

**Harassment Prevention Strategies for the Canadian Public Service -  
A Qualitative Analysis of Policy Effectiveness**

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## **Abstract**

This paper is an analysis of the federal government of Canada's harassment policy and practices. It examines how the federal government addresses allegations of harassment and the management of the harassment complaint process in the workplace. The framework for this study combines a review of the existing central agency policy mandates of the Canadian public service, related documentation as well as various literatures published internationally and nationally. It will address both the effectiveness of the current policy and areas of weaknesses and what can be done from a central agency perspective. The federal government has faced considerable media coverage in the past few years with reports revealing that bullying, harassment and mobbing are on the rise as are the number of mental health disability claims. The consequences of workplace harassment are enormous, not just towards the individual who faces harassment but to the organization as well. Therefore, the final objective of this paper is to recommend new prevention strategies. Because there are many causes of unethical behaviour, the availability of multiple preventative options is required as is the aptitude to apply the most suitable remedy.

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## Introduction

Canadian courts and tribunals are demonstrating through verdicts the importance and the right of every individual to work in a civil and respectful workplace, as well as the importance of preventing conduct that could lead to mental injury. Financial rewards for damages caused by mental injury at work have increased over the past five years by 700% (Suppiah, 2012). Judges, arbitrators and commissioners are communicating three key messages: 1) they are becoming increasingly intolerant of workplace factors that threaten psychological safety; 2) they are ordering management to change workplace habits that threaten employees; and 3) they are imposing dramatically increased financial punishments for transgressions (Suppiah, 2012). According to the Shain report,

*"Liability for employers who fail to maintain a psychologically safe workplace is building strength in the proceedings of courts and tribunals in seven different Canadian legal contexts: human rights, labour law, employment contracts, employment standards, occupational health and safety, workers compensation, and torts and damages, i.e. common law" (Suppiah, 2012).*

Because employment is viewed as one of the most essential aspects of a person's life, influencing one's "sense of identity, self-worth and emotional well-being"<sup>1</sup>, the following conclusion was drawn in an Alberta ruling for a federal employee case under the *Public Service Labour Relations Act*, "...the conditions in which a person works are highly significant in shaping the whole compendium of psychological, emotional and physical elements of a person's dignity and self-respect."<sup>2</sup>

Furthermore, employers are being held liable for "tolerating a corporate culture which

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<sup>1</sup> *Workplace bullying and harassment*, 2013. Fitzgibbon, Michael. P. <https://www.cba.org/cba/newsletters/addendum01->

<sup>2</sup> Ibid.

involves abusive treatment of staff members”<sup>3</sup> emphasizing the employer’s responsibility to address interpersonal conflicts.

The Canadian Human Rights Commission investigates harassment complaints based on one of the eleven prohibited grounds of discrimination, defines harassment as “any unwanted physical or verbal conduct that offends or humiliates” an individual.

The federal government of Canada’s *Policy on Harassment Prevention and Resolution* contains the following definition:

*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 and pardoned conviction).*

*Harassment is normally a series of incidents but can be one severe incident, which has a lasting impact on the individual.*

Acts of bullying can also be covered under the *Canadian Human Rights Act* (CHRA) provided that the bullying is based on one of the fore-mentioned prohibited grounds.

The province of Quebec amended the *Act Respecting Labour Standards* (LSA) to include psychological harassment, which is defined as “any vexatious behaviour in the form of repeated conduct, verbal comments, actions or gestures that are hostile or unwanted, that affects the employee’s dignity or psychological or physical integrity and that results in a the work environment harmful for the employee”. Quebec rendered psychological harassment in the workplace an offence under the LSA in 2004, becoming the first Canadian jurisdiction to do so allowing the

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<sup>3</sup> Ibid.

Labour Relations Board of Quebec to award compensation and/or order reinstatement if workers have suffered psychological harassment.<sup>4</sup>

Two consecutive federal Public Service Employment Surveys,<sup>5</sup> conducted in 2008 and 2011 by the federal government of Canada, generated similar figures with respect to the number of employees (29%) who perceive having experienced harassment in the federal public service of Canada.<sup>6</sup> The percentage of employees who are satisfied with the way their work unit responds to harassment and discrimination went down to 63% in 2011.<sup>7</sup> Although the federal government was one of the first Canadian institutions to introduce an anti-harassment policy in 1982, they not have equally been a leader in the prevention of harassment and unethical behaviour in the workplace.

Although much literature on harassment and bullying exists, precursors and how to manage incidences, in particular how to develop and implement preventive measures are still limited. In order to better reflect the federal government workplace reality, the federal government must place more emphasis to mitigate occurrences of harassment in the workforce and to develop innovative prevention strategies, which will in turn provide guidance to organizations for which it is the employer. As T. Dean

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<sup>4</sup> Lancaster's Employment Standards Law eNewsletter [June 7, 2011, Issue No.48]. <http://lancasterhouse.com>

<sup>5</sup> The Public Service Employee Survey (PSES) has been conducted every three years since 1999. It provides federal government employees the opportunity to anonymously voice their opinions on their leadership, workforce and work environment. It is conducted by Statistics Canada on behalf of the Office of the Chief Human Resources Officer. The survey results enable managers and employees to discuss the strengths and areas for improvement in people management at all levels of their organization. The results also feed into deputy heads' performance assessments. <http://www.tbs-sct.gc.ca/gses.saff/index-eng.asp> (December 2011).

<sup>6</sup> The Treasury Board of Canada Secretariat (2012). <http://www.tbs-sct.gc.ca/ps-es-saff/2011/results-resultats/bq-pq/00/org-eng.aspx#s8>

<sup>7</sup> Ibid

Maines states, "A culture that reinforces ethical conduct safeguards against morality problematic decisions and deeds."<sup>8</sup>

Respect in the organization begins with strong societal support towards intolerance of unethical behaviour. Those who exert the most influence in organizations are strong, effective and ethical leaders. However, models and champions for ethical behaviour are not limited to the management group; any level of employee or group can be an advocate. Societies that value respect equally in the family, community, and schools will influence the values of a workplace (Ontario Ministry of Labour, 2010). Societies that strongly oppose unethical behaviour and expect proper enforcement of sanctions against values that are breached also influence the governance of work environments workplace (Ontario Ministry of Labour, 2010). A single incident of harassment can have negative impacts on the individual experiencing harassment, within the organization in which it occurred, extending even to the familial and societal realms.

A recent publication by the Corporate Executive Board describes organizational justice as when employees perceive their employer "responds quickly and consistently to verified or proven unethical behaviour and that unethical behaviour is not tolerated". For an organization to be viewed with integrity, organizations "must quickly identify misconduct; mitigate future misconduct and reduce potential offenders over time by attracting and retaining the right employees."<sup>9</sup> Another important factor that has been kept relatively out of scrutiny are the sanctions enforced against individuals who breach organizational codes of conduct.

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<sup>8</sup> T. Dean Maines, How do you measure ethics?, 1999. £13: <http://www.ethics.org/resource/organizational-ethics> (2012).

<sup>9</sup> The Corporate Executive Board, 2011. Turning Ethics into Outcomes 2011. <http://www.executiveboard.com/exbd/legal-risk-compliance/integrity-capital/index.page> , December 2012

The proper, consistent and communicated enforcement of sanctions sends a key message to establishing acceptable behaviour and sustaining a respectful workplace while sometimes deterring individuals from committing unethical conduct.

Training has always been the most effective method to impart information and cultivate awareness. However, for training in harassment prevention to be effective and beneficial, the content and ultimately the message derived from the training curriculum are crucial as these are the foundation of knowledge (Ontario Ministry of Labour, 2010). Relevant knowledge acquired in the training may impact conduct in the workplace, where the true test of training can be measured.

This paper will examine some international leading theories on precursors to harassment at the personal, organizational and systematic levels and how they can influence policy development and prevention strategies. Next, I will explore the Canadian reality in terms of the federal government's role in harassment management and prevention which will then be followed by an analysis of the current policy in place that covers employees in the federal public service. I will conclude the paper with several recommendations on preventive strategies, which may contribute to the mitigation or the prevention of harassment in the workplace.

## **Methodology**

This research takes the form of a philosophical document analysis using a qualitative methodology. The framework for this study combines a review of the existing central agency policy mandates of the Canadian public service, as well as various literature. The qualitative research will examine the opinions and experiences of public service

professionals who are or were exposed to the harassment either as a subject to it or from working in that field. Challenges with respect to the existing public service policy on harassment will be explored, and mitigation and prevention strategies will be considered and proposed. The ultimate purpose of the study is to determine how a central agency policy perspective can mitigate harassment and bullying in the public service.

### **a) Research Questions**

The research questions that will guide this study are as follows.

1. What is the effectiveness of the current central agency *Policy on Harassment Prevention and Resolution* (the Policy)?
2. What are the current weaknesses of the Policy?
3. What can be done from a central agency perspective to address existing concerns?

### **b) Research Design**

Using a qualitative methodology approach through a document analysis and interviews for this paper will allow for the creation of generalized observations which may allow the researcher to develop theories about the nature of social structures (Creswell, 2009). In this case, the link between philosophical approaches to ethics and actual human resource policy in the Canadian public sector will be examined.

Qualitative analysis will be used for this paper in order to develop generalized observations (Creswell, 2009). To this end, data collection, analysis and theory are interrelated. This approach will allow for an examination of multi-directional and progressive local data that takes into consideration the relationships among people,

conditions, actions and consequences (Johnson & Reynolds, 2010). Document and content analysis can be a source of extremely worthwhile information to this research process.

The research method will also include interviews, as noted above, using open-ended questions. Babble and Benaquisto (2002) demonstrate that there are multiple qualitative methodologies for connecting with research subjects, including in-depth interview studies, focus group interviews and oral histories; this study adopts the former approach in addition to document analysis.

For the purpose of this research, documents to analyze will include Treasury Board of Canada policy instruments on harassment; the 2006-2007 Annual Report to Parliament on Harassment; results from the Public Service Employment Survey from 2008 and 2011; and other related federal government reports or documents. Some documents referred to include the Shain Reports (2009; 2010); Public Health Agency of Canada and Mental Health Commission of Canada policy documentation; provincial and territorial human resource policy documentation; and anti-harassment policies from jurisdictions within and outside of Canada. These documents are vital to this study because they provide an outline of current processes, and will be used to provide a series of prevention strategies.

## Chapter One: Literature Review

### Origins of Moral Decisions

Ethical theories developed thousands of years ago continue to provide guidance and influence much of today's professional and workplace codes of conduct and ethical standards and practices.<sup>10</sup>

*"...The field of professional ethics applies these ideas and insights to ethical issues and dilemmas facing professionals in their daily work. Ethical theories are the major sources of principles, values, standards, and rules bearing on the ethical behaviour of evaluators" and any employee working in the public or private sectors. Most codes of conducts reflect the influence of more than one ethical theory".<sup>11</sup>*

A challenge most public servants face is the conflict between or amongst personal and professional values resulting in an ethical dilemma<sup>12</sup> or in other words, a conflict between professional values in the workplace. A study on conflict in the Canadian workplace revealed that 59% of conflict is due to a "clash of values."<sup>13</sup> An example is when public servants are required to follow orders they believe go against their personal values or may be at the determinant to the Canadian population. "There are a variety of philosophical approaches to ethical problems, and the debate between various schools of thought both informs ethical decisions and ensures an evolving context for ethical approaches."<sup>14</sup>

More than one ethical principle may be used as a foundation for professional codes of conduct or applied in a given profession ethical dilemma. In such cases,

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<sup>10</sup> Her Majesty the Queen in Right of Canada, represented by the President of the Treasury Board, Professional Ethics and Standards for the Evaluation Community, <http://www.tbs-set.2c.ca/cee/career-carriers/Desec2c-enpcegc/pesecgc-enpcegc-eng.as1>(2006).

<sup>11</sup> Ibid.

<sup>12</sup> An ethical dilemma is defined as a situation in which two ethical principles are at odds rather than a simple matter of right versus wrong (Kitchener, 1985). Extracted from E. Humphrey (2008), *An Exploration of Ethical Dilemma Resolution by Student Affairs Professionals*, <http://scholar.lib.vt.edu/theses/available/etd-10072008-084326/unrestricted/EHumphreyDissertation102008.pdf> (March 2013).

<sup>13</sup> Psychometrics Canada, 2009. Warring Egos, Toxic Individuals, Feeble Leadership —A Study of Conflict in the Canadian Workplace. [http://wwwpsychometrics.com/\\_docs/conflictstudy\\_09.p\\_fi](http://wwwpsychometrics.com/_docs/conflictstudy_09.p_fi) (2012).

<sup>14</sup> Ibid

“the application of principles yields conflicts, then such conflicts properly demand probing ethical reflection and difficult value choices. In their best uses, principles serve as short-hand reminders of more complex and context-specific moral reflection.”<sup>15</sup>

## **Reasoning versus Intuition**

Moral psychology concerns itself with the debate over whether moral judgment is based on conscious reasoning versus moral intuition. One leading theory claims that moral judgment arises from reason. Morality is “first and foremost, a matter of consulting reason. The morally right thing to do, in any circumstance, is whatever the best reasons for doing are” (Hauser, 2006). In the quest for studying the nature of right and wrong, it is argued that “moral judgment is mediated by an unconscious process, a hidden moral grammar that evaluates the causes and consequences of our and others’ actions. This account shifts the burden of evidence from a philosophy of morality to a science of morality” (Hauser, 2006).

Hauser describes how moral intuitions work and why they evolve, theorizing that “by looking at our moral psychology as an instinct - an evolved capacity of human minds that unconsciously and automatically generates judgments of right and wrong - we can better understand why some of our behaviours and decisions will always be construed as unfair, permissible, or punishable, and why some situations will tempt us to sin in the face of sensibility handed down from law, religion, and education.”

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<sup>15</sup> Her Majesty the Queen in Right of Canada, represented by the President of the Treasury Board, Professional Ethics and Standards for the Evaluation Community, <http://www.tv.tbs-sct.ac.ca/eng.asp> (2006).

However, Hauser is not claiming that moral intuition dominates or replaces our moral judgment and ability to reason, rather considers that moral instincts "...colour our perceptions, constrain our moral options, and leaves us dumbfounded because the guiding principles are inaccessible, tucked away in the mind's library of unconscious knowledge."

### **Biological Origins of Harassment**

Studies on animal research reveal parallels between human and animal interactions. The theory on the ethics of reciprocity claims "Animals seek power by giving and receiving favours" (Breuning, 2011). Building on the theory that humans are always expecting things from other individuals, "*you scratch my back, I will scratch yours*", reciprocity is the foundation of primate society (Breuning, 2011). As with humans, animals also believe in practicing reciprocity. "The bigger an animal's brain, the more they avoid violence by substituting a mental accounting of favours given and received."

Research also reveals that, "many of the roots of human behaviour can be traced to our primate heritage, including survival through cooperation and mutual assistance" (Adang, 2009). Because reciprocity is at the core of the Golden Rule, this type of universal law exemplifies "the signature of a common biological mechanism, part of the species' genetic heritage. Universals often show up as legacies of our past, pieces of psychological machinery that we inherited from our ancestors" (Hauser 2006).

Judgments of right and wrong are typically strongly influenced by parental and authoritarian figures from childhood, and then to some extent by political or workplace leaders during adulthood. This leads one to reason consciously based on principles established from these external forces (Hauser, 2005). To understand what derives the motivations and attitudes humans possess lends itself to a case-by-case determination. In that “sometimes facts and desire lead to a logical conclusion” and when it doesn’t moral intuition kicks in (Hauser, 2005).

Practicing psychological harassment isn’t restricted to human beings. Among animal societies the same tactic is used to elicit cooperation through what is considered in the animal kingdom to be non-violent or non-physical means (Hauser, 2006). Animals with the closest DNA to humans, such as chimpanzees and squirrel monkeys, “incessantly beg from those who have food, using tactics that range from more subtle shadowing and staring to hand-gesturing toward the consumer's face. The goal seems to be to annoy those who have food, waiting for them to give up and hand over some over or tolerate food theft.” For these animals, harassment is a “relatively cost-free way to get cooperation going.” However the difference is that punishment or retaliation is almost non-existent and not much is done to deter this type of behaviour (Hauser, 2006).

Reciprocity is a different form of cooperation whereby sometimes harming another individual is permissible. Humans share this trait with animals, “Animals are nice to each other when their genes benefit directly through kinship.” Humans also appear “to support stable relationships that rely on reciprocity” (Hauser, 2006). This theory on primate mutual reciprocity may explain motivations that lead to workplace

harassment and bullying. If a person is not necessary for an individual to succeed in the workplace, or interferes with that goal, then that person is deemed to be invaluable and may become a target of harassment or bullying. When moral reasoning fails, moral justification prevails in these situations for the preservation of the self.

### **Unethical Behaviours**

Harassment is one subgroup of unethical behaviour grouped with other unethical conduct such as bullying, mobbing, incivility - terms that are sometimes used inter-changeably. "Definitions differ most fundamentally in the acknowledgement of contextual features related to the experience of these behaviours" (Einarsen, Hoel, Zapf, Cooper 2011). Slight variances exist amongst the terms but all share the common denominator of systematic mistreatment towards another. The main distinction between harassment and bullying is that bullying involves an imbalance of power, with the aggressor yielding more power than the target (Einarsen, Hoel, Zapf, Cooper, 2011). The immediate perception of an imbalance of power is one of power difference or positional hierarchy; however, an imbalance of power can also refer to difference of personality and availability of resources.

With harassment, the power difference typically manifests through personality traits. Harassers tend to demonstrate characteristics of "confidence, aggressiveness, and lack empathy" towards whom they harass; instead they tend to hold "contempt" towards them. Whereas, those harassed "tend to be quieter, passive, shy individuals

with few friends". These individuals "do not respond effectively to aggressive acts and are ashamed and often don't tell others" (Besley, 2012). Internalizing the situation at hand without effectively managing the situation or confronting the aggressor typically compounds the situation, prolongs the duration of harassment and may lead to severe consequences (Einarsen, Hoel, Zapf, Cooper, 2011).

A key feature of bullying is the occupational power difference between the aggressor and the targets. In cases where both the aggressor and the target are relatively at equal levels of position, bullying may evolve out of a conflict if one party becomes disadvantaged during the process (Einarsen, Hoel, Zapf, Cooper, 2011). In some cases, it may be difficult to distinguish between personality or interpersonal conflict and harassment or bullying. Conflicts, including minor acts of incivility, may be a precursor to bullying and harassment that if properly dealt with at the onset, can be prevented. It is the target's first response to the perpetrator that determines whether the situation will escalate to bullying or harassment (Einarsen, Hoel, Zapf, Cooper, 2011). The first response is based on two factors - one relates to the personality and interpersonal skills of the target, and the second derives from the target's awareness of the resources available to him/her and the perception of organizational support (Einarsen, Hoel, Zapf, Cooper, 2011).

Where there exists a power imbalance, "individuals are less likely to seek out each other's views" (Einarsen, Hoel, Zapf, Cooper, 2011). A key feature of productive resolution is to understand the others' positions, to be able to empathize and take on the other individual's perspective. Avoiding the crucial step for awareness of the other and self-awareness may lead to aggressive behaviour by the

target or aggressor and thus escalation of the situation. Managers who have more power or influence are more likely than non-managerial employees to “pursue mutually constructive resolutions because of their greater leverage in the situation.” (Einarsen, Hoel, Zapf, Cooper, 2011).

Mobbing occurs when two or more individuals conspire to intimidate, harass, or cause unfavourable treatment towards another individual in the workplace (Leymann, 1999). It is a relatively new phenomenon in the workplace and occurs predominantly among the ranks of management. It involves more than one aggressor inflicting mistreatment, harm or abuse onto an individual; and the approach is more methodical in nature typically with the goal of expelling the subject from the organization (Einarsen, Hoel, Zapf, Cooper, 2011). “At a basic level, it is about the organized mistreatment of a subordinate, colleague or a superior, which, if continued and long-lasting, may cause severe social, psychological, and psychosomatic problems in the target” (Einarsen, Hoel, Zapf, Cooper, 2011). Furthermore, exposure to this type of behaviour may cause “more crippling and devastating problem for employees than all other kinds of work-related stress put together” (Einarsen, Hoel, Zapf, Cooper, 2011).

The hallmark of mobbing is that because it is typically “rooted in the organizational factors and qualities or the psychosocial work environment, including leadership practices” (Leymann, 1999), it makes it more challenging for the subject to deal with it because of the lack of internal support and thus usually the only option is for the individuals to succumb and leave the organization.

Einarsen (2011) describes how all terminologies designating unethical behaviour in the workplace are characterized by three main characteristics. First, as a result of unethical conduct by coworkers, “many employees suffer from severe mistreatment at work by superiors or coworkers in the form of systematic exposure to sometimes flagrant as well as subtle forms of aggression, mainly characterized by persistency and long-term duration. Secondly, the effects on the targets are devastating and traumatic, with negative effects also impacting the health, motivation and well being of those who witness it, with potential major cost implications for employers. Thirdly, managers and employers and sometimes even public sector or government bodies, are often unwilling to accept the very existence of the problem, much less prevent it and manage fairly those cases that come to the fore” (Einarsen, Hoel, Zapf, Cooper, 2011).

Abuse of authority is the most prevalent type of abuse in Canadian federal government organizations. The 2011 federal public employee survey revealed almost 50% of respondents in harassment cases were immediate supervisors.<sup>16</sup> The difference in resources available to the parties in these situations may escalate the situation (Einarsen, Hoel, Zapf, Cooper, 2011). Managers have more resources to assist them when faced with allegations of harassment, such as labour relations advisors or support from management and management networks. Non-managerial employees generally have fewer options and those who are not unionized have less.

Power imbalance plays a critical role in the ability to defend. With respect to harassment and bullying, “there is a clear actor who is the instigator, and a target

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<sup>16</sup> The Treasury Board of Canada Secretariat [2012] <http://www.tbs-sct.gc.ca/pses-saff/2011/introduction.eng.asp>

who either cannot respond or can only respond in a limited manner, which does not protect him or her from harm or stop the actor's behaviours" (Einarsen, Hoel, Zapf, Cooper, 2011). This is more so evident in cases where a manager is the aggressor and has the power to terminate employment of the target, whereby the target does not hold that same discretionary power. In addition, when the employee raises issues with senior management, employees perceive that organizational support is readily given to managers while employees are seen as troublemakers or accused of fabricating events.

Recent studies in harassment, bullying and mobbing reveal that allegations are now more prevalent in white-collar jobs than previously; women are just as equally to engage in harassment/bullying as men; it occurs more by subordinates towards managers who have lost the support of their peers and superiors; minority groups who differ in salient characteristics from the group of majority are at higher risks of being bullied/marginalized; and that higher risks and occurrences of harassment and bullying occur in the public sectors, e.g. government, social, health and education (Einarsen, Hoel, Zapf, Cooper, 2011). Within the federal government, a particular trend is the increased number of harassment complaints being filed by senior public servants against their immediate supervisors, against director generals, senior executives and assistant deputy ministers (Cobb, 2012).

### **Antecedents to Harassment**

One longstanding theory is that organizational culture and leadership behaviour are fundamental in causing harassment and bullying whereas the

personality of the perpetrator and victim are not the key elements (Einarsen, Hoel, Zapf, Cooper, 2011). Conversely, other theories assert it is the personalities of individuals, both the perpetrator and victim as being the main causes, with culture and leadership as secondary factors. A multi-theoretical approach is more appropriate for understanding the origins for harassment and bullying as numerous studies have concluded that workplace aggression is a “complex and multi-causal phenomenon and can seldom be explained by one factor alone (Einarsen, Hoel, Zapf, Cooper, 2011).

Research reveals personality is a major factor in the origin of harassment cases, allocating importance to how the subject’s initial reaction and management of harassment/bullying can adversely impact the situation and its progression (Einarsen, Hoel, Zapf, Cooper, 2011). Studies also find that some subjects of harassment acknowledge the lack of their own interpersonal and conflict management skills as being antecedents to harassment cases (Johnston, 2006). Bullies act in such a way with the understanding or belief that their actions are safe. They view themselves as invaluable and protected - in particular at the management level (Bowman, 2008). However, personality traits of either party single-handedly are not the only precursors to aggression in the workforce. Although an individual may possess personality traits that are more susceptible to becoming a subject of workplace aggression, this is where other factors such as the organizational culture, leadership behaviour, and job mobility play an influential role (Einarsen, Hoel, Zapf, Cooper, 2011).

If an individual is being exposed to harassment or to its potential, the manner in which the situation is handled at the onset is critical. This factor relies heavily on

conflict management skills and the capability to properly address the situation instead of escalating it (Einarsen, Hoel, Zapf, Cooper, 2011). Cases of bullying require both “an act of aggression on the part of a potential bully, and a response by a potential target that is perceived by both as a certain sign of submission.” (Einarsen, Hoel, Zapf, Cooper, 2011). For bullying to thrive, an implicit agreement between the aggressor and target must exist that assumes one as the dominant figure and the other as the one who has submitted (Einarsen, Hoel, Zapf, Cooper, 2011). Key to these situations is interdependency between the parties - one needs to play the role to fulfill the actions of the other. Persistent bullying behaviour must account for inadequate responses by the target. A sufficient response from the target at the onset may deter the aggressor from continuing his acts of aggression towards the target and prevent the situation from perpetuating. But a target displaying a defeatist attitude will more than likely exacerbate the situation (Besley, 2012).

A key to prevention of harassment and bullying is to understand the origins and precursors to it and thus being able to better recognize and implement controls and preventive activities. Several Canadian and U.S. universities collaborated to produce a report on the motivations behind workplace harassment and bullying entitled, “*A Social Context Model of Envy and Social Undermining*”. It revealed that employees who are both envious of and who feel disconnected to their colleagues are more likely to commit actions of unethical behaviour against them or to the organization. Another study confirmed that in 68% of cases of bullying, envy was the reason (Einarsen, Hoel, Zapf, Cooper, 2011).

Moral disengagement is a method utilized to justify harmful behaviour against others. Moral disengagement “serves to disinhibit individuals, making negative acts more likely, as the individual is freed from self-censure and potential guilt” (Hyme, Rocke- Henderson, Bonanno, 2011). Research describes moral disengagement as the “socio-cognitive processes through which the average person is able to commit horrible acts against others (Bandura, 1999 and 2002). The theory explains how good people do bad things and how the brain restructures the concept of “harmful behaviour, obscuring or minimizing one’s role in causing harm, disregarding or distorting the impact of harmful behaviour, and blaming or dehumanizing the individual” (Hymel, Rocke-Henderson and Bonnano, 2005).

To understand the origins of harassment and bullying requires in part awareness of the psychological composition of the individuals involved. The profiles of those accused of harassment and bullying and those facing harassment or bullying reveal characteristics and factors originating typically from childhood (Besley, 2012). Individuals who harass usually had authoritarian parents; came from harsh home environments, which modeled and tolerated aggressive behaviour; lacked supervision at home; and had been exposed to authority figures who used punitive forms of punishment. As a result, they lacked adult role models; have poorer communications skills; and have poorer educational or workplace adjustment (Besley, 2012). Parents of individuals who bully typically over-instilled in them a strong sense of entitlement; taught them adversarial techniques for self-defense in conflict situations and positively rewarded for defending oneself at all costs. A

defeatist attitude would be a sign of weakness, so that the ultimate message conveyed is that it is better to be a bully than a victim.

The profile of those who are subject to harassment or bullying may as children have had less responsive, supportive parents; were less popular than other children; had parents who overly controlled their social circumstances; had problems adjusting to school; and experienced difficulties in bonding with schoolmates (Besley, 2012). They may have as a child spent most of their time alone; suffered from low-esteem and feelings of loneliness; perceived making friends as difficult; and had higher rates of absenteeism at school (Besley, 2012). Unlike the parents of bullies who over-instilled in them a sense of entitlement and how to self-defend in conflict situations, parents of victims interviewed for this paper, instilled a more passive approach to situations of conflict or avoidance. The message imparted to them would have been that it is better to give in than to keep fighting or escalate the conflict, and that the needs of others should be met before the needs of oneself.

However at opposite ends of the spectrum these two types of individuals may appear, in actuality they share common traits. Both groups of individuals are likely to have been raised in a dysfunctional home environment (regardless of duration) and experienced child abuse. They may suffer from psychiatric problems and face higher risks of eating disorders (Besley, 2012).

Unresolved relationships issues experienced in childhood are transferred to adulthood in what is known as the “transference theory” (Richo, 2002). Individuals from abusive childhoods inadvertently transfer their unresolved issues towards their parents or siblings usually onto adult relationships. Individuals do this by

subconsciously selecting partners who most resemble the parent(s) they had an issue with or with whom they feel most comfortable to resolve their issue (Richo, 2002). Frequently, it is transferred to their intimate partners but this theory may also apply to relationships at work. As done with intimate or personal relationship, adults may transfer their unresolved issues from childhood relationships into the workplace, typically towards managers or subordinates. In some instances, the dysfunctional relationships experienced in childhood are perceived as normal behaviour, and as adults in the workplace may perceive dysfunctional relations such as abuse from peers or superiors as also normal. Therefore, as adults they tend to view abuse at the workplace as reflective of how they were treated as children, so that unethical treatment becomes not only normal but familiar and even comforting (Richo, 2002).

Attitude at work is a sub-theme within the literature on work engagement. The relevant findings in this regard are that employees who have a positive attitude are likely to feel less stress from harassment as compared to employees with a neutral or negative attitude, regardless of the actual operational situation (Tucker et al., 2008). In other words, someone with a positive attitude will feel less stress in the very same operational situation as someone with a negative attitude. Attitude to work is oftentimes a carryover from general personality orientations. Some people have been observed to have more cheerful and optimistic dispositions, whether because of genetics, environment, or a variety of influences (Lowe & Bennett, 2003).

Workplaces inwardly supporting harassment and bullying typically exists in authoritarian workplaces. These workplaces are characterized as highly political, often hierarchal, highly competitive, with high management expectations and low

recognition of employee contribution (Bowman, 2012). Often in large organizations sub-cultures exist that may not reflect the reality or the perception of the entire organization. Risks of unethical behaviour further increase if the organizational culture is one that implicitly condones or rewards abusive behaviour or abuse of power particular if acted by management (Bowman, 2012).

Although it was traditionally believed that change in organizational structures may increase the risk of harassment between managers and employees because managers may adopt a more autocratic approach while implementing the change, this may not necessarily be a precursor provided it is done effectively, transparently and the change results in a more positive environment. (Einarsen, Hoel, Zapf, Cooper, 2011).

Workplace harassment is more likely to emerge in conditions of secrecy and poor communications. During organizational restructuring, “consulting and discussing with employees issues that may affect them, particularly during periods of organizational change or restructure and implementing transparent decision making processes” are ways to prevent or control workplace harassment from occurring (Queensland Government, 2012). A similar study concluded that change that results in a worse work environment might increase the risk of aggressive behaviour. “Job insecurity and periods of downsizing may create a more hostile work environment and internal competition as staff rely on any tactics to get rid of competitors” (Queensland Government, 2012). A study carried out on Canadian workers who were employed in two separate jobs concluded, “Employees aggressive behaviour is contingent on the quality of their experiences in that particular workplace, rather than

experiences outside of that workplace" (Einarsen, Hoel, Zapf, Cooper, 2011). In summary, poor work environments are a strong indicator of workplace aggression and unethical conduct.

The concept of bullying refers not only to physical but also to psychosocial violence that can be exerted on an employee or manager. In this sense, bullying is essentially a flagrant exercise of power that leaves at least one employee traumatized by the encounter (Agervold & Mikkelsen, 2004). Escartin, Rodriguez-Carballeira, Zapf, Porrua, and Martin-Pena (2009) argued that bullies tend to be employees with longer tenure at a company, thus it is a reasonable hypothesis that a junior manager will be exposed to bullying more frequently and intensely than a senior management. Bullying also alters what is referred to as organizational citizenship behavior. Therefore, accumulated bullying can lead not only to stress burnout (Escartin, Rodriguez-Carballeira, Zapf, Porrua, & Martin-Pena, 2009), and even departure from the company (Kasperczyk, 2010) but also to the cultivation of cynicism, attention deficits, and cognitive problems in the bullied party (Linden, Keijsers, Eling, & Schaijk, 2005).

The coping strategies of victims vary with some being better than other victims of bullying or harassment who may self-inflict adverse actions (Besley, 2012). Clearly, the best practice is for organizations to intervene as soon as possible in cases of bullying in order to de-escalate the situation and avoid disruption in workplace productivity (Besley, 2012).

One of the gaps in the research on bullying is that existing measures may fail to gauge more subtle forms of bullying. Bullying comes in many forms; only one of

which is the stereotypical bullying associated with difficult bosses (Einarsen, Hoel, Zapf, Cooper, 2011). Thus, it may be the case that a new measure is needed to assess bullying as a subjective experience. Also, many of the studies on bullying do not take demographic factors such as race and gender into account as mediating or moderating variables (Saksvik, Nytro, Dahl-Jorgenson, & Mikkelsen, 2002). It is crucial to determine whether workplace bullying occurs in a generic context, or whether some kinds of employees are more frequently bullying targets than others, as suggested. This particularly holds true in the ever-increasing diverse workforce of today.

Work engagement refers to the intensity of an employee's physical, emotional, and cognitive connection to work (Bakker, Schaufeli, Leiter, & Taris 2008). An engaged employee has been described as a motivated, happy, and competent employee (Hakanen, Schaufeli, & Ahola, 2008). There is a great deal of empirical evidence that engagement predicts high job performance and, conversely, that a lack of engagement predicts increased work stress (Halbesleben & Wheeler, 2008).

Engagement is a stress variable subject to being affected by other factors, such as bullying and personality characteristics. Thus, the lack of employee engagement not only indicates the likely presence of harassment-derived stress but also points to the existence of other negative factors in the work life of an employee or manager (Schaufeli, Bakker, & Van Rhenen, 2009). Research suggests that work engagement can result not only from an employee's personal reasons for enjoying a job but also because the organizational structure is supportive (Van den Broeck, Vansteenkiste, De Witte, & Lens, 2008). Thus, work engagement is both an intrinsic

and extrinsic phenomenon, one equally determined by motivation and workplace conditions (Schaufeli & Bakker, 2003).

Within the context of harassment research, workplace democracy is essentially the claim that stress is distributed equally among the members of an organization because no one party or parties has a monopoly on the power to harass (Taris, Kalimo, & Schaufeli, 2002). However, in fact, the opposite is known to be the case (Naswall, Sverke, and Hellgren (2005), proved that lower-income workers with high job insecurity feel more stress than managers. Schreurs, Van Emmerik, and Notelaers (2010) and Torkelson and Muhonen (2004) noted that lower-level workers have less control over their working conditions and labor, which, along with managerial harassment, is the mechanism that leads them to feel increased stress. It was even proved that lower-income workers suffer more health problems than managers.

The lack of workplace democracy has another effect - it causes workers who perceive inequitable treatment to burn out more quickly because they feel more strain than workers who perceive themselves to be equitably treated (Tucker, Sinclair, Mohr, Adler, Thomas, & Salvi, 2008; Wellens & Smith, 2006). It has also been proving that treating workers more equitably reduces their stress (Einarsen, Hoel, Zapf, Cooper, 2011).

Workplace democracy is difficult to measure empirically because of individual perception resulting from a set of events or circumstances. An employee may feel the existence of workplace democracy in a particular option and feel the lack of it in another interaction. This aspect of workplace democracy makes it difficult to subject

the variable to direct testing, which is why researchers have focused on discrete and measurable aspects of the phenomenon, such as job security, to structure their research.

One sub-theme of significance within workplace democracy is workplace ethics. In democratic organizations, as in democratic societies, respect for laws and equity of treatment are highly prized values. However, especially under the dual pressure of competition and fiscal restraint, many organizations succumb to workplace ethics violations in which harassment can play an important part (Kasperczyk, 2010). Such violations often contribute directly to employee stress. For example, the employee who is asked to break a law as part of a job faces the double stress of dreading legal prosecution and losing his or her job (Kasperczyk, 2010). Even when workplace ethics violations are less obvious, and not legally actionable, they can still constitute sources of stress.

Some common cases of a failure in ethics, according to Posner (2010), include: (a) Employers failing to live up to the letter or spirit of their contract with an employee, (b) employees wasting work time while leading the organization to believe that they are working, and (c) engaging in work that is likely to be harmful to someone. When employers lapse in their ethics, employees can pay various prices, from going to jail, becoming worried about job loss, or doing work that is not compensated. Whatever the case, such ethical lapses are likely to increase the operational stress felt by employees (Posner, 2010).

There are cases in which there is not a good fit between the individual employee and the organization, which may contribute to harassment. When

organizational fit is not present, the employee tends to experience more stress and to bear the brunt of more abrasive, harassing behavior from peers and bosses (Bocchino, Hartman, & Foley, 2003). Research has demonstrated that one of the best predictors of organizational fit is an employee's happiness with the job (Taris & Schreurs, 2009). Emotional satisfaction tends to make the fit between employee and organization better.

Organizational fit can be highly subjective and variable. For example, an employee may not fit with a particular manager, but may fit with the overall values of an organization (Politics at Work, 2007). There can also be radical disagreements on the question of fit depending on whether the perspective originates from a supervisor or a subordinate. Finally, many people who do not fit with their organization may lack the ability to actually recognize this - they may perceive everything is fine whereas in reality that view does not align with the organization (Raftery, Restubog, & Jimmieson, 2010). For all of these reasons, directly testing organizational fit is challenging, nonetheless, organizational fit should be kept in mind as part of the overall picture of why harassment occurs.

Harassment-related stress is a phenomenon where the exact nature of stress is subjective. In organizational settings, there are some people who handle harassment-related stress better than others because of personality variables - for example, people who have higher levels of self-control may feel less stress at work because they do not feel as keenly victimized by outside circumstances (Christie & Barling, 2009; Naswall, Sverke, & Hellgren, 2005). However, there is a relationship between the nature of a job and the levels of control that an individual feels. If a job

imposes demands on an employee that are particularly trying and unsustainable for that employee, the employee will incrementally lose his or her sense of control (Burisch, 2002; Chung-Yan, 2010; Johnson, 2001).

Another predictor and consequence of harassment is uncertainty. In fact, uncertainty has been used as building block for a general theory of work stress and harassment (Tidd & Friedman, 2002). The argument of uncertainty theorists is that stress and harassment are largely structural phenomena generated by the workplace environment (Trenberth & Dewe, 2006). The main determinant of uncertainty, not surprisingly, is workplace change and poorly handled change causes stress (Einarsen, Hoel, Zapf, Cooper, 2011). In fact, workplace change is such a powerful stressor that the uncertainties it creates affect managers and subordinate workers in similar ways. However, good leadership can reduce stress markedly and thereby indirectly reduce harassment. Typically, such leadership has to be provided externally (i.e. by managers), but in some rare cases, employees are able to provide a kind of self-leadership that allows them to handle change-related harassment and stress better than their peers (Dolbier, Soderstrom, & Steinhardt, 2001).

Other uncertainty theorists emphasize the ability of leaders to effectively deal with stressful experiences even in times of stability (Gilbreath & Benson, 2004). When leaders are charismatic and committed to principles of workplace democracy, they put employees into a sense of peace with the organization that has enduring harassment and stress-reducing effects (Janssen 2004; Wright, 2007). When leaders keep secrets, act abrasively, and act politically, they generate stress among their subordinates (Janssen 2004; Wright, 2007).

Another source of uncertainty arises from the relationship between work life and home life (Buhr & Dugas, 2002). Employees' home lives can be radically different from each other in their potential to contribute to uncertainty-based work stress and thereby, indirectly, to harassment. Boyar, Maertz, Pearson, and Keough (2003) have called attention to the phenomenon of work-family conflict, a situation in which an employee's uncertain home life and uncertain work life make mutually exclusive demands on the employee. Not surprisingly, the existence of such conflict has been shown to translate into more stress in the workplace as well (Einarsen, Hoel, Zapf, Cooper, 2011).

An interesting sub-theme within uncertainty is any situation in which employees are asked to perform duties that are unrelated or unassigned to their job descriptions (Raffety et al., 2010). Such situations might not be legal or even ethical, but they can still cause stress to the employee. Directing employees to perform unrelated duties is something that organizations do when they are under-resourced and individual employees have to go beyond the letter or spirit of their job contract to perform irrelevant duties (Raffety et al., 2010). These kinds of cases affect trust and transparency, and cause employees to feel that they are being unproductive, improperly used, or not being given a chance to develop properly; all three of these feelings can generate feelings that led to the perpetration or acceptance of harassment.

Burnout, which can be both a consequence and a predictor of harassment, is a phenomenon referring to an employee being used up - mentally, physically, and/or emotionally by work (Kalimo, Pahkin, Mutanen, & Toppinen-Tanner, 2003). Burnout

is subjective and manifests differently for each employee. For some employees, burnout is more of a function of their own lack of coping skills, cognitive skills and/or their emotional styles (Malach Pines, 2004). For other- employees, burnout may occur not because employees lack ability, resilience, and skill, but because they have simply worked too long and too hard (Kalimo, Pahkin, Mutanen, & Toppinen-Tanner, 2003).

For other workers, burnout may actually occur very suddenly, as a result of feeling out of step with work (Leiter, Gascon, & Martinex-Jarreta, 2010). For example, someone who has been working very hard to support his family and loses his family to divorce may suddenly develop major depression and feel overwhelmed by work (Rau, Morling, & Rosler, 2010). Because burnout is so variable and subjective, it is typically measured by employee perception rather than through observation and conclusions (Schaufeli & Taris, 2005).

Strategic bullying occurs when the organization implicitly encourages and condones bullying so that from an organizational perspective, strategic bullying can also have positive outcomes (Einarsen, Hoel, Zapf, Cooper, 2011). For the individual performing the bullying, it may contribute to enhancing the reputation and power of the bully. For an organization, it can be used to ensure compliance performance because "bullying is likely to cause distress, it might help the organization get rid of an unproductive or otherwise unwanted employee" (Einarsen, Hoel, Zapf, Cooper, 2011). Some workplaces implicitly encourage such practices by rationalizing that it benefits the organization. Typically these types of organizations are characterized by

reward systems, performance based systems or high internal competition (Ferris, 2008).

According to a Finnish study, “performance-based reward systems were associated with increased risks of bullying, where bullying may be used not only to sabotage the work performance of others but also to achieve compliance in order to meet departmental goals and objectives” (Ferris, 2008). This tendency increases in sectors of employment with higher degrees of rules, laws and bureaucracy (Ferris, 2008). The public sector accounts for the highest prevalence rate of harassment and bullying, in particular during times of organizational change and job insecurity (Einarsen, Hoel, Zapf, Cooper, 2011).

Other critical factors are employment opportunities and job mobility. Should the target be employed in a profession with high labour market demands, the target may seek employment elsewhere, and until then, silently or not, bears the brunt of being a target (Einarsen, Hoel, Zapf, Cooper, 2011). In contrast, if the target is employed in a highly specialized profession or for which labour market demand is low, the target perceives opportunities for job mobility as limited and lacks control of the situation. Thus, the target faces prolonged workplace mistreatment (Einarsen, Hoel, Zapf, Cooper, 2011) and a sense of injustice as a result of no wrongdoing on their part. Productivity may decrease and absenteeism may increase, further exacerbating the situation with his immediate supervisor or colleagues who may use this against the employee (Einarsen, Hoel, Zapf, Cooper, 2011).

The 2011 Public Service Employee results revealed only 63% of federal public sector employees perceive that the leaders in their organization lead by example in

ethical behaviour. “Conflicts with the immediate supervisor seem to be a stronger predictor of bullying than conflicts with colleagues” (Einarsen, Hoel, Zapf, Cooper, 2011). Recognizing that studies and literature have tended to focus on the effectiveness of leadership styles, minimal research exists related to the “destructive aspects of leadership” and qualities of ineffective leaders and the impact on the workforce (O’Moore and Lynch 2007, Vartia, 1997).

Two types of leadership styles are predominantly prone to producing negative workplaces, “Both tyrannical and laissez-faire leadership behaviour are among the strongest predictors of bullying” (Einarsen, Hoel, Zapf, Cooper, 2011). “An authoritarian style of leadership may create a culture of fear, where there is little or no room for dialogue and where complaining may be considered futile” (O’Moore and Lynch 2007, Vartia, 1997). Furthermore, a study of 5,000 British employees found “bullying to be positively associated with non contingent punishment, and a leadership style where punishment is used arbitrarily” (Hoel et al, 1999).

However, laissez-faire management style has negative consequences as well. It represents an inattentive abandonment of managerial role and responsibilities, thus creating a breeding ground for unethical conduct among employees to flourish (Einarsen, Hoel, Zapf, Cooper, 2011). Laissez-faire style managers or “unofficial leaders” are at risk of being weak leaders who foster a work environment that generates “high levels of role conflict and role ambiguity and with increased conflict levels with coworkers...that gives rise to a stressful work environment.” (Strandmark, Hallberg, 2007). One study determined a direct effect between laissez-faire leadership and bullying claiming, “the absence of adequate leadership itself may be

experienced by subordinates as rejection and expulsion (Einarsen, Hoel, Zapf, Cooper, 2011).

Theories on the motivations of abusive behaviour to peers or subordinates are numerous. Offenders may themselves have been the victims of an abusive situation and thus are repeating similar management techniques that they faced as an abused employee. This leads to a continuation of the cycle of abuse, which is prevalent in other types of abuse such as physical or sexual (Besley, 2012). Some employees and managers are simply not aware of how their poor interpersonal or management techniques are causing feelings of harassment amongst the subject and how it is affecting their well-being and productivity (Besley, 2012). A decline in productivity in cases where the manager is the offender, may result in the manager putting more pressure on the already disengaged employee who is feeling harassed (Einarsen, Hoel, Zapf, Cooper, 2011), consequently that employee faces the risk of being subject to a performance improvement plan causing him/her more distress.

In some situations bullying is used to strategically expel under-performers, in other cases bullying is used to expel over-performers who are perceived as a threat to managers or peers. Bullying, mobbing and harassment may be "used strategically to punish and get rid of over-or under-achieving colleagues or subordinates who either considered threats or burdens" (Einarsen, Hoel, Zapf, Cooper, 2011). For example, to prevent an employee from over-performing and possibly outshining them, managers may no longer support the employee with the execution of his duties; discredit or blame the employee for his mistakes; tarnish the reputation of the

employee and relegate him/her to demeaning tasks or tasks to set him/her up to fail (Einarsen, Hoel, Zapf, Cooper, 2011).

### **Consequences of Harassment**

Harassment is viewed in some instances as a precursor to violence where the harasser or the one being harassed is capable of committing a violent act. According to the national executive vice-president of Canada's largest union, the Public Service Alliance of Canada (PSAC), "Harassment leads to many other issues. People get depressed and stressed and then you get into a vicious, nasty cycle of sick and stress leave that is incredibly costly (Cobb, 2012).

In 2009, more than 1,200 claims related to mental health were submitted and the numbers are predicted to increase annually. In 2010, mental health claims, caused by depression and anxiety, accounted for 47.3% of all approved disability claims, resulting in the highest percentage in the history of the disability plan. This is a drastic increase from twenty years ago where mental health claims stood at 23.7%, and since 2000, the percentage has steadily been over 44% (Butler, 2011).

"Workplace harassment and bullying, burnout and incessant management turnover are contributing causes", says a human rights officer at PSAC. Adding to the list is job insecurity as one trigger for physical or psychological illnesses (Cobb, 2012).

A common misconception claims the most stressful period of harassment is during the time harassment is being experienced and ends once the harassment complaint has been dealt with. However, a recent study compared the after-effects of individuals subjected to harassment and bullying as being similar to those who have

undergone major trauma in their lives such as combat soldiers and war veterans, survivors of natural disasters, physical assaults and other traumatic events (Knight, 2012). Individuals who lived through any of these experiences may face post-traumatic stress disorder (PTSD), despite the events being characterized by highly different circumstances and environments (Knight, 2012).

Three signs of PTSD include hyper arousal, a feeling of constant anxiety and over-vigilance; avoiding anything related to the traumatic event; and re-experiencing the trauma through flashbacks or obsessive thoughts (Knight, 2012). The psychiatric conditions of such individuals can be compared to shell shock or battle fatigue compounded with feelings of intense fear, helplessness or horror (Knight, 2012).

Employees who bring forth allegations of harassment are sometimes labeled as weak or troublemakers and may be accused of fabricating events (Einarsen, Hoel, Zapf, Cooper, 2011). As a result, a sense of isolation and anguish contributes to the reluctance on the part of individuals to report harassment cases fearing that no one will act on their problem or that they will face reprisal.

Additional negative impacts an individual may face during and after the course of a harassment situation may include “high levels of distress, loss of self-confidence and self-esteem, panic attacks, anxiety disorders, depression, social phobia, sleep disturbances and deteriorating relationships with family and friends.” The worst consequence is committing suicide (Besley, 2012).

Research reveals that witnesses to harassment or bullying might also suffer from many of the same mental repercussions as the victims or targets. Additional harmful effects at the workplace may include “feelings of isolation at work; impaired

ability to make decisions and poor concentration; reduced output and performance, incapacity to work, and loss of employment.” Feelings of remorse for failing to intercede or report the incidences of harassment may develop as well (Besley, 2012).

In addition to a multitude of and sometimes severe psychological consequences, many subjects of workplace aggression displace their anger in the home and onto personal relationships (Newman and Grigg, 2007). Employees who experience harassment by supervisors and who are unable to constructively manage their emotions tend to punish or displace their anger on those less powerful or subordinate to them and express their frustrations at home instead of confronting the aggressive supervisor (Newman and Grigg, 2007).

If managers feel unfairly treated by their superiors, they tended to be more hostile to staff and treat them unfairly as well (Newman and Grigg, 2007). An example of unfair treatment is when a manager experiences a “violation of a psychological contract” whereby there was “an implicit assumption about what he/she can expect from the organization” but does not obtain it, for example being promised a promotion. These situations, often perceived as betrayals, count for 79% of the reason why managers quit their jobs (Newman and Grigg, 2007). If quitting one’s jobs isn’t possible, managers run a high risk of lashing out on and being hostile to subordinates whom they can better control (Newman and Grigg, 2007).

Employees who have launched harassment complaints become increasingly distressed if the allegations of harassment were unfounded or if the resolution process was perceived to be handled unfairly or inadequately (Brown, 2012). Disillusionment in the process and a sense of self-doubt pervades the mind of these

individuals who feel that the negative treatment of them was dismissed or unacknowledged and worsens when no action to restore the relationship between the parties occurs. Many systems used to address cases of mobbing, harassment and bullying "re-victimizes the victim, and leaves a scar on the victim as a bad person, a person to avoid and a person to ridicule or to scorn." Some victims see this as a continuation of unethical treatment. This is when some victims see ending their lives as the final solution (Brown, 2012).

Employees who transition from being a satisfied productive professional to a dysfunctional, depressed and confused person may seek professional help to restore their sense of self and identity. According to Brown (2012), "the person's outer image and self image has becomes so skewed that often times a profound personality change has taken place." When victims feel they have no resources to assist them during these situations, they tend to feel more ostracized, alone, and despondent. Sentiments of betrayal from a lack of support from the organization inevitably emerge due to years or decades of productivity and commitment that becomes unaccounted for or replaced with claims of poor performance (Brown, 2012) as a result of filing a harassment complaint.

In the majority of harassment cases, victims who face harassment are more likely to leave the organization than their harassers with the numbers increasing when their aggressor is an immediate supervisor. Expulsion from an organization where they demonstrated loyalty and spent productive years produces a destroyed sense of self-confidence, confusion and a profound feeling of mistrust that is carried with them in a new organization and towards new managers. Expulsion also carries it

with an implicit assumption that the victim was at fault, and thus by alleging harassment, the reason was justifiable to leave the work environment (Brown, 2012). This is a detrimental message to employees that may lead to feelings of insecurity, cynicism and overall mistrust.

This generates another misconception - once the employee leaves the organization, harassment will unquestionably end. In organizations where they fail to adequately address harassment cases, fail to properly deal with the respondent, and fail to restore the workplace - a new case of harassment inevitably emerges (Brown, 2012). This was the conclusion at a grievance arbitration where the case of the harassment grievance was not resolved by the departure of the harasser and where the employer failed to correct the poisoned workplace.<sup>17</sup> This type of work environment “bears the characteristics of a sick environment”, or as referred to by Austrian labour specialists as symptomtrager - the symptom bearer. In North America, symptomtrager is commonly referred to as a “poisoned environment” (Brown, 2012).

Dealing with any type of harassment situation remains a challenge but addressing a poisoned work environment may prove to be even more difficult to resolve, as it may be problematic to identify specific individuals who can be attributed to the poisoned work environment and who would be willing to address their behaviour. What permeates in these workplace atmospheres is a general sense of dissatisfaction and poor morale that may have been established by parties who preceded the current workforce.

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<sup>17</sup> *Canadian Union of Public Employees, Local 2086 v. Houston (District) (British Columbia Grievance Arbitration)*, Lancaster's Labour Arbitration eNewsletter, January 13, 2009, Issue No.48.

At the organizational level, consequences of workplace harassment may have significant negative impacts on human and financial resources that may contribute to “the breakdown of teams and interpersonal relationships; a poor work environment; reduced efficiency, productivity and profitability; a poor public image and negative media attention (Einarsen, Hoel, Zapf, Cooper, 2011). This can result in increased challenges in retaining and recruiting top professionals and highly-sought after candidates in particular; increased absenteeism and staff turnover rates; poor morale and erosion of worker loyalty and commitment; increased costs associated with addressing harassment allegations (e.g. investigations and restoration of the workplace) and increased claims of disability (Einarsen, Hoel, Zapf, Cooper, 2011).

## Chapter Two: The Canadian Federal Government

### Legislative Framework

Canadian legislative framework surrounding workplace harassment is primarily based on the *Canadian Human Rights Act* that provides for every person in the workplace a right to freedom from discrimination based on eleven prohibited grounds - race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability and conviction for which a pardon has been granted.

The *Canada Labour Code, Part II* and the *Canada Occupational Health and Safety Regulations on Violence Prevention in the Workplace* obligates employers to provide employees with a safe, healthy, and violence-free work environment and to dedicate sufficient attention, resources, and time to address factors that contribute to workplace violence including bullying, teasing and other aggressive or abuse behaviours. To substantiate this, a landmark federal court case on harassment, *Robichaud v. Canada*, held that based on the *Canadian Human Rights Act*, the employer is liable for the conduct of its employees, “subject to the defense that the employer took all necessary precautions to prevent such conduct.”

The federal government's *Financial Administration Act*, states that Treasury Board (as the employer of the federal public service) “may establish policies or issue directives respecting the prevention of harassment in the workplace and the resolution of disputes relating to such harassment.” As a result, the Treasury Board of Canada developed a anti-harassment policy in 1982. This was later revised in 2001 and subsequently in 2012 to what is now called the *Policy on Harassment Prevention and Resolution* (the Policy). The current Policy grants Deputy heads the

authority to manage the harassment complaint process within their organization, outlines their responsibilities and expected results, and provides them the flexibility to determine and implement prevention strategies.

### **The Federal Government of Canada Reality**

As per the *Financial Administration Act*, deputy heads (i.e. chiefs) of federal departments or agencies are the principal authority on the human resources management of its own employees. According to the Policy, deputy heads have the authority to designate an official(s) to be responsible for the management of harassment complaints. The individual is typically in a management or director role in the Values and Ethics office or in the Labour Relations office. Managing the harassment complaint starts with determining if the allegation meets the definition of harassment as defined in the Treasury Board policy. If the complaint meets the definition, then the organization conducts a fact-finding mission or launches an investigation. This serves to determine if the allegation is founded or unfounded and if founded, imposing corrective and/or disciplinary measures against the offender would follow and complete the process.

The last time the federal government collected statistics on harassment was in 2006 prepared for the *Annual Report on the Policy on the Prevention and Resolution of Harassment in the Workplace*, which was tabled at the Parliament of Canada in December 2007. The report provided a basic overview of harassment from 75 departments from the core public administration. Findings from the report were divided into three key areas: prevention and training; an overview of the complaints;

and the complaint resolution process. Due to heavy reporting burden faced by departments, the Annual Report is no longer conducted, thus valuable information on the status of harassment in departments and agencies is lacking, which could influence policy development, address areas of improvement and lead to new prevention strategies.

The last Annual Report revealed that in 2006 - 2007, almost 600 hundred complaints were filed in 34 out of 74 departments that submitted a report to the Treasury Board of Canada Secretariat. The report states that out of 597 complaints, more than half (56%) were accepted as having met the definition of harassment. From these that were accepted for further review, 34% were resolved through investigations; 12% were resolved through the informal resolution process (e.g. informal conflict management system, meditation); 5% were redirected or referred to be handled in other areas; and 5% were withdrawn with the remaining 45% being on-going at that time.

From the complaints that were pursued further for action, harassment complaints of a general nature accounted for 64%; complaints alleging abuse of authority were at 24%; complaints of sexual harassment were at 9% with the remaining 3% being based on grounds proscribed by the *Canadian Human Rights Act*.<sup>18</sup> Employees filed more than 50% of the complaints against their immediate supervisors; 37% were against co-workers; 5% of respondents were subordinates and 6% involved other types of working relationships. A breakdown of the respondents reveal that 42% were non-executive employees who manage or

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<sup>18</sup> The Canadian Human Rights/lens' lists eleven prohibited grounds of discrimination: race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, physical or mental disability, or pardoned criminal conviction.

supervise and 15% were executives; 17% were respondents from the professional group; 14% were employees from the operational group and just 6% were from the administrative support group.

With respect to the complaint resolution process, just over one third were resolved through the conduct of an investigation from which less than half or 43%, were founded or partially founded leaving 57% as unfounded. No statistics were compiled with respect to how many of the unfounded complaints were those with immediate supervisors as the respondent. Further, no information is being recorded to disclose the reasons why cases were deemed founded or not. This is critical information as more than 50% of complaints were against managers.

A more recent report from the 2009-2010 Management Accountability Framework (MAF)<sup>19</sup> exercise reveals that from 40 of the largest departments and agents that were subject to MAF, a combined 314 formal complaints of harassment were lodged. Formal complaints are lodged through the formal harassment complaint process as opposed to other recourse mechanisms such as grievances or informal resolution options, such as mediation. From the 314 allegations of harassment, 77 or 25% were founded. An analysis is required to determine why the remaining 237 cases (75%) were not founded in order to better influence the direction of policies. The collection of data is also critical to understanding the current state of harassment in organizations and to be able to improve the process or other areas as required.

Given that providing a respectful workplace is the legal duty of the employer, an analysis of data on harassment could serve to explain under what circumstances

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<sup>19</sup> 15The Management Accountability Framework is a key performance management tool that the federal government uses to support the management accountability of deputy heads and improve management practices across departments and agencies. <http://www.tbs-sct.gc.ca/maf-crg/index-eng.asp> (2012).

the employer failed to meet its obligation and what policy changes are required.

Einarsen (2011) describes policy failure as related to the organization's unwillingness or inability to deliver what has been committed in the policy statement.

### **The Public Service Employment Survey**

Every three years, the federal government administers the Public Service Employment Survey (PSES) to obtain the perception of employees on people management issues within their organizations and to be able to benchmark survey results. Findings are expected to lead to an action plan to address management issues and identify areas for improvement.

In two successive surveys launched in 2008 and 2011, almost 30% of employees in the federal public service perceived to have been the subject of harassment in the workplace. The gender breakdown reveals 25% were men and 31% of women. Research shows that from a gender based perspective, males tend to bully and harass more than females; females in positions of authority harass more than in non-managerial roles typically towards other females; male bullies tend to be more physical, loud and sexually harass whereas females are inclined to use more of a psychological approach that may involve gossiping, excluding or shunning (Einarsen, Hoel, Zapf, Cooper, 2011).

Another 2011 PSES question corroborates these results with 72% of respondents who believed that their department or agency works hard to create a workplace that prevents harassment. Out of 201,430 respondents in 2011, nearly one in third, or roughly 58,414 employees claimed to have been subjected to

harassment but these numbers are not reflected in the actual number of formally filed harassment complaints within departments. As noted earlier, in 2009-2010, 314 harassment complaints were filed in forty of the largest departments, from which only 77 were deemed as founded (Thompson, 2011).

Addressing the discrepancy between the data from two sources could lead to changes in policy practices and new prevention strategies. The discrepancy may be attributed to a few causes. One relates to the comprehension of the definition of harassment. Some departmental personnel for harassment prevention note that the term harassment tends to be a catch-all concept for any mistreatment, including personality conflicts or differences in opinion of work. However, the PSES provides a definition of harassment extracted from the Policy as a preamble to the question, *“After having read the definition of harassment, in the past two years, have you been the victim of - harassment on the job.”* The subsequent question asks *“From whom did you experience harassment on the job?”* Options include a colleague, an immediate supervisor, a subordinate, or a member from the public. From the actual number of cases that are filed as a formal complaint of harassment, it is unknown how many cases are incorrectly dismissed for not having met the definition of harassment.

The PSES question on harassment only accounts for the last two years, but the PSES is administered every three years. Therefore, one year is missing in the potential timeframe in which someone could have experienced harassment. Organizations will receive statistics on how many of their employees perceived to have been harassed, but the harassment may have occurred in a former department,

prior to the one in which the employee completes the survey and during the timeframe not captured by the survey.

Secondly, it specifies on the “job” without providing the definition of workplace as described in the Policy, which stipulates that it “applies to employee behaviour in the workplace or any location or any event related to work, including while on: travel status; at a conference, an employer sponsored event...” Therefore, the numbers may increase if respondents were made aware that the definition of workplace, in the context of harassment, extends beyond to just being “on the job” to potential off-duty conduct that could affect on-duty performance, and even in the context of social media (e.g. cyber-bulling).

Another factor that may contribute to the low number of formally filed cases is that many departments will attempt to address allegations of harassment first through informal means (e.g. mediation, coaching or facilitation) in the absence of a formally filed complaint. Although a genuine case of harassment may exist, alternative non-formal resolutions options may be used to resolve the allegation, which may make it unnecessary for the person being subject to harassment to pursue a formal complaint of harassment, which are not being tracked for statistical purposes.

There is also no process in place to determine from the cases that proceeded to an investigation but for which were declared not to be founded, what were the reasons and were pre-established criteria utilized to ensure consistency with other cases. Currently, there is no set of competencies or standards in place to ensure objectivity is exclusively influencing the decision. Therefore, complainants will only

receive a letter informing them if their allegations were not founded without reasons or explanations.

Perhaps the most likely reason is the fear of reprisal. As such, the PSES becomes a safer confidential alternative to voice their concerns. This issue can be confirmed with the results of a PSES question that asked employees if they feel they can initiate a formal complaint process (e.g. grievance, complaint, appeal, etc.) without fear of reprisal. According to the PSES 2011 only an average of 44% of employees government-wide felt they could do so. Employees may fear coming forward with harassment allegations in fear of having their professional and personal reputation tarnished or fear career sabotage or retaliation by their managers or colleagues. Studies show subjects of harassment are less likely to come forward when the offensive behavior comes from their immediate supervisor or manager; when they fear a lack of support from management; fear that their complaint will not be taken seriously or be accused of lying; fear of negatively impacting team relationship or upsetting workmates; fear of being excluded or disliked; and fear job loss (Besley, 2012).

Finally, Besley (2012) suggests that victims of harassment may lack knowledge on what constitutes unethical behaviour; on how to deal with harassment and bullying; and are not familiar with how to lodge a complaint or from whom to seek information within the organization.

Factors that cause fear and reluctance to report unethical behaviour may characterize workplaces that potentially have entrenched attitudes towards harassment regardless if a strong harassment policy exists (Besley, 2012). Some

organizations dismiss or label offensive behavior as mere personality issues or interpersonal conflicts between two individuals that in some cases may be the reality. The ability to differentiate between these two possibilities can be a challenge in particular if the person responsible to manage the complaint process is not adequately trained to distinguish cases of harassment from personality conflicts or lacks the expertise in the field of harassment or bullying and how to handle interpersonal conflict.

In some cases, when an employee does raise allegations of harassment, management may downplay the severity of the situation to either protect the respondent or due to lack awareness on the subject. Excuses for such behaviour are rationalized by believing, "*This is just the way the person is*", and by advising the offended employee that the best way to deal with harassment is to ignore it because it will eventually go away (Besley, 2012). Some believe organizational policies on harassment "stir up trouble" and encourage people "to make complaints where they would not have done so otherwise".

In some instances, people who allege harassment are the ones labeled as troublemakers by trying to get people "they don't like into trouble" (Besley, 2012). The Treasury Board Secretariat's *Policy on Harassment Prevention and Resolution* addresses these types of cases whereby if an allegation of harassment is found to be frivolous or vexatious, it will impose disciplinary action against the complainant if necessary. Government statistics do not reveal high numbers of frivolous or vexatious complaints of harassment. As Cobb (2012) asserts, "Most people who files claims against a manager or a colleague are genuine in their belief they are being

harassed". These entrenched attitudes cause harassment cases to be concealed. Individuals then attempt to handle these situations by themselves or not at all which may inadvertently escalate the situation. They worry about the bully's revenge or other's disapproval and believe that others can offer little support or are unable to help them (Einarsen, Hoel, Zapf, Cooper, 2011).

A U.S. 2011 study<sup>20</sup> surveyed 20,000 employees on job retention and determined the top six drivers for retention. It found that 50% of the top retention drivers were related to people, which included managers, colleagues, co-workers and the corporate work environment. The "intangible elements of work" and not financial compensation were key to keeping employees engaged, loyal and happy with respect ranking in the top five. If employees are not treated with respect, employees are more likely to leave an organization or more likely to not perform to their capacity. It is believed that the culture of a workplace is demonstrated by "its values, beliefs and what is considered to be normal behaviour".

When the culture is positive it encourages individuals to adopt appropriate behaviours that promote respect for others. Conversely, if management condones a negative culture where inappropriate behaviours and attitudes are encouraged, bullying can be seen as normal behaviour by the majority of people in the workplace." (Einarsen, Hoel, Zapf, Cooper, 2011).

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<sup>20</sup> *Engaging Employees to drive global building success: Insights from Mercers what's working Research*. 2007. [http://www.mmc.com/knowledgecenter/Engaging\\_Employees\\_To\\_Drive\\_Business.pdf](http://www.mmc.com/knowledgecenter/Engaging_Employees_To_Drive_Business.pdf) (September 2012)

### **Chapter Three: the Treasury Board of Canada's *Policy on Harassment Prevention and Resolution***

In October 2012, Treasury Board of Canada released its revised *Policy on Harassment Prevention and Resolution* and introduced a new accompanying *Directive on the Harassment Complaint Process*. Compared to the previous version, the revised policy is less prescriptive allowing deputy heads to tailor the harassment program to their organizational and operational needs. It reinforces the use of informal resolution processes and to implement preventive activities (Treasury Board of Canada, 2012).

The *Policy on Harassment Prevention and Resolution* describes the requirements and expected results of deputy heads to ensure their organizations reflect a harassment free workplace. It also includes direction on how to manage allegations of harassment and investigations of harassment complaints. All departments and organizations that are subject to this policy must abide by the same definition of harassment and follow the same five steps outlined in the Directive to ensure consistency in its application to employees of the core public administration, yet departments have the flexibility to customize the process to address their organizational mandates and specific needs (Treasury Board of Canada, 2012). Appendix A of the Policy lists several types of preventive activities but none of these have been revisited or monitored to determine their effectiveness nor have any new prevention measures been proposed in the 2012 version.

The Policy itself does not guarantee that persons claiming harassment will automatically receive redress. Managers who are aware of an allegation of harassment or a harassment situation must act upon this knowledge otherwise failure

to do may be seen as condoning the behavior, which may lead to administrative or disciplinary measures against them. Further, failure to do so holds the organization at risk of not meeting its legislative requirement to provide a respectful workplace free of harassment.

A common definition of harassment<sup>21</sup> is utilized across the federal public service to eliminate ambiguity of what constitutes harassment and to determine which complaints can be accepted in order to subsequently determine whether harassment allegations are founded or not. Functional specialists observe that harassment has become a catchall concept to describe any type of mistreatment from bullying, mobbing, abuse of authority to personality conflicts and one off situations where someone has inadvertently “put their foot in their mouth”. When harassment is being used to label every action or words an individual finds offensive for cases that may simply be personality or conflict issues, this impacts the credibility of genuine cases of harassment. Although broad definitions may prevent a policy from becoming outdated and may discourage the practice of employees self-screening (Einarsen, Hoel, Zapf, Cooper, 2011) a wider definition may have the disadvantage of increasing the number of allegations, many of which may not meet the definition of harassment and thus be dismissed without any action taken by the organization. This takes a toll on the parties and organizational resources and questions the credibility of the process (Einarsen, Hoel, Zapf, Cooper, 2011).

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<sup>21</sup> Under the *Policy on Harassment Prevention and Resolution* "harassment" means 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 acts, comments or displays 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 (Le. based on race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability and pardoned conviction). Harassment is normally a series of incidents but can exceptionally be one severe incident that has a lasting impact on the individual

The Policy includes bullying as an example of harassment, but many scholars view and define them as distinct constructs. As described here earlier, bullying typically involves a power imbalance between the parties, whereas in cases of harassment this is not necessarily a defining feature. Mobbing includes multiple aggressors targeting an individual, regardless of the minor differences, all of which essentially constitutes unethical behaviour. Often being overused, the term harassment needs to be replaced by an overarching expression or concept that encompasses all forms of mistreatment - such as “unethical behaviour” or “disrespectful conduct”. This stresses the importance of addressing the behaviour as a breach of one of the five values prescribed in the *Values and Ethics Code of the Public Sector (VECPS)*<sup>22</sup> under *Respect for People*<sup>23</sup> as opposed to victimizing the complainant, vilifying the respondent and polarizing the two parties.

## **Policy Application**

Currently, Treasury Board's *Policy on Harassment Prevention and Resolution* applies only to employees of the core public administration. It excludes contractors, consultants, temporary workers, agency personnel, and volunteers who form part of the federal sector population. Individuals, who are not employees of the government

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<sup>22</sup> The VECPS (the Code) outlines the values and expected behaviours that guide public servants in all activities related to their professional duties. By committing to these values and adhering to the expected behaviours, public servants strengthen the ethical culture of the public sector and contribute to public confidence in the integrity of all public institutions. As established by the Treasury Board, this Code fulfills the requirement of section 5 of the *Public Servants Disclosure Protection Act (PSDPA)*. It was developed in consultation with public servants, public sector organizations and bargaining agents. This Code should be read in conjunction with organizational codes of conduct.

<sup>23</sup> “Respect for People” refers to treating all people with respect, dignity and fairness is fundamental to our relationship with the Canadian public and contributes to a safe and healthy work environment that promotes engagement, openness and transparency. The diversity of our people and the ideas they generate are the source of our innovation.

in the legal sense but who work for the government, and face harassment or are being accused of harassment are not subject to the policy.

Major concerns have arisen when allegations of harassment are made by employees of the departments against those who are not employees of the department and are not subject to the Policy. For example, ministerial staff are hired as political staff not as employees of the department. Therefore, some cases where ministerial staff are the alleged aggressors typically go unresolved or are not dealt with in the same manner as departmental employees.

The accompanying *Directive on the Harassment Complaint Process* excludes these individuals from the application of the Directive but encourages persons responsible for the management of the harassment complaint process to apply the same principles to the extent possible when these individuals come forward. The Policy's legislative framework, which is based on the *Canadian Human Rights Act*, does not limit the application of the Act to employees of the workplace only, but extends it to persons in the workplace regardless of the type of employee.

The *Canada Labour Code* does not define the term "person". As such, it is meant to include all individuals who work in the workplace, including individuals with whom the employee may come into contact with such as the general public. By not distinguishing between types of individuals who work in the workplace and by not limiting the Code to specific types of employees, it would give a sense of security to all working individuals who may encounter or face harassment at the workplace. It also provides a sense of fairness and transparency should they find themselves in

such a situation as either the one being subjected to unethical behaviour or being accused of it.

The current policy strives to keep the harassment complaint confidential by sharing information with others on a 'need-to-know' basis only. Confidentiality is a key element to ensure integrity of the process. Parties and witnesses to an investigative process are required by some investigators to sign an assurance of confidentiality but consequences for failing to do so are not mentioned nor reinforced. Witnesses may be required to sign a confidentiality agreement but there is no enforcement or follow-up to ensure they have maintained the agreement. This impacts potential individuals from coming forward to report allegations of harassment.

Individuals subject to harassment are more reluctant to come forward to report allegations of harassment if they perceive that the organization will not handle their case in confidence (Einarsen, Hoel, Zapf, Cooper, 2011). If the process is not perceived to be confidential this will deter employees even more bearing in mind that confidentiality can never be guaranteed absolutely. To ensure the process is kept confidential as possible, policies should mention that failure to do so by anyone involved in the process may be subject to corrective or disciplinary action for breaching the confidentiality requirement and jeopardizing the integrity of the investigative or resolution process.

The Policy does not enable witnesses to report cases of unethical behavior. The current complaint system as prescribed by the Directive prohibits an individual from lodging a harassment complaint if the alleged harassment was not directed at him/her, nor does it accept anonymous complaints. Only written complaints signed by

the person alleging harassment are accepted. However, this does not assist an individual subject to harassment who may not report the harassing behaviour either due to fear, lack of self-confidence or due to unfamiliarity of the resources available to them.

Witnesses may find the behaviour offensive despite not having it directed to them. Therefore, witnesses should be permitted to come forward to report witnessing unethical behaviour towards others because witnessing the mistreatment of others can also impact individuals severely and leave them with the same consequences as with victims (Bocchino, Hartman, & Foley, 2003) and (Besley 2011). They too can experience mental issues, a decrease in productivity, and an increase in absenteeism. They may also fear becoming the next target - this uncertainty leads to workplace stress, disengagement and low-morale (Bocchino, Hartman, & Foley, 2003).

The current Policy does not address individuals who participate with the aggressor in harassing an individual or with bystanders who remain silent. Individuals who support the aggressor passively do so for self-protection and to avoid becoming the next target (Bowman, 2012). Policies need to address individuals who do not come forward to report unethical behaviour for failing to report a breach of the harassment policy, which states that it is everyone's responsibility to ensure a respectful workplace. This would keep in line with the responsibility of managers who are required to take action when they are aware of situations of harassment or potential situations of harassment, otherwise they are deemed to condone the behaviour and thus be subject to disciplinary measures.

## The Complaint Process

The existing complaint process has been in effect since the implementation of the first Treasury Board policy on harassment three decades ago. Since then, it has never undergone an evaluation on its effectiveness. It has not been modified significantly other than to extend the expected duration for complaint processes (from six months to one year) and to introduce mediation as a first option of resolution. Moreover, there never has been an analysis to determine reasons why complaints that made it through the initial screening process (i.e. complaints where the allegations met the definition of harassment) had a very low rate of being founded after the completion of an investigation. Harassment investigations are administrative measures, therefore findings are not based on a burden of proof but instead on a balance of probability. The employer needs only to receive sufficient evidence that will show on a balance of probability that the complaint is founded.<sup>24</sup>

A PSES question asked employees whether they were satisfied in the way in which their department or agency responds to matters related to harassment and discrimination. Only 46% strongly or somewhat strongly agreed. Policy holders must determine whether the complaint process itself needs to be re-examined or does the issue lie when determining if allegations are founded versus unfounded. Perhaps examining both dimensions is required.

Treasury Board of Canada's *Policy on Harassment Prevention and Resolution* endeavors to ensure a process of natural procedural fairness in the management of harassment complaints and investigations of harassment cases. The Labour

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<sup>24</sup> Derek Johnson, "The Balance of Probabilities", PhiKnowledge Center, 2007.  
[http://www.phfirms.co.za/kc/Data/The\\_Balance\\_of\\_Probability\\_3102.asp](http://www.phfirms.co.za/kc/Data/The_Balance_of_Probability_3102.asp) [November 2012]

Relations office is a separate entity from the Values and Ethics Office that provides support to managers at all levels with manager-employee relations and management-union relations. Managers receive assistance on how to handle conflicts between employees and on how to manage poor or underperforming employees. Labour Relations Advisors (LRA) working in the labour relations offices also manage employee grievances, provide advice with respect to interpretation of collective agreements and play a vital role in the collective bargaining process. In some federal organizations, the management of harassment falls under the purview of this office.

Stakeholders hold opposing views as to whether the management of harassment allegations and investigation of complaints should be housed within a Labour Relations office or reside independently from other sectors, i.e. in a separate reporting structure directly to the deputy head. Because the primary function of LRA's is to provide advice to managers on employee relations, e.g. managing employees who are poor performers, some fear a potential conflict of interest by having the management of harassment complaints reside within the labour relations office. This particularly is a concern with smaller organizations where one employee has multiple roles or functions.

Managers who are respondents in allegations of harassment complaints can avail themselves of the services of labour relations and seek advice on how to respond to the allegations of harassment made against them. Therefore, one office can both receive complaints made from an employee against a manager, launch an investigation as a result and simultaneously assist that same manager with a complaint being made against them. In smaller organizations with limited human

resources, the same individual may be responsible to manage the same process putting themselves into a conflict of interest and perhaps impeding the right to procedural fairness. This apprehension can be further intensified when the individual may have a relation with the accused.

Being professionals, these individuals are expected to carry out their duties neutrally and without bias, however it is the potential for real or perceived conflict of interest that is a concern and may prohibit some employees from coming forward to report harassment and impedes their faith in the system. Therefore, locating offices that receive and manage harassment complaints separately from offices that deal with the provision of HR services to management would avoid the real or perceived appearance for a conflict of interest. Ideally, it should be positioned in an office that reports directly to the deputy head or in a directorate whose mandate is more neutral.

As mentioned previously, each deputy head within the federal government is responsible to manage investigations for allegations of harassment within their respective organization. One individual, typically at the manager or executive management level, is designated as the person responsible for managing the harassment process. These persons responsible for the management of harassment complaints may either conduct a fact-finding mission themselves or procure the services of an external consultant to launch an investigation. A concern is that persons or consultants contracted to conduct fact-finding missions or to manage the investigative processes, in particular investigators hired externally as consultants, are not seen as fully impartial as they are employed or work on behalf of the organization that procured the services of the investigator.

Although investigators are required to meet the competencies established by the Treasury Board of Canada and are expected to abide by the mandate set out for them; and practice procedural fairness, there is still a potential for real or apparent conflict of interest in the selection process of these investigators. This would address another concern of some stakeholders that some investigators have a reputation to conclude harassment allegations, in particular against managers, as unfounded. It is believed that these investigators are rehired as a result of this tendency. Therefore, in the true spirit of procedural fairness, departments should no longer be responsible for the conduct of the investigation process itself, including fact-finding missions, nor for determining if the harassment complaint is founded or not. To ensure complete neutrality, the management of investigations of alleged harassment and the determination if a harassment complaint is founded or not, should be conducted by an entity external to the department in which the allegation or occurrence of harassment originated.

When allegations of harassment or bullying are lodged against a member of management, in particular, senior management, this is greater cause to have investigations conducted externally by another independent organization (Einarsen, Hoel, Zapf, Cooper, 2011). This will provide for a more transparent and conflict-free process and be seen by employees as more fair and unbiased.

The *Public Servants Disclosure and Protection Act* (PSDPA) tabled in 2007 “gives federal public sector employees a secure and confidential process for disclosing serious wrongdoing in the workplace, as well as protection from acts of reprisal”. It is part of the Government of Canada’s ongoing commitment to promoting

ethical practices in the public sector.<sup>25</sup> Some key features of the PSDPA is that “it provides substantial protections in law from reprisal for disclosures made in good faith; outlines a process for dealing with reprisal; and strengthens the confidentiality that can be offered to those making disclosures”.

The PSDPA provides examples of what constitutes wrongdoings which includes violating any Act of Parliament or any Act of the legislatures of Canada's provinces and territories, and violating any regulations made under these Acts - misusing public funds or a public asset; gross mismanagement; doing something - or failing to do something - that creates a substantial and specific danger to the health, safety, or life of persons or to the environment; seriously breaching any code of conduct that applies to the public sector; and knowingly directing or counseling a person to commit wrongdoing as defined above.<sup>26</sup>

The disclosure process permits any public servant to make a disclosure of wrongdoing to the person of their choice - either to their supervisor or the Senior Officer for Disclosure within their organization; or externally with the Public Service Integrity Commissioner. “The process involves assessing the disclosure, investigating it, where necessary, and reporting on it, if there are any findings. The Public Service Integrity Commissioner, who is an independent body that reports directly to Parliament, has the authority to investigate, report his or her findings and make

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<sup>25</sup> Treasury Board of Canada Secretariat: The Public Service Disclosure Protection Act. 2007. <http://www.tbs-sct.gc.ca/gui/pdac-eng.asp>

<sup>26</sup> Office of the Public Service Integrity Commissioner, 2012. [http://www.psic-isp.gc.ca/act\\_1oi/publicservantsprotection\\_protectiondesfonctionnaires-eng.aspx](http://www.psic-isp.gc.ca/act_1oi/publicservantsprotection_protectiondesfonctionnaires-eng.aspx)

recommendations on corrective measures to the chief executive concerned (e.g. the Deputy Minister).<sup>27</sup>

Because the Office is already mandated to deal with wrongdoings that violate any organizational code of conduct and is committed to strengthen the integrity of the public service, the Office may be in a better place and be better perceived as a more neutral entity mandated to manage and investigate complaints of harassment and related unethical behaviour. Harassment cases would be considered as a breach of the Code, more specifically a breach against the public service value that addresses one of the five values entitled *Respect for People*. An independent body will provide for a more transparent and conflict-free process and will be perceived by employees as more fair and impartial, in particular when a final decision on whether the harassment is founded or not. Further, the Office is already resourced with full-time experienced and qualified investigators to handle complaints of wrongdoings. From 2009 to 2010, 477 cases of harassment were investigated by outside consultants, which cost the federal government \$2.5 million (Cobb, 2012).

Prior to 2005, the power to accept and review complaints related to internal appointments within the public service was under the purview of the Public Service Commission<sup>28</sup> - the same organization which would have authorized such

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<sup>27</sup> Office of the Public Service Integrity Commissioner, 2012. [http://www.psic- ispc.gc.ca /act\\_1oi /publicservantsprotection\\_protectiondesfonctionnaires-eng.aspx](http://www.psic- ispc.gc.ca /act_1oi /publicservantsprotection_protectiondesfonctionnaires-eng.aspx)

<sup>28</sup> The Public Service Commission (PSC) safeguards the integrity of staffing and the non-partisan nature of the public service. The PSC's mandate is threefold. First, the PSC is mandated to appoint, or provide for the appointment of, persons to or from within the public service. The PSC provides staffing and assessment functions and services to support staffing in the public service. Second, the PSC is mandated to oversee the integrity of the staffing system and ensure non-partisanship. This oversight role includes maintaining and interpreting data on the public service, carrying out audits that provide assurance and make recommendations for improvements and conducting investigations that can lead to corrective action in the case of errors or problems.

appointments. A limited number of internal staffing complaints were rendered as founded. In 2005, with the modernization of the *Public Service Employment Act*, in addition to delegating internal appointments to deputy heads, a new independent body, the Public Service Staffing Tribunal, was mandated to address complaints related to internal appointments amongst other functions. The number of founded staffing complaints drastically increased under this entity where specialists exercised their function in complete autonomy and neutrality and most importantly, were perceived as doing such.

Therefore, to ensure a truthfully fair and unbiased investigative process, investigations of harassment and bullying, the harassment complaint process should be removed from the purview of departments and be conducted by an independent body such as the Public Service Integrity Commissioner or by a similarly mandated existing institution or by creating a new office.

### **The Investigative Process**

Unlike courts and tribunals where guilt must be proven beyond a reasonable doubt, the investigative process for harassment complaints is an administrative procedure requiring only a balance of probability to determine whether a harassment complaint is founded. Therefore, in a harassment complaint process, the onus is on the complainant to demonstrate with evidence that harassment occurred based on a balance of probability. However, an overwhelming number of cases are being

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Third, the PSC is mandated to administer provisions of the *Public Service Employment Act* (PSEA) related to the political activities of employees and deputy heads

unfounded despite substantial evidence being provided in the course of the investigation.

Other than stating the allegations are unfounded, the complainant is not provided with explanations on how the conclusions were drawn nor reasons why their case was rendered as unfounded. Prior to the release of the final investigative report, the respondent has the right to review the evidence submitted against them. The practice today allows respondents to review and refute allegations made against them. Once the allegations are refuted the harassment allegation is more likely to be declared unfounded.

A new policy requirement should be that when allegations are being refuted, the respondent must provide solid evidence to counteract the allegation made against them and not be permitted to provide evidence to discredit the reputation of the individual. In many cases, evidence to tarnish the reputation of the complaint is put forth to discredit them and their allegations of harassment. This practice should be prohibited unless it pertains specifically to the allegations, as many subjects of harassment do not come forward with allegations of harassment for the fear of having their professional and personal reputations potentially tarnished unfairly.

Typically following the conclusion of the investigation, departments will advise the parties in writing the decision taken and the file is closed. In cases where a substantial amount of evidence was submitted to demonstrate a balance of probability, complaints feel disillusioned with the process and that energy and time spent was futile. This sends a message to respondents and employees that lodging harassment complaints or any other formal recourse process is not worthwhile.

Therefore, guidelines need to be established to help determine eligibility criterion for determining cases as founded or not and applied in a fair and consistent manner. Guidelines also need to be established for cases where new information becomes available subsequent to the conclusion of the investigation to prove that evidence submitted was falsified or new evidence has come to light.

Following the investigation report, the person in the department responsible for managing the complaint process makes the final determination of harassment and recommends corrective or disciplinary measures if warranted. In some organizations particularly smaller ones, this person could be perceived to be in a conflict of interest situation should they be acquainted with or close to the respondent. Therefore, a small committee composed of three members should be reviewing the final investigative report and determining whether the harassment case is founded or not.

### **Critiques of Mediation**

The *Policy on Harassment Prevention and Resolution* and the *Guide on Applying the Harassment Resolution Process* strongly supports the use of informal resolutions options such as mediation as the first method of resolution. The Guide provides practical information on how to carry out the formal harassment resolution process in accordance with procedural fairness while providing flexibility to tailor practices according to the needs of each organization. The Guide clearly favours informal resolutions options over formal ones by stating,

*"The formal resolution process is inherently adversarial (determining who is right and wrong rather than focusing on restoring relationships) and as a result, it is difficult to reconcile such a process with the ultimate goal of restoring the workplace relationships once a decision has been rendered."*

This leaves individuals feeling that pursuing the formal complaint process is a shameful option and they are “adversarial” in nature lacking the ability or willingness to restore any conflict without resorting to formal means.

The Guide requires that persons responsible for managing the harassment complaint process offer it at the onset of an allegation of harassment and during the formal complaint process, which will be held in abeyance should both parties (i.e. the complainant and the respondent) agree to it as mutual consent is required. There is no requirement for organizations to conduct an objective analysis of the case to determine whether informal resolution processes such as mediation would be a suitable resolution option.

Although mediation has been successful in de-escalating and resolving many situations of harassment and bullying, many experts and studies show that it may in fact be unsuitable and possibly detrimental in many types of cases (Einarsen, Hoel, Zapf, Cooper, 2011). This is particularly evident in cases where there is a power “imbalance between the parties and where the alleged offender manages or supervises the complainant” (Einarsen, Hoel, Zapf, Cooper, 2011). Studies on mediation in hierarchical conflicts between supervisors and subordinates found that hierarchical conflicts play a crucial role in mediation and that the power imbalance remains to some extent in the mediation process. Also, the experience of procedural justice and situational uncertainty are found to be important determinants in the mediation process. In this respect, supervisors perceived greater procedural justice in the mediation process than did subordinates, and there was “a strong relationship

between perceived procedural justice and perceived effectiveness of mediation” (Einarsen, Hoel, Zapf, Cooper, 2011).

Einarsent (2011) also highlights another misconception that both parties are capable of negotiation as relative equals. This is of particular concern in situations that involve violence, chronic harassment or bullying and where the parties have a difference in positional power. It is the “power imbalance, the inability to defend, and the extensive undermining of the target's personal resources that characterize severe bullying relationships suggests that mediation may not only be inappropriate but that it also may be harmful” (Einarsen, Hoel, Zapf, Cooper, 2011).

Some complainants believe that although mediation may have its merits, in cases where the offender is a manager, mediation was perceived as a tactic for the department “to quickly and cheaply” get rid of complaints against managers and more importantly it serves to protect the manager by precluding the submission of a formal complaint.

Another criticism against mediation is that the focus is typically on the present and restoring the relationships of the parties involved and does not place enough emphasis on addressing or punishing past behaviours (Einarsen, Hoel, Zapf, Cooper, 2011) which could be perceived that the organization is implicitly condoning the acts. In situations such as personality conflicts between peers, mediation may be appropriate and acceptable by both parties. However, in situations of harassment and bullying where one party is clearly the victim or at a disadvantage, “failure to redress past behaviour may do little to address the bullying target's concerns for justices and recognition of the harm done...the extent of the harm could easily be

missed or delegitimized if the selected intervention focuses solely on a single episode without consideration of the history" (Einarsen, Hoel, Zapf, Cooper, 2011).

Moreover, this type of resolution tends to favour the party who had harassed or bullied because "it does not require him or her to acknowledge responsibility for his or her actions" (Einarsen, Hoel, Zapf, Cooper, 2011). Without an acknowledgement of how his or her behaviour has negatively impacted an individual or failing to take responsibility compounded with the organization not properly addressing the behaviour, the organization is at risk of facing future unethical conduct and a sense of insecurity from employees.

A final criticism is that "it keeps wrongdoings outside of public scrutiny" since mediation is a private and confidential process (Einarsen, Hoel, Zapf, Cooper, 2011) and requires no documentation. This inhibits sharing information of the case and the decisions reached during the mediation process. Most importantly, it does not allow for the "identification of systematic patterns of conflict associated with a particular party, a particular unit within an organization, or across the organization." (Einarsen, Hoel, Zapf, Cooper, 2011). The risk here is that witnesses to workplace aggression may receive little or no information on how the situation was handled (Einarsen, Hoel, Zapf, Cooper, 2011) and no reassurances that it will not occur again.

The word "prevention" is embedded in the title of the harassment policy and is mentioned as a responsibility of the deputy heads in Section 6 of the Policy. With the exception of listing ten different types of harassment prevention activities in Appendix A of the Policy, innovative approaches to guide deputy heads with implementing effective mitigation and prevent harassment strategies is lacking. The next Chapter

will address this issue by proposing a series of recommendations. Some are new concepts and some contain some variations of what is already in practice or recommended.

## **Chapter Four: Suggested Prevention Strategies**

Developing a harassment policy is just one factor of many towards creating a respectful workplace where employees can feel safe from harassment and take pleasure in working in an ethical environment. Organizations must go beyond relying on a harassment policy as the singular preventative measure. With an increasingly diverse and complex work environment, organizations must advance from passive types of prevention and rhetoric, to engaging in practical preventive measures that will actively mitigate and prevent unethical behaviour.

However, harassment policies remain the principle tool and foundation for a harassment prevention framework from which other preventative measures may materialize. Policy failure can be attributed to the lack of willingness or ability by the organization to commit to its anti-harassment policy statement (Einarsen, Hoel, Zapf, Cooper, 2011). Thus, the recommendations listed in this section will begin with proposals on the policy framework followed by more practical and pro-active suggestions.

### **Policy Content and Application**

There have been no established causal links between anti-harassment policies and a reduction in harassment incidences (Einarsen, Hoel, Zapf, Cooper, 2011). Policies serve primarily as awareness mechanisms to state the organization's position on harassment; to inform deputy heads their roles and responsibilities in fostering respectful work environments in their organizations and to advise employees where to go in such a situation. The policy itself is one link in a chain of

events for prevention. A well-written and clearly outlined policy on harassment is only the first step in obtaining trust from employees - how it is applied in reality enormously impacts employee perceptions on the integrity of its organization and leaders. Emphasis should be directed less on the content of anti-harassment policies and more on the application of the policy, in particular to ensure the policy is applied equally, consistently and the harassment complaint process is conducted fairly.

For employees to have faith in the management of the harassment complaint process, how the process unfolds is integral. The system, the leaders and thus ultimately the organization will be judged on these elements. The New Zealand government states in its harassment regulation,<sup>29</sup>

*"Relevant persons who are employers should encourage workers to report allegations of workplace harassment. Workers will be encouraged to report allegations of workplace harassment if they believe the complaint handling system can be trusted and offers fair treatment to those involved".*

Organizations that have policies and procedures in place ensure predictability and influences employee perceptions of procedural justice, which is a key element in employee opinion of fairness (Einarsen, Hoel, Zapf, Cooper, 2011). Research maintains, "where appropriately applied, they also provide security for the individual and send a strong signal to employees that these issues are taken seriously and not tolerated by the organization". Furthermore, "when proper procedures exist and are applied correctly in terms of a fair investigation process, the conclusions reached and the appropriate sanctions towards the perpetrators taken, their presence may also have an impact on behaviour within the organization" (Einarsen, Hoel, Zapf, Cooper, 2011).

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<sup>29</sup> Queensland Government of New Zealand, *Harassment Act, 1997*.  
<http://www.legislation.govt.nz/act/public/1997/0092/latest/DLM417078.html> (November 2012).

When employees bear witness to how anti-harassment policies and related procedures are applied fairly amongst all staff, particularly with management, employees will acquire more faith in the system and trust in the organization. This will encourage them to come forward to report wrongdoings or unethical behaviour, and to do so without fear of reprisal. To generate a high level of trust, organizations must avoid having as coined by Einarsen "untouchables" who appear to escape the system or sanctions. One way to reassure employees that the policy is applied fairly and consistently and equally to all staff members, is to publish the outcomes of disciplinary actions taken in founded cases of harassment, while maintaining anonymity of the parties involved.

Policies on harassment must be supported by multiple information, products, resources and tools and distributed through various media to employees. Strong measures are needed to ensure employees who are not receiving electronic messages regularly have access to the same message but from a viable alternate medium. These should be developed in consultation with key stakeholders and experts in the fields of harassment or well-being. Distribution of communication products needs to be more intensified and disseminated regularly.

Research and comparative studies of anti-harassment and anti-bullying policies remains limited. As such, leading practices in policy effectiveness is not readily available. However, during the past decades organizations have approached policy making through trial and error and have made progress (Einarsen, Hoel, Zapf, Cooper, 2011). One theory recommends linking policies to other related policies such as disciplinary ones, which would reinforce the organization's commitment to

dealing with harassment and bullying through appropriate measures (Einarsen, Hoel, Zapf, Cooper, 2011).

The *Values and Ethics Code of the Public Sector* (the Code) was developed in accordance to Section 5 of the *Public Servants Disclosure Protection Act*, which required the Treasury Board of Canada to develop a code of conduct applicable to the public sector and then required each organization to develop respective ones in line with Treasury Board's Code. The Code outlines the "values and expected behaviours that guide public servants in all activities related to their professional duties". By committing to these values and adhering to the expected behaviours, "public servants strengthen the ethical culture of the public sector and contribute to public confidence in the integrity of all public institutions."

The Code lists five statements of values that embody the values of the public sector - *Respect for Democracy, Respect for People, Integrity, Excellence and Stewardship*. It further describes the expected behaviours of each of the five values.

Regarding '*Respect for People*' public servants

*"shall respect human dignity and the value of every person by treating every person with respect and fairness; valuing diversity and the benefit of combining the unique qualities and strengths inherent in a diverse workforce; helping to create and maintain safe and healthy workplaces that are free from harassment and discrimination," working together in a spirit of openness, honesty and transparency that encourages engagement, collaboration and respectful communication."*

The current *Values and Ethics Code of the Public Sector* is supported by the *Policy on Conflict of Interest and Post-Employment*. The objective of this policy is to "ensure that, in situations of real, apparent or potential conflict of interest and situations where there is a conflict of duties, decisions are made in a manner which upholds the public interest". As with *the Policy on Conflict of Interest and Post-Employment*, the *Policy*

*on Harassment Resolution and Prevention* should also directly be linked to the Code to increase visibility and demonstrate the importance in fostering a harassment free workplace. Directly linking the Policy to the Code demonstrates that harassment is not a taboo subject but rather is viewed as intolerable and unacceptable.

The title of a policy is regarded to also have preventive affects (Einarsen, Hoel, Zapf, Cooper, 2011). Studies reveal that more mature organizations use titles with positive terminology such as a “Dignity at Work Policy”, “Policy on Respect in the Workplace” or “Integrity at Work” as opposed to ones that refer to anti-harassment or anti-bullying or mention negative terminology such as “harassment”. Positive terminology tends to resonate more with employees and embodies the concept of “good behaviour” with which the organization is striving to promote (Einarsen, Hoel, Zapf, Cooper, 2011). The focus then becomes on the positive behaviour, i.e. respect, that the organization which to espouse as opposed to highlighting negative behaviour.

Promoting collaborative engagement for a respectful workplace recognizes that both formal and informal authorities are necessary in holding a team together and is the foundation for a strong ethical environment. Therefore, to the extent possible any decisions relating to the management of harassment or unethical behaviour should be in consultation not just with stakeholders such as bargaining agents, but also with employees themselves. Employees and managers who have first-hand experience, and individuals implicated in harassment cases, should all be consulted to assist in improving the process, highlighting areas for improvement and identifying new prevention strategies.

A negative aspect of the disciplinary procedures in some countries is that the outcomes are kept confidential (Einarsen, Hoel, Zapf, Cooper, 2011). When outcomes and disciplinary actions are communicated to staff, positive reactions emerge. Organizations that are transparent about misconduct impart employee trust and faith in the system and the overall organization. It reinforces the policy objective of a harassment policy by clearly demonstrating that it strives to ensure a workplace free of harassment and cases of harassment will be dealt with effectively. It also shows that the policy applies equally to all staff members and that the organization takes harassment situations seriously and demonstrates commitment by leaders in promoting a harassment free workplace. Further, it contributes to preventing and mitigating incidences of harassment; it impacts employee behaviour, and increases perceptions of procedural fairness (Einarsen, Hoel, Zapf, Cooper, 2011). Most importantly, when policies are appropriately applied and investigations are conducted fairly, it provides a sense of security for employees and some predictability should they face a similar situation (Einarsen, Hoel, Zapf, Cooper, 2011).

### **Awareness, Training & Competency Profiling**

For effective resolution to occur, a common understanding about bullying, harassment and other unethical mistreatment must be realized in organizations (Einarsen, Hoel, Zapf, Cooper, 2011). Therefore, new and existing employees must understand what the organization deems to be ethical and unethical behaviour. Parties to harassment, e.g. including the perpetrator and target, management, bargaining agents and other individuals implicated should also share the common

viewpoint of harassment once a harassment complaint is accepted for further action. Once this common understanding occurs, proper dialogue between the parties will be more effective during attempts to resolve the situation.

Aggressors must first recognize the impropriety of their actions in order to take ownership of them and to be able to comprehend the consequences they may have inflicted on an individual. They must become self-aware of what caused their actions in order to address them and to avoid repeating similar offenses. Targets can also become more self-aware of their role in the situation, how they may have also influenced events, and acquire prevention techniques to avoid similar situations in the future. As many experts have discovered, some targets are not adequately prepared to handle situations of conflict, and for the same reason these individuals find themselves as targets (Besley, 2012). Therefore, the right training or awareness sessions to both parties would be advisable prior to any resolution process whether it is formal or informal.

Given that more than half of the complaints were lodged against immediate supervisors, the federal government must place more attention on what it can do to mitigate the occurrences of alleged harassment complaints in particular between parties where there is a difference in power. One way is through specialized and mandatory training targeted to entry-level managers and supervisors, for those new to the field of management and long-term incumbents of managerial positions. Training material should be audited, reviewed and revised regularly, available more readily and re-offered to participants.

Specialized training for managers or employees who are repeat respondents is above all required and should be imposed as a preventative not punitive measure. Managers and employees who have faced multiple allegations of harassment should receive specialized people-management training in order to identify and address weaknesses in their interpersonal skills and to assist them in the prevention of future harassment allegations. Specialized training may include relationship management training, conflict management training, and mediation skills training. "Training should also be provided that focuses on developing a greater understanding of human behaviour, communication and people management. Assessment should also be conducted to ensure that supervisory staff are able to apply their newly acquired knowledge, skills and abilities in the workplace" (Queensland Government, 2012).

Another recommendation is to procure the services of outside experts for intervention. Persons without any ties or holding an employment relationship to the organization may convey a more neutral message and level the playing field between the parties in particular in situations where there exists an imbalance of power (Einarsen, Hoel, Zapf, Cooper, 2011). They can offer specialized awareness sessions targeted for work units that may be experiencing low morale, a poisoned work environment and have a history of interpersonal issues or unharmonious working relationships. Sensitization to the harmful effects of harassment and bullying faced by individuals and organizations should be incorporated and stressed in training curriculum. This would assist in circumventing moral disengagement that many perpetrators experience when subjecting another individual to mistreatment as described earlier.

After such training is undertaken, follow-up records should be kept of whether the knowledge, skills and abilities were attained. This may be done by following-up with participants and potentially their immediate supervisors to determine if the training was beneficial and caused the intended outcomes, or by conducting post-training surveys and meetings.

Evaluating the management style of an individual, or those who seek managerial positions, would assess awareness and understanding of human behaviour. It would determine his/her approach to human resources management and interpersonal interactions or basically what is commonly referred to as "soft skills" or "people skills". Identifying their current management style approach would capture individuals who may need more training in people management and perhaps need to enroll in specialized training to address areas of improvement, e.g. communication, coaching, conflict resolution, negotiation or interpersonal skills.

Training individuals who are responsible for managing the harassment process in order to become familiar with identifying or addressing harassment and other forms of unethical behaviour is also necessary. Although Treasury Board has posted some on-lines guides to support managers - additional tools, training and resources regarding the management of conflict must be offered as proactive approaches to mitigate and reduce situations from arising into potential cases of harassment. An expert warns, "once it starts, the tendency is for it to spread...and then it becomes much harder to manage" (Frasch, 2011). Managers need to be reassured that it is not a sign of incompetency when they seek assistance in these types of situations.

During hiring and appointment processes, training and promotion processes, organizations should place more emphasis on the assessment of an individual's ability to relate to others in a psychologically healthy way and include an ethical competency for all levels of employees. There are many valuable tools to utilize to assess the quantum of an individual's interpersonal relationship with others, such as self-assessment questionnaire, professional emotional intelligence tools, and self-diagnosis surveys. From these tools, an analysis of an individual's interpersonal relationship skills and their ability to interact with others may lead to preventive measures in terms of detecting early on training needs or best fit with an organization.

### **Some Corrective Measures**

People are motivated to act ethically for different reasons and also respond to deterrents differently. Studies have shown that organizational codes that combine both a values-based and a compliance-based approach are the best models (Einarsen, Hoel, Zapf, Cooper, 2011). Relying solely on promoting a values-based conduct is not sufficient. Research shows that the "majority of employees (between 60 to 80%) will bend the rules, steal or commit fraud, if they think they can get away with it (Einarsen, Hoel, Zapf, Cooper, 2011). Experts recommend that policies clearly state the consequences individuals may face for treating someone unethically. The more consequences described that an individual will face, such as disciplinary or corrective measures, termination of employment or criminal charges against sexual

harassment allegations, the more likely these consequences will act as a deterrent for certain individuals (Einarsen, Hoel, Zapf, Cooper, 2011).

Taking this premise a step further would be to communicate the results of founded harassment cases while maintaining anonymity of the parties. This could be done in as part of the annual Proactive Disclosure<sup>30</sup> requirement organizations are subjected to. This would also include stating the nature of harassment and what corrective or disciplinary measures were taken including those that resulted in termination of employment. When employees are aware that management will take action to stop and impose consequences on individuals for unethical behaviour, a strong message is sent that unethical behaviour will not be tolerated and consequences will be imposed. A full description of the case is not required, but the mere mention that a respondent in a founded cases of harassment was disciplined registers more in the minds of individuals than any other form of deterrence. By demonstrating that words in the anti-harassment policy have meaning and management takes allegations of harassment and ensuring a respectful workplace seriously, employees build trust in the organization and faith in the harassment complaint system.

The Government of Alberta's *Policy on Preventing Violence and Harassment in the Workplace* states that employers must address abuse in an "objective and consistent manner." It lists several factors when determining corrective measures

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<sup>30</sup> The Government of Canada has implemented a series of measures to strengthen public sector management by enhancing transparency and oversight of public resources in the federal government. One of these measures includes the proactive disclosure of financial- and human resources-related information by departments and agencies. By making this information readily available on departmental web sites, Canadians and Parliament are better able to hold the Government and public sector officials to account.

including the nature of the abuse; impact of the abuse on the victim; duration of the abuse; frequency of the abuse; and the vulnerability of the victim. To assist with closure, the complainant should be offered the opportunity to provide input into the corrective measures against the respondent and be assured that corrective measures were implemented in a timely manner.

Follow-up is another important undertaking. Many departments engage in restoration of the workplace following harassment cases to ensure the re-establishment, or in some cases establishment, of harmonious working relationships in a team following a harassment complaint. This exercise has never been monitored to determine if it is occurring or if it is occurring effectively. Follow-ups are essential two to three months post-investigation or after restoration was implemented to ensure the mechanisms used to restore the workplace were effective, to determine the wellbeing of employees and the overall state of the work unit. This can be accomplished in consultation with other experts internal or external to the organization, including bargaining agents. A follow-up interview with the complainant would serve to demonstrate on-going support and to inquire if any acts of reprisal have occurred against them as a result of having filed a harassment complaint.

## **Risk-Management**

According to the STEEP risk-management model,<sup>31</sup> risk-management is an activity that attempts to mitigate external factors such as social, technological, environmental, economic and political realities that may have a negative on

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<sup>31</sup> Extracted from [http://www.scribd.com/\\_/doc/38199839/STEEP-Analysis](http://www.scribd.com/_/doc/38199839/STEEP-Analysis). December 2012.

organizations. Equally critical is the identification of internal risks such as misuse of funds, lack of proper governance, ineffective policies or programs, ethical breaches to name a few. Risk-Management can be critical to the prevention and control of exposure to the risk of workplace harassment. Pro-active inspections or workplace assessments should be conducted periodically as a key preventive method (Queensland Government, 2012).

Particular emphasis should be placed on pro-actively assessing overall psychosocial risks of the workplace (Queensland Government, 2012). Environmental scans should be conducted periodically in order to identify trends and benchmark issues, or it can be done ad hoc during periods of high risk such as during organizational change or restructuring. Environment scans serve to pro-actively identify all the factors that may contribute to unethical behaviour and mitigate their occurrences. This includes taking into account work locations, work conditions and special circumstances of employees, and work activities or duties that may be prone to higher incidences of exposure or susceptibility to workplace aggression. A crucial aspect to environmental scans is seeking indirect or subtle signs of workplace harassment that may need to be considered within the overall context of the workplace environment (Queensland Government, 2012). Managing and terminating small incidents of incivility is much easier than ones that escalate to serious misconducts such as harassment, bullying or physical violence.

Five steps were established for the risk management of harassment:

1) identifying if the workplace is exposed to harassment or has the potential to be;

2) assessing the risks to determine the probability and consequences of harassment; 3) deciding on which control measures will prevent or control exposure to the risk of harassment; 4) implementing those control measures to prevent or control exposure to the risk of harassment; and 5) monitoring and reviewing the risk-management process to assess the state of the risk assessment and the effectiveness of the control measures implemented. Crucial to each five steps is consultation with various stakeholders that may include employees, managers, health and safety members, bargaining agents; and community experts or practitioners.

The Queensland Government identified several indirect signs of harassment in particular as it relates to changes in human resource management trends. Examples include increases in levels of absenteeism and staff turnover; increases in the use of employee counseling services; employees leaving the organization reporting dissatisfaction with working relationships; negative results from organizational climate or employee opinion surveys; the breakdown of relationships between workers, customers or management; workers becoming withdrawn and isolated; poor morale and erosion of loyalty and commitment.

Engaging neutral third parties or external consultants who specialize in workplace assessments may be better at detecting high-risk work units and vulnerable employees. Employees may also feel more comfortable sharing experiences or exposing dysfunctional work environment to individuals who are impartial external parties.

## **Permanent Follow-ups**

Conducting research projects and studies, collecting data followed by an analysis on statistics must be undertaken on a regular basis and must be mandatory. The federal government should resume collecting data from departments in order to identify risks, challenges, trends, systematic cases of abuse and to identify what is performing effectively and what areas require improvement. Multiple measures are needed in order to effectively extrapolate conclusions and determine best practices.

An annual report could be conducted every three years to corroborate with Public Service Employment Survey results and to establish benchmarking. This would replace the previous annual reports conducted by departments and eliminate the burden of reporting annually. Departments should be utilizing tracking systems to capture statistics on all types of harassment cases and any form of unethical behaviour. Also tracking how the complaint or allegations were handled either through a formal or informal process would lead to identification of trends, practices needed for improvement and subsequently forming recommendations. As part of the analysis, departments would be in better position to identify and prioritize systematic cases of harassment or discrimination (e.g. multiple cases involving the same respondent) to ensure that those cases that contribute to the greatest impact on employees are addressed first.

Conducting confidential exit surveys is another avenue to obtain information on the ethical status of the organization and to determine whether the employee's departure was related to harassment or unethical treatment since studies prove that this is often the only option for subjects of harassment. For exit surveys to be

effective, they must remain confidential ensuring anonymity of the employees. The directorate responsible for administering exit surveys would either be an office such as or similar to the role of Ombudsman or the values and ethics office where neutrality is best perceived to exist.

### **Potential Incentives**

An expected result of the Policy is to offer “effective incentives for employees and managers to demonstrate a high level of respect for people” (Einarsen, Hoel, Zapf, Cooper, 2011). However, the Policy and its associated instruments do not contain examples of recognition measures to incite individuals to demonstrate a high level of respect for people leaving it to the deputy heads of organizations to determine how to implement this preventative activity.

Individuals who are implicated in cases of harassment or who are a witness to unethical behaviour may view recognition as motivation for coming forward to disclose unethical behaviour. Individuals who have the courage to come forward should be commended. Persons who come forward to report misconduct for fraud or embezzlement are generally rewarded positively for their actions. However, the same recognition is not afforded to individuals who report misconduct for the mistreatment of persons. Commendable behaviour that is positively rewarded serves to model the type of ethical behaviour condoned by the organization while reinforcing the type of behaviour that it does not value.

When applicable, while maintaining confidentiality, sharing success stories of cases where subjects of harassment or witnesses who have come forward to report

unethical behaviour is a good practice to demonstrate positive role models. As well, managers who intervene to address harassment in their work unit also need to be commended, and those that fail to address harassment, especially systematic cases, need to face disciplinary measures. For example during their annual performance reviews, performance bonuses would be affected for failing to meet their managerial duty to ensure a respectful workplace or for engaging in harassment or bullying behavior, especially systematically. This proposal will be explored further in the following section.

### **External Reviews**

Should a complainant not be satisfied with the harassment complaint process, the employee may file a grievance. However, the persons responsible for managing the grievance and the person with the final authority on the outcome of the grievance may be the same individuals who were responsible for the harassment complaint process, which is the subject of the grievance. As such, the appearance of transparency and neutrality is overshadowed by perception of a conflict of interest. Neutral entities such as the Public Service Integrity Commissioner, as mentioned in the previous Chapter, would be a preferred independent body to handle such reviews.

### **The Employers**

Managers are key role models for exemplifying ethical behaviours. Management approaches to dealing with individuals who report harassment and

bullying is critical. "Common management practices are to ignore dysfunction until it becomes explosive requiring urgent intervention" (Bowman, 2012). Management must be aware of the dynamics of their work unit to capture destructive relationships among staff and potential conflicts.

As noted earlier, according to the PSES 2011 results, almost 50% of employees who had experienced harassment were subject to it by their managers or immediate supervisors. To address the trend of managers being respondents in harassment allegations, the Queensland Government's *Prevention of Harassment Code of Practice* advises, "...relevant persons who are employers (need to) identify any employees with ineffective managerial styles as these behaviours may contribute to workplace harassment."

It also recommends that employers should address any concerns that they have with particular management behaviours, in a reasonable manner, through annual performance management reviews. Performance bonuses are allocated based on the performance of a manager/executive in a fiscal year. Assessment to determine whether a manager is not performing ethically, i.e. failing to meet the ethics competency, or has repeat allegations of harassment should be taken into consideration when granting performance bonuses. This sends the message that although it is important to acknowledge what has been accomplished, how it has been accomplished is equally if not more important, in particular with how other individuals were treated during the execution of deliverables.

## **Conclusion**

The findings of this paper have shown that there are many factors leading to harassment and bullying in the workplace and it would be a challenge to find a universal preventative activity. Because there are many causes of unethical behaviour, the availability of multiple preventative options is required as is the aptitude to apply the most suitable remedy. However, all preventative activities require commitment by senior management and dedicated resources for them to be implemented effectively and for fostering a respectful workplace.

New forms of unethical behaviour such as mobbing and cyber-bullying are emerging gradually. As such, the federal government must always be one step ahead in identifying emerging unethical behaviour and associated risks in order to proactively mitigate and prevent such occurrences and be a leader in harassment prevention. Undergoing periodic research and studies and regular monitoring of the harassment program using multiple measures, will serve to evaluate policy effectiveness that will lead to continuous improvement in application and practice.

Regardless of the type or length of unethical behaviour, consequences faced by the subject can be devastating, impacting one's personal life and future professional relationships. Organizations also face adverse impacts such as a low morale workforce, less engaged employees and loss in productivity. A change in culture will come about by first a change in the attitude towards harassment. This requires eliminating the stigma associated to individuals who are subject to harassment and supporting those who come forward to report such behaviour.

Harassment or any form of unethical behaviour is the symptom of an unethical workplace. Although many studies claim that leadership is integral in influencing the ethical environment, individuals at all levels play a critical role in championing a respectful workplace and preventing harassment. This belief then holds everyone accountable for their behaviour. Organizations that respond effectively to unethical behaviour will “show employees that when unethical behaviour is uncovered, people are held accountable, and the company does the right thing.”<sup>32</sup>

How the harassment complaint process is managed is critical. The offices that are responsible for dealing with harassment must be viewed as a neutral bias-free entity. Persons to manage the anti-harassment program must be properly trained and possess required competencies and expertise. They need to be capable of being neutral and objective and most importantly, they need to be perceived as being neutral and objective.

Many persons claim that harassment is subjective - what one person finds offensive or to be harassing behaviour, another person with a thicker skin would let it “roll of their back”. This precarious belief can diminish the severity of what the individual is experiencing and displaces accountability from the perpetrator onto the victim. It sends the message that individuals who come forward with harassment are weaker and sensitive individuals. However, the opposite is true. Individuals who do come forward with allegations of harassment or discrimination have a thicker skin as it requires courage to risk one’s personal and professional livelihoods in order to

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<sup>32</sup> The Corporate Executive Board, "Turning Ethics into Outcomes"; 2011. [irmforum.org/wp-content/ian\\_beale\\_turning\\_ethics\\_outcomes.pdf](http://irmforum.org/wp-content/ian_beale_turning_ethics_outcomes.pdf) (November 2012).

address unethical behaviour and seek restorative justice, thus coming forward should be commended.

Organizations sometimes mistakenly believe that to preserve its image, it should handle cases of harassment and other types of unethical behaviour discreetly and protect managers by not holding them accountability for their misconduct. However, employees know these situations invariably exist. Therefore, organizations must instill a new management philosophy that will positively influence management attitude and practice – that it is equally, if not more important, for how things are accomplished as what gets accomplished. Finally, organizations must also keep in mind that an organization will be not judged on what it has done wrong, but instead on how it addressed the wrong.



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