the following information must be recorded in the file: the name, PRI/SN, gender and status (mil/civ) of the member/employee submitting a harassment complaint;

- a) the name, PRI/SN, gender and status (mil/civ) of the CAF member(s) and/or DND employee(s) against whom a harassment complaint has been filed;
- b) the nature of the complaint;
- c) the organizational relationship between the Complainant(s) and Respondent(s), i.e. supervisor, subordinate, colleagues/peers;
- d) whether the Complainant and Respondent(s) have already received harassment awareness training;
- e) the date the written complaint was submitted;
- f) when ADR was considered and whether it was utilized (and if not used, why);
- g) all resolution methods (self-help, supervisor intervention, mediation, investigation) chosen and the outcomes, including whether or not harassment was found if an investigation was conducted;
- h) any remedial, corrective, administrative and/or disciplinary measures taken; and
- i) date of administrative closure.

**For military only:** The NoD (Annex B) will be placed in the files only if and when an official harassment complaint has been submitted. If only a NoD was submitted and was deemed to be successful, it is to be filed under File # 5080 SERVICE PERSONNEL - HARASSMENT in the unit filing system.

**Note 1: Defence Subject Classification and Disposition System (DSCDS): Guidelines for the retention and disposal of files** <http://img-apps.ottawa-hull.mil.ca/DSCDS/application/index.aspx>

Note 2: The Defence Subject Classification and Disposition System (DSCDS) is an information classification structure that all DND/CAF units must use to organize information holdings so that the holdings are stored, retrieved and managed in a systematic manner. The DSCDS is also a Records Disposition Authority (RDA) sanctioned by Library and Archives Canada (LAC). Users must use it to determine how long information is to be retained and method of disposition at the end of the life cycle (i.e., destroys or transfer to LAC). Information that is disposed of in accordance with the DSCDS is done so legally under the terms and conditions of the Library and Archives of Canada Act.



## APPENDIX II: DND/CAF ELECTRONIC HARASSMENT COMPLAINT TRACKING SYSTEM



The Harassment Complaint Tracking System (HCTS) is an online application, designed to track harassment cases within the Department of National Defence and the Canadian Forces (CAF)

[http://hr.forces.mil.ca/harassment/engraph/hcts\\_e.asp](http://hr.forces.mil.ca/harassment/engraph/hcts_e.asp)

Responsible Officers (RO) are accountable to ensure that all formal harassment complaints are entered accurately and consistently.

In order to have access to enter data into the HCTS system, users must have successfully undertaken the Harassment Advisor (HA) qualification training. Once they have taken the training, they can then apply to the addresses below to gain access to the system.

The HCTS manual is available at the following link to assist you in entering the data into the system.  
[http://hr.forces.mil.ca/harassment/engraph/user\\_guide\\_e.pdf](http://hr.forces.mil.ca/harassment/engraph/user_guide_e.pdf)

Trained HAs at Units and LRO's who wish to register to the Harassment Complaint Tracking System (HCTS), and/or for general system inquiries, please send requests to:

[Civrecourse-recourscivil@forces.gc.ca](mailto:Civrecourse-recourscivil@forces.gc.ca)

Or

[+NDHQ DHRD OTTAWA@CMP DHRD@Ottawa-Hull](mailto:+NDHQ DHRD OTTAWA@CMP DHRD@Ottawa-Hull)

**\*Note:** In your email request for an account in the HCTS please ensure to include the date of Harassment Advisor's (HA) Qualification along with the UIC number and name.

**ANNEX G**

**HARASSMENT PREVENTION AND RESOLUTION INSTRUCTIONS  
FEEDBACK FORM**

Comments or feedback for improving these Harassment Prevention and Resolution Instructions can be forwarded to:

+NDHQ DHRD OTTAWA@CMP DHRD@Ottawa-Hull

or call

1-888-298-4585

# HARASSMENT COMPLAINT PROCESS CHART

