

Workplace Harassment Policy in a Parliamentary Context

Creating and implementing guidelines that directly affect working relationships in a context where there are many separate employers, like Quebec's National Assembly, presents some unique challenges. In this article, the author outlines how a multi-party Working Group examined best practices for preventing and managing situations involving workplace harassment and adapted them to suit the parliamentary context. In-depth, methodical deliberations by the Working Group resulted in a consensus policy that was proactively communicated to stakeholders.

Maryse Gaudreault, MNA



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Maryse Gaudreault is the MNA for Hull. She was a member of a multi-party Working Group that developed a policy to prevent and manage situations involving harassment in the workplace for MNAs, their staff and all administrative staff at Quebec's National Assembly.

In November 2014, the President of the National Assembly, Jacques Chagnon, mandated me to draw up recommendations on how best to prevent and manage harassment in our organization. As a result, a Working Group, composed of nine elected officials,¹ including both men and women from all parties represented in the House, developed a policy reflecting the political and administrative authorities' will to ensure that the National Assembly constitute a healthy, harmonious, harassment-free work environment for Members of the National Assembly (MNAs), their staff and all of its administrative employees. While the Assembly had already adopted a harassment policy several years earlier, it was restricted to administrative staff. And, although Québec's legal framework offers victims of harassment (employees and others) various recourses,² no specific tools or mechanisms existed to prevent or manage situations involving harassment which MNAs and political staff might face in the course of their duties.

When the Office of the National Assembly adopted its *Policy on Preventing and Managing Situations Involving Harassment in the Workplace*³ on June 4, 2015, for the first time in its history, our institution sent the clear, unequivocal message that no form of harassment is tolerated at the National Assembly, regardless of the perpetrator. This message was reiterated in the House in a motion hailing the Policy's coming into force.

Based on Best Practices and Adapted to the Parliamentary Context

The Working Group met several times. After analyzing the National Assembly's existing policy

covering administrative employees as well as policies developed by other similar institutions, we consulted various legal and community professionals to better grasp the current legal status of situations involving psychological harassment and the case law governing them. Our goal was to identify the main elements of an effective policy and to better understand what the individuals involved in such situations experience. Throughout the information sessions, we agreed that, first and foremost, a policy tailored to the National Assembly context should serve as a tool for prevention and providing information, not just as a means of resolving situations involving harassment.

From the outset, the Working Group had to keep certain realities in mind to guide us throughout the policy development process. Our starting point was the principle that the parliamentarians themselves entrenched in Québec legislation in 2004, namely that “Every employee has a right to a work environment free from psychological harassment”.⁴ This underscores employers’ responsibility to “take reasonable action to prevent psychological harassment and, whenever they become aware of such behaviour, to put a stop to it.”⁵ Our Policy adopted in June 2015 is based on the will of all MNAs and the National Assembly administration, as employers in their own right, to ensure that the National Assembly remains a healthy, harmonious work environment free from harassment.

Moreover, we could not ignore the reality of a Parliament. The Policy is also adapted to the unique features of the National Assembly as a work environment. For example, not everyone in the Assembly is governed by an employment relationship in their workplace interactions. The Assembly has numerous employers, since, as holders of public office, MNAs cannot be considered employees, but rather, employers of their staff: the *Act respecting the National Assembly* gives them the power to hire personnel to assist them in carrying out their duties. Most Assembly administrative employees are hired under the *Public Service Act*, with the Secretary General representing the employer.

Despite these different employment relationships, we felt that preventing harassment and maintaining a culture of civility is everyone’s business. We firmly intended to ensure that the Policy would apply to MNAs, their office staff⁶ and the Assembly’s administrative personnel, and offer them all the same resources and mechanisms to prevent and, if necessary, stop harassment and restore a safe work environment. The Policy applies to the relations between these

three groups in the course of their duties, regardless of the location or the perpetrator. The desire for uniformity, consistency and fairness marked our work throughout the Policy’s development. Indeed, this is one of its greatest strengths.

Québec’s Legal Framework Governing Psychological Harassment in the Workplace

Definition of psychological harassment

The *Act respecting labour standards* applies to all employers falling under provincial jurisdiction. When the *Act* was reformed, in 2004, Québec legislators adopted a unique definition of psychological harassment to which the courts refer to ensure uniform application in all harassment cases. Psychological harassment means:

Any vexatious behaviour in the form of repeated and hostile or unwanted conduct, verbal comments, actions or gestures, that undermines a person’s dignity or psychological or physical integrity and that results in a harmful work environment for the person.

A single serious incidence of such behaviour that has a lasting harmful effect on a person may also constitute psychological harassment.

The definition of psychological harassment in the *Act respecting labour standards* includes sexual harassment in the workplace and harassment based on any of the grounds listed in the Québec *Charter of Human Rights and Freedoms*, namely: race, colour, sex, pregnancy, sexual orientation, civil status, age except as provided by law, religion, political convictions, language, ethnic or national origin, social condition, a handicap or the use of any means to palliate a handicap. In an avant-garde initiative, the Working Group chose to include harassment on the grounds of gender identity and expression in the Policy’s definition.

Employer responsibilities

To meet their obligation under the *Act respecting labour standards* to provide their employees with a harassment-free workplace, employers must use reasonable means and act quickly to resolve problem situations brought to their attention, and manage the work environment so as to prevent harassment. More specifically, they must implement an internal procedure to deal with such problems objectively and rapidly.

As employers in their own right, all MNAs as well as the National Assembly administration have these obligations.

Given our intention that all MNAs be able to avail themselves of this Policy should a situation involving harassment arise in the course of their duties, even though they are not considered employees, the Policy stipulates that the responsibilities normally reserved for a superior be assigned to the party Whip.⁷ As the person responsible for cohesion within a parliamentary group, the Whip must support a culture of prevention and civility, in particular by setting an example and being sensitive to inappropriate situations.

Because of the unique features marking employment relationships at the National Assembly, the standard term “superior” or “employer” was not always fitting. For the purposes of the Policy, the term “person in authority” was considered more appropriate.

Policy Highlights

As mentioned, our goal was to propose a simple, accessible Policy adapted to the Parliamentary workplace to the National Assembly authorities. However, we also wanted to set an example by including all of the different elements recognized to be part of an effective policy drafted to facilitate its application.

Broad scope ensuring greater fairness

The Policy applies to all MNAs, their employees and all National Assembly of Québec administrative personnel who feel they are victims of harassment in the course of their duties, regardless of where the event occurs or who the perpetrator is. The Policy’s broad scope clearly shows that when it comes to harassment, zero tolerance applies.

Commitment of all involved

As employers, the National Assembly administration and all MNAs recognize that it is their responsibility under this Policy to employ healthy management practices to prevent and stop psychological harassment of their employees, if applicable. They also recognize that conflictual situations can harm the work atmosphere and people’s health, directly affecting their ability to carry out their respective missions.

The Policy not only outlines the employer’s role, but also highlights the commitment of all concerned to espousing the values of civility and respect emerging from it.

Definitions promoting prevention

With some minor differences in wording, our Policy uses the definition of psychological harassment given in the *Act respecting labour standards*, as presented above.

To ensure a better understanding and encourage better analysis of the situations encountered, the Policy also sets out other inappropriate behaviours that can impact the work environment, but that do not in themselves constitute harassment. Adding these definitions reflects the will of the MNAs and the National Assembly administration to promote a work environment that is not only harassment-free and but that is marked by respect and civility, as well as raising everyone’s awareness that situations involving harassment are often the result of incivility or unresolved conflicts.

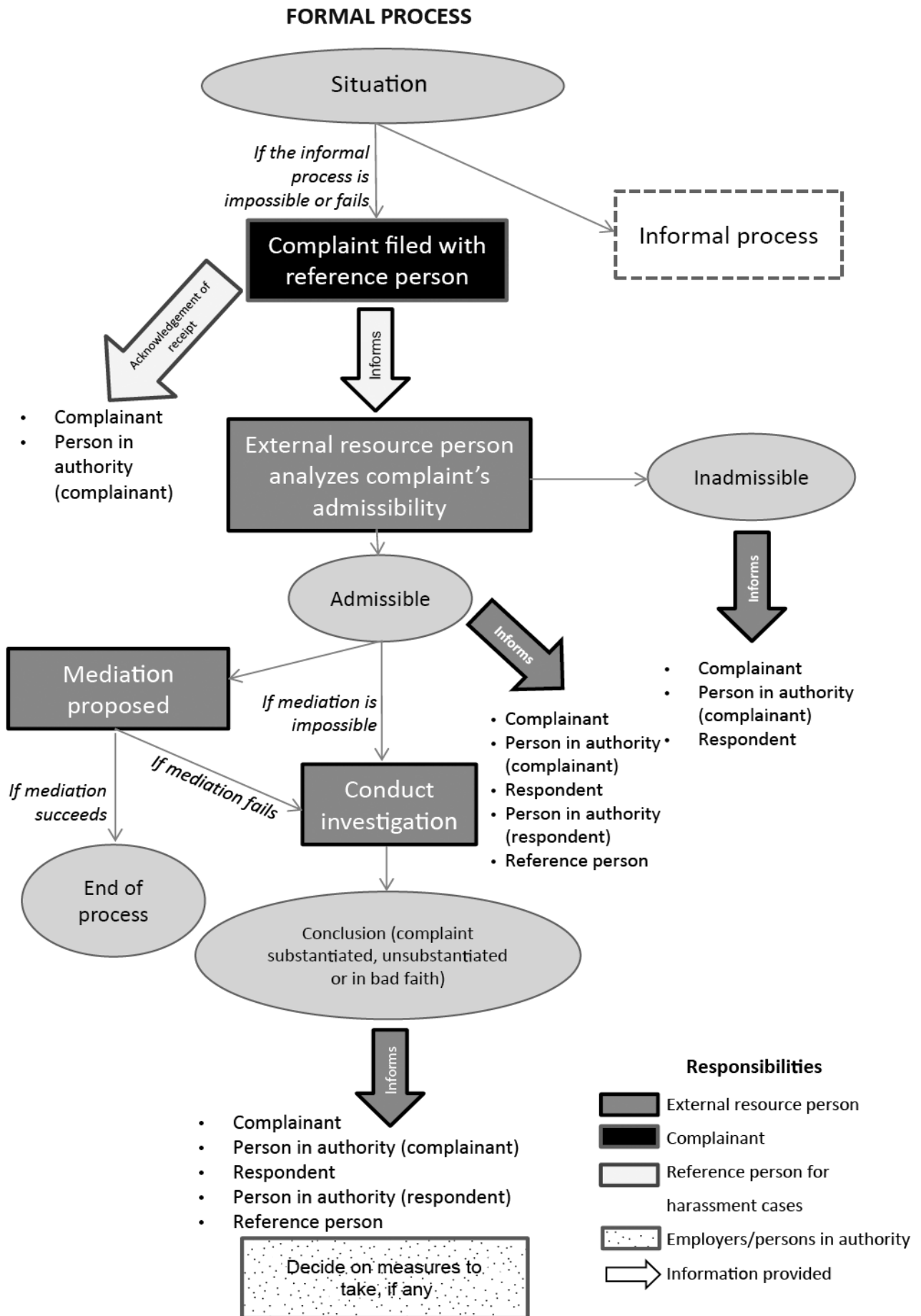
Informal and formal resolution processes

The National Assembly’s Policy favours informal resolution of situations involving harassment through means that encourage communication between the parties involved.

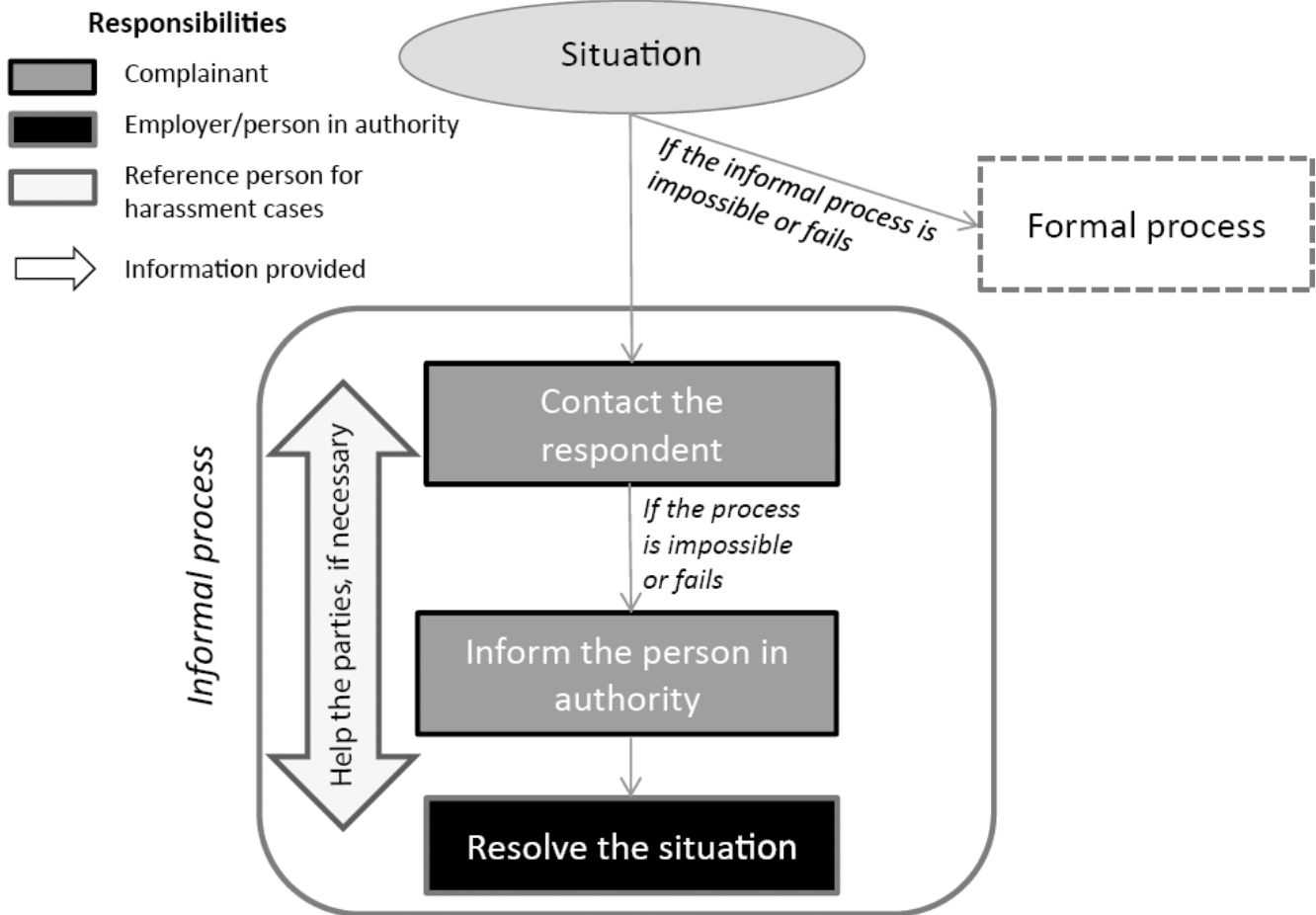
However, the Policy also includes a formal complaint mechanism. While its use is optional, this formal process is a tool, over and above other legal remedies, available to persons who feel they have been victims of harassment. This mechanism may be better adapted to the workplace and to maintaining maximum confidentiality.

The Policy also emphasizes that complaint-related information will be treated as confidential by all involved, including those processing the file. The Policy clearly states that measures may be imposed on anyone who harasses another person, files a complaint in bad faith or tries to prevent a complaint’s settlement through threats, intimidation or retaliation.

In the interest of fairness, the steps in the complaint process are the same, regardless of the complainant. The only difference is the person in authority, depending on whether the complainant is an MNA, an MNA’s employee or an administrative employee.



INFORMAL PROCESS



Thus, someone wishing to file a complaint knows exactly who to contact and who will be informed in the complaint process. The Working Group felt it was important that the Policy be worded so that all involved in such situations clearly understand the process involved in filing a complaint.

Specialized resources

For complaint processing, the Policy identifies two harassment specialists, who play complementary roles. One is the reference person for harassment cases, a Human Resources Directorate employee designated by the Secretary General, a resource that the National Assembly already had. This reference person offers support to people involved in the informal process, answers questions related to the Policy and, if applicable, ensures application of and follow-up to

the formal complaint process. To offer complainants a neutral process and ensure monitoring (in particular with respect to the potential number of complaints to be filed against a respondent), complaints are filed with a single individual.

The reference person for harassment cases automatically forwards the complaints to an external resource person for analysis, and, if applicable, investigation. This way, the reference person ensures follow-up, without getting involved in the formal complaint process.

The external services are carried out by a specialized, impartial resource person from outside the organization to whom the reference person systematically forwards all harassment-related complaints, regardless of who is involved. The

external resource person determines whether a complaint is admissible and, if necessary, refers the parties to mediation or conducts an investigation. When the investigation is finished, the external resource person drafts a report, which is confidential and contains an analysis, findings related to the complaint and recommendations for measures to be implemented.

A Policy Against Harassment: One Way To Raise Awareness and Encourage Prevention

The aim of a harassment policy is not solely to establish whether harassment has occurred and decide who is right or wrong, but also to promote harmonious workplace relations. Consequently, the Policy is, first and foremost, a tool for communication and awareness-raising. Throughout the Policy development process, we felt it crucial to opt for a proactive approach to head off problems rather than employing reactive management strategies when faced with potential harassment situations. Developing a prevention-based mindset by encouraging a culture of civility in the workplace is the Policy's ultimate goal.

We also recommended that the Policy be easily accessible. As soon as it was adopted, it was widely distributed to current employees and MNAs. Information sessions will also be offered to MNAs, immediate superiors and employees. Various educational tools (checklists, FAQ sheets) are being developed for employees.

Conclusion

This article sheds light on the challenges inherent in a unique workplace like the National Assembly, in particular for implementing guidelines that directly affect working relationships in a context marked by many separate employers.

The consensus needed to adopt such a Policy was made possible through the in-depth, methodical deliberations of the Working Group, whose members, as mentioned, hailed from all of the political parties represented in the National Assembly. The will of all involved to set an example in terms of preventing workplace harassment also fueled this common effort.

The Policy's adoption is definitely not the end of the road but the beginning of more far-reaching reflection, both individual and collective, on how we act and interact as employers, superiors and colleagues.

Notes

- 1 Working Group members: Maryse Gaudreault (Hull), Sylvie D'Amours (Mirabel), Françoise David (Gouin), Manon Massé (Sainte-Marie-Saint-Jacques), Marie Montpetit (Crémazie) and Carole Poirier (Hochelaga-Maisonneuve), Simon Jolin-Barrette (Borduas), Harold LeBel (Rimouski) and Marc H. Plante (Maskinongé). The Working Group enjoyed the support of National Assembly administrative personnel.
- 2 Possible avenues of recourse and protection include the Commission des normes du travail, Commission de la santé et de la sécurité du travail and Commission de la fonction publique and exist under the law (Civil Code of Québec, Charter of Human Rights and Freedoms, Act respecting occupational health and safety, Criminal Code and Act respecting assistance for victims of crime).
- 3 The Policy is available for consultation on the National Assembly website: assnat.qc.ca/PolitiqueHP (French only).
- 4 *Act respecting labour standards* (chapter N1.1), section 81.19.
- 5 Ibid.
- 6 Here, we are referring to MNAs' employees hired under the Act respecting the National Assembly. Staff members in Ministers' offices (i.e., Ministers' employees, including in the ridings) are hired under the Executive Power Act.
- 7 Or the Leader, if the Whip is the complainant or respondent.