

COMPLAINT RESOLUTION GUIDELINES

Issued on Authority of the President Eastern Shore Ground Search and Rescue

OPI: Vice President

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INTRODUCTION

The President and leadership within ESGSAR Team have obligations, responsibilities and accountability to provide a conflict-free workplace and supportive work environment. These procedural guidelines are issued in support of these responsibilities.

ESGSAR affirms that a work environment that fosters teamwork and encourages individuals to contribute their best effort in order to achieve our ground search and rescue objectives is essential. Mutual trust, support and respect for the dignity and rights of every person are essential characteristics of this environment. Not only is conflicts and harassment in certain forms against the law, but it erodes mutual confidence and respect for individuals and can lead to a poisoned work environment. As a result, operational effectiveness, productivity, team cohesion and morale are placed at risk.

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

ESGSAR is committed to providing a respectful workplace by promoting the prevention and prompt resolution of complaint. All members have the right to be treated fairly, respectfully and with dignity and they have the responsibility to treat others in the same manner.

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

Every individual in ESGSAR has a right to have any complaint dealt with in an expeditious, impartial and sensitive manner and without fear of retaliation. However, this right should not interfere with, or restrict in any way, supervisors exercising their responsibilities to maintain order and discipline. Supervisors and leaders are required to perform the normal functions associated with their responsibilities, such as the assignment of work to Committee members, assignment of task to search teams, and the provision of direction and advice while executing a task.

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

COMPLAINT RESOLUTION POLICY – APPLICATION

Any Team member can submit a complaint. However, a complaint will not be dealt with under this procedure unless it is made within one year of the occurrence of the last incidence on which the complaint is based or, within a longer period such as considered appropriate by the President under the circumstances, to ensure fairness to the parties and the best interests of the Team.

Notwithstanding the above, complaints against current Team members, from individuals other than Team members, may be treated in accordance with the spirit and principles of these guidelines.

DEFINITIONS

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

Where harassment involves misuse of the power or authority inherent in an individual's position, it constitutes an abuse of authority. Conduct involving the proper exercise of responsibilities or authority related to the provision of advice, the assignment of work, counselling, performance evaluation, discipline and other supervisory/leadership functions **does not constitute harassment**. Similarly, the proper exercise of responsibilities or authority related to situations where, by virtue of appointment, an individual has authority over another individual, does not constitute harassment.

Workplace includes the physical hall location and the greater work environment such as search sites where functions and other activities where work relationships exist.

Complaint is a written statement submitted to the authority identified in the ESGSAR Complaint Resolution Policy.

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

The **Complainant** is a member who submits a complaint.

The **Respondent** is a member against whom a complaint has been filed.

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

COMPLAINT PREVENTION

GENERAL

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

One of the most important factors in preventing and dealing with complaint is the development and maintenance of a positive and supportive ethical climate. The ideal organizational foundation is one of respect for the rights and dignity of others. Creating this ethical foundation is a direct obligation of leadership.

COMPLAINT AND WORKPLACE CONFLICT

ESGSAR recognizes that conflict occurs in the workplace from time-to-time. Workplace conflict can severely damage morale and lead to a negative work environment that affects individual well-being and team effectiveness. To re-establish positive working relationships, this type of situation must be promptly addressed and resolved.

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

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

EDUCATION AND TRAINING

Effective methods of preventing conflict and complaint include education and training. Sensitivity and awareness education of all members through orientation and information sessions and the use of continual reminders such as Team meetings, training nights, posters and videos, is important.

SUPERVISOR'S RESPONSIBILITIES

Supervisors have a critical role to play in fostering the positive work environment that ESGSAR requires. Specific responsibilities include

- a. providing an example of appropriate workplace behaviour;
- b. taking prompt action to correct any inappropriate behaviour before it becomes a problem; and
- c. intervening in alleged harassment and/or conflict situations at an early stage.

SKILLS AND ATTRIBUTES OF INVESTIGATOR

In appointing a person to conduct the investigation, the person addressing the complaint should consider the following skills and attributes:

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

COMPLAINANT RIGHTS

The Complainant has the right:

- a. to be treated fairly;
- b. to submit a complaint and have it reviewed in a prompt, sensitive and impartial manner, without fear of embarrassment or reprisal; and
- c. to be informed of any measures implemented as a result of a founded complaint.

COMPLAINANT RESPONSIBILITIES

The Complainant has the responsibility:

- a. where possible and appropriate, to approach the perceived respondent and request that the offending behaviour cease;
- b. to raise the matter with the immediate supervisor, or higher authority if the supervisor is the Respondent;
- c. to clearly state the allegations of their complaint, providing sufficient details of the incident(s) involved, such as time, place and participants, to facilitate assessment and resolution of the complaint and to do so in writing if so requested by the person addressing the complaint;
- d. to participate in a cooperative manner in the resolution process being pursued. This includes responding promptly to requests for information from and being available for meetings with the investigator and the person addressing the complaint; and
- e. to understand that discussion of a complaint with persons not responsible for its resolution, or other advisors, can be detrimental to achieving a resolution and to rebuilding work relationships afterwards. Therefore, discretion is essential.

RESPONDENT RIGHTS

The Respondent has the right:

- a. to be treated fairly;
- b. to be notified promptly that a complaint has been filed against them;
- c. to be informed of the allegations. In the case of a written complaint, the details of it will be provided in writing; and
- d. to respond to the allegations.

RESPONDENT RESPONSIBILITIES

The Respondent has the responsibility:

- a. to cease immediately any improper behaviour when requested to do so by a Complainant or the investigator or the person addressing the complaint;
- b. to promptly and clearly respond to the allegations of a complaint against them, providing sufficient details of the incident(s) involved, such as time, place and participants, to facilitate the assessment of their response and the resolution of the complaint and to do so in writing if so requested by the person addressing the complaint;
- c. to participate in a cooperative manner in the resolution process. This includes responding promptly to requests for information from and be available for meetings with the investigator or the person addressing the complaint; and
- d. to understand that discussion of a complaint with persons not responsible for its resolution, or other advisors, can be detrimental to achieving a resolution and to rebuilding work relationships afterwards. Therefore, discretion is essential.

SUBMITTING AND RECEIVING A COMPLAINT

Submitting a Complaint

A complaint should be submitted in accordance with the ESGSAR Complaint Resolution Policy. In cases where the immediate person in the Team chain of command is the Respondent, the complaint should be submitted to the next superior in the chain of command. The complaint should convey a Complainant's specific concerns regarding an alleged conflict situation.

Elements of a Complaint

While the Complainant is encouraged to express himself/herself freely, he/she should, as much as possible, provide the following elements of a complaint:

- a. name of Respondent(s);
- b. alleged behaviour(s) to include approximate time, date and location of incident(s);
- c. witnesses (if any); and
- d. complainant's perceptions.

The format of a written complaint is Form A of the ESGSAR Complaint Resolution Policy. However, the Complainant may enclose additional documentation as required.

Person Addressing the Complaint Initial Reaction

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

- a. put a stop to any unacceptable or offensive behaviour that is still ongoing;
- b. consult with appropriate advisors;
- c. acknowledge the receipt of the complaint. Under normal circumstances this should take place within one week from the receipt of the complaint;
- d. ensure that any health and/or safety issues are addressed immediately;
- e. notify the Respondent that a complaint has been received. Under normal circumstances this should take place within one week days from the receipt of the complaint. As soon as possible, any written allegations with full particulars shall be forwarded to the Respondent.

The investigator or the person addressing the complaint shall:

- a. ensure that the Complainant and the Respondent are informed of their rights and responsibilities;
- b. ensure that an investigation is undertaken and a decision rendered;
- c. ensure that the Respondent is given the opportunity to respond either verbally, or in writing to the allegations;
- d. decide whether the Complainant and Respondent should be separated during the complaint resolution process, based on what is both practical and in the best interests of both parties. Care should be taken to avoid any perception that such action constitutes retaliation or premature judgement of the case;

- e. ensure that the parties are kept informed of developments in the resolution process; and
- f. monitor and follow-up on the situation until satisfied that the situation is resolved and remains resolved.

BAD FAITH COMPLAINTS

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

Appropriate disciplinary actions may include: a request for a formal apology, attendance at a training course, a reprimand, a suspension of employment in specific leadership positions and, in rare cases, termination of membership.

COMPLAINT RESOLUTION – INVESTIGATION

GENERAL

The person addressing a complaint may initiate an investigation.

There may be exceptional circumstances where the person addressing a complaint is completely satisfied that he/she has all the facts and the parties have been heard. In such instances, the person addressing a complaint may decide not to undertake a further investigation and make a decision. In doing so, the person addressing a complaint must ensure that the spirit and principles of these Guidelines are met.

INVESTIGATOR

Selection

The appointed investigator must be capable of conducting an independent investigation in a thorough, impartial, unbiased, discreet and sensitive manner.

Where possible and practical, the investigator should be equal, or superior in the Team chain of command, to both the Complainant and the Respondent.

At times, it may be necessary in some circumstances to obtain an investigator from outside the Team.

Roles and Responsibilities

The investigator is responsible for all matters associated with the handling and conduct of the investigation and is accountable for:

- a. gathering, examining and recording of all relevant facts from available documentation;
- b. identifying gaps in information, potential sources of additional information and persons who may be able to supplement or corroborate information obtained, whether this be through additional documentation, or first-hand knowledge; and
- c. preparing a written report covering all salient points and an analysis of the facts and circumstances of the case.

STAGES OF AN INVESTIGATION

The normal stages of an investigation are:

- a. the research and planning stage;
- b. the interview stage;
- c. the analysis stage;
- d. the investigator report; and
- e. the decision by the person addressing the complaint.

INVESTIGATOR'S REPORTS

Overview

The investigator shall prepare a Draft Report and Final Report. These investigation reports should be clear and concise.

The Draft Report shall contain a detailed and chronological description of the salient facts, a description of the evidence gathered and an analysis and assessment of the facts. The Final Report will contain all of the above and in addition, findings as to whether or not the complaint is founded. This Final Report will be forwarded to the person addressing the complaint for decision.

Draft Report

The investigator shall forward a copy of the Draft Report to the person addressing the complaint. The investigator shall also forward a copy of the Draft Report to the Complainant and the Respondent. The Complainant and Respondent will have fourteen (14) days to respond. Upon receipt of responses, the investigator will consider any additional information provided prior to completing the Final Report or re-opening the investigation if required.

Final Report

The Final Report should be signed and dated by the investigator and submitted for decision to the person addressing the complaint.

Administrative Closure

The person addressing the complaint will inform the Complainant and Respondent of his/her decision on the complaint, the appropriate remedies and corrective measures to be taken and the rationale for these decisions. The person addressing the complaint will provide them a copy of the Final Report. When the complaint is deemed founded, the person addressing the complaint has the discretion to disclose to the Complainant the nature of any action taken against the Respondent as a result of the decision, where the person addressing the complaint deems it appropriate and necessary to achieve closure.

The person addressing the complaint will ensure that follow-up action is implemented and the principal parties advised. The decision information sent under the format of Form B to the Complainant and Respondent will constitute a closure for the complaint resolution process.

Team as Final Arbitrator

Any member not satisfied with the person addressing the complaint's decision may bring the matter to the Team.

RE-ESTABLISHING POSITIVE WORKING RELATIONSHIPS

OPTIONS

Once a complaint situation has been administratively resolved, it is everyone's responsibility to work together to restore good working relationships. All members of the Team have a responsibility to take action as quickly as possible to restore a positive conflict-free working environment.

After a complaint situation has been administratively resolved, it may continue to have effects on morale and productivity. One option to resolve this situation is to arrange educational or training sessions on techniques to improve communications, understanding and co-operation within the Team.

Rumours and Speculation

The person addressing a complaint must be sensitive to the negative impact of rumours and speculation concerning a complaint situation or investigation. In such cases, the person addressing the complaint should take immediate steps to set the record straight and dispel the rumours. In so doing, the person addressing the complaint must ensure that the personal information under the Privacy Act is respected and the sensitivities of the parties are taken into account.

SIGNIFICANT ISSUES

DISCLOSURE

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

- a. personal information about third parties as defined in Section 3 of the *Privacy Act* is to be severed;
- b. individuals have a right to their own personal information (note that the view of one person about another person becomes the personal information of the latter, not the former);
- c. individuals referred to in a report have the right to know what has been said about them and by whom; unless the disclosure is reasonably believed to imperil the safety of the individual concerned, as indicated in Section 25 of the *Privacy Act*;
- d. the Complainant and Respondent have a right to see the Draft and Final Reports except for personal information about third parties or about one another (if the personal information is not directly related to the complaint);
- e. third parties have a right to see their own personal information in a report;
- f. the names of witnesses who were interviewed are not to be severed, unless the disclosure is reasonably believed to imperil the safety of the individual concerned, as indicated in Section 25 of the *Privacy Act*;
- g. the Complainant's allegations will be forwarded to the Respondent;
- h. the Draft Report will be forwarded by the person addressing the complaint as well as to the Complainant and Respondent, after the completion of any severance required by the *Privacy Act*;
- i. the Final Report will be forwarded to the person addressing the complaint, to the Complainant and the Respondent; and
- j. Form B will be forwarded to the Complainant and the Respondent.

PRIVACY

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

The person addressing the complaint shall inform the Complainant, Respondent and all witnesses that while their statements will be treated with sensitivity and discretion, all information provided may be used for any purpose consistent with the investigation.

TIMELINESS

Complaints should be handled as expeditiously as possible and treated as a priority. In general, any complaint resolution process should be completed without undue delay, normally, within six months or less.

COMPLAINT RESOLUTION – ALTERNATIVE DISPUTE RESOLUTION (ADR)

GENERAL

It is well recognized that early resolution and/or use of ADR techniques usually provide for speedier and more satisfying resolution to conflict situations in general and harassment situations in particular. ESGSAR has therefore made a conscious decision to include these mechanisms in its culture and leadership philosophy. In concert with this philosophy, ESGSAR has decided to make serious consideration of these techniques and offer their usage, unless there are compelling reasons not to do so, one of the first steps in the resolution of any complaint situation.

Team members who decide on their own, or request assistance of their chain of command to resolve a situation using ADR methods, are either: trying to solve the problem on their own through self-help methods; or enlisting the help of the chain of command.

SELF-HELP

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

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

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

TEAM CHAIN OF COMMAND INTERVENTION

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

In dealing with complaint situations, supervisors are encouraged to seek the services of any Team members with experience in responding to or administering complaints.

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

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

Supervisors' ongoing responsibilities provide the following opportunities for coaching aimed at behavioural change: assisting parties in conflict with the identification of the issues and problem-solving approaches; assisting with the development of a resolution plan; and, initiating team development activities. These three processes constitute the main supervisory tools for effective intervention.

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

MEDIATION

Overview

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

The use of mediation to resolve harassment situations is strongly encouraged, even after a traditional investigation has been initiated. The decision to participate in a mediation process requires that both parties sign an Agreement to Mediate prior to mediation and the Minutes of Settlement at the end of the process. Mediation is a voluntary process and can be terminated by either of the parties at any time.

Mediators

Once the parties have agreed to mediation, a mutually agreeable mediator will be provided as soon as possible.

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

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

Other Interested Parties

Usually it is the parties in conflict that are at the table with the mediator. Occasionally, other interested parties might also be at the table for the purpose of providing moral support to the parties. A case-by-case approach is used in deciding who is required at the table.

Treatment of Information

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

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

Resolution Procedures

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

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

ADMINISTRATIVE CLOSURE

Closure is an important part of any ADR resolution process. In cases where the Executive Committee and/or the Team intervention is utilized, closure may include any appropriate administrative or disciplinary action deemed necessary in accordance with the Team by-laws

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