
Re: Workplace harassment

Overture No. 15, 2018 was submitted by the Presbytery of Brampton and referred to the Life and Mission Agency. The prayer of the overture asks that the General Assembly engage congregations, sessions, presbyteries and other ministries of The Presbyterian Church in Canada in a conversation about workplace harassment within the church for the purpose of creating awareness and developing best practices for preventing and responding to such incidents or to do otherwise as the General Assembly, in its wisdom, deems best.

In the New Testament, the church is likened to the body of Christ and of a flock of sheep under the guidance of Christ’s shepherding. John Calvin compared the church to a mother who nurtures a child (Institutes 4.1.6). Christians aspire to the highest expression of Christian fellowship implicit in these images and explicit in the teaching of Christ and the epistles of the early church and so the overture is right in saying that the church should be a safe place to exercise ministry. However, we confess that we are sinners and that our lives often do not reflect the Creator’s love, with the result that the church is sometimes less than it is called to be. Regretfully, experience teaches that bullying and harassment do take place in the congregations, courts and committees of the church. It is that the matter raised in the overture warrants the informed attention of the church.

The proposed policy and procedures for addressing harassment in the church outlined below have been reviewed by legal counsel. The Life and Mission Agency recommends that the document be circulated to sessions, presbyteries, ministry boards, synods, camps, colleges and standing committees in The Presbyterian Church in Canada for study and report to the Life and Mission Agency by February 15, 2020. After a final version of the policy and procedures for addressing harassment in the church is approved by the General Assembly, the document will be added to the Leading with Care Policy and appropriate references will be proposed for inclusion in the Book of Forms. The church is indebted to the Clerks of Assembly for preparing these procedures.

Policy and Procedures for Addressing Harassment in the Church (Proposed)

The church is called to be rooted in the love of Christ in all its relationships. The gospel mandate to love, yielding to the guidance of God’s Holy Spirit, sets the highest standard for our interactions with one another and all whom we encounter.

Harassment in the Church

The policy of The Presbyterian Church in Canada is that harassment of any kind shall not be tolerated and will be addressed. This includes harassment on all grounds protected against discrimination as set out in provincial human rights codes and provincial occupational health and safety legislation.

Harassment means physical or verbal behaviours against a member, volunteer or employee in the church that are unwelcome or should be known to be unwelcome.

In addition, harassment occurs when someone:

- makes unwelcome remarks or jokes about your race, religion, sex, age, disability or any other of the prohibited grounds of discrimination;
- threatens or intimidates you because of your race, religion, sex, age, disability or any other of the prohibited grounds of discrimination;
- makes unwelcome physical contact with you, such as touching, patting or pinching.

Generally, harassment is a behaviour that persists over time. However, serious one-time incidents can also create a “poisoned environment” and be considered harassment.

For some individuals, the church is more than the community of faith where they share worship, service and the nurture of faith in Christ. The church is also a workplace, the context where employees exercise their vocation and earn a living. In some instances of harassment in the church therefore, the behaviour would correctly be identified as workplace harassment.
Conduct is considered harassment if it creates a hostile, intimidating or offensive work environment or unreasonably interferes with an employee’s work performance, regardless of the basis for the conduct.

A “reasonable action” taken by an employer or supervisor relating to the management and direction of workers or the workplace is not workplace harassment.

**Bullying**
(Source: RedCross.ca)

There are different types of bullying:
- Physical bullying: using physical force or aggression against another person (e.g., hitting)
- Verbal bullying: using words to verbally attack someone (e.g., name-calling)
- Social/relational bullying: trying to hurt someone through excluding them, spreading rumors or ignoring them (e.g., gossiping)
- Cyberbullying: using electronic media to threaten, embarrass, intimidate or exclude someone or to damage their reputation (e.g., sending threatening text messages).

The difference between bullying and harassment. Bullying and harassment are similar, yet different:
- Harassment is similar to bullying because someone hurts another person through cruel, offensive and insulting behaviours.
- Harassment is different from bullying in that it is a form of discrimination.

This policy covers both bullying and harassment and uses the term ‘harassment’ henceforth.

**Sexual Harassment**

Harassment includes sexual harassment, which is defined as:
- engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome; or
- making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.

The Presbyterian Church in Canada already has policy and procedures for addressing sexual harassment. Since 1993 when the Policy for Dealing with Sexual Abuse and Sexual Harassment was first approved by the General Assembly, the church has committed to follow this established policy when addressing all complaints, it receives of sexual abuse or sexual harassment.

For this reason, whenever the alleged behaviour is of a sexual nature or pertains to an individual’s sex, sexual orientation, gender identity or gender expression as stipulated in the above definition of sexual harassment, the church is directed to use the policy for dealing with sexual abuse and sexual harassment.

In all other cases, when the alleged behaviour does not contain elements of a sexual nature or pertaining to an individual’s sex, sexual orientation, gender identity or gender expression, the policy and procedures for addressing harassment in the church shall be followed.

**Responsibilities**

Employers, sessions and members of courts and committees of the church will take steps to prevent and address incidences of harassment within congregations.

Employees are responsible for complying with this policy in their dealings with their coworkers and third parties while in the course of their employment. This applies to conduct while at work, during meetings at and away from the workplace and at work-related events.
While this policy does not mean that social interaction between people who work together is prohibited, it requires that all employees be sensitive to the restraints required in the conduct of their working relationships with fellow employees.

**Procedures for Dealing with Allegations of Harassment within the Church**

If any minister or member of the Order of Diaconal Ministries (minister), member of the church, office bearer or adherent believes she/he has been the victim of harassment within the church, such individuals are encouraged to attempt to resolve the matter directly and respectfully with the person who they believe has engaged in harassment. Support people should be present for that meeting.

If the person making the allegation does not feel they can safely meet with the alleged offender, then the allegation may be presented directly to the clerk or moderator of the court of jurisdiction.

Allegations made about the conduct of a minister shall be presented to the clerk or moderator of presbytery.

Allegations made about the conduct of a member, office bearer or adherent of the church shall be presented to the clerk of session or moderator of the session, unless the allegation is made by a minister, in which case it shall be presented to the clerk or moderator of presbytery.

Allegations arising out of conduct during a synod or General Assembly meeting may be presented to the clerk or moderator of that court.

Where possible, complaints of harassment should be made in writing and include:

- the name(s) of the complainant(s) and contact information,
- the name(s) of the person alleged to have engaged in harassment, position within the church and contact information (if known),
- the name(s) of any witness(es) or other person(s) with relevant information to provide about the incident and contact information (if known),
- a description of the situation or incident(s), including dates and times, frequency and location(s),
- any supporting documents that are relevant to the complaint and
- a list of any documents a witness, another person or the person alleged to have engaged in harassment may have in their possession that are relevant to the complaint.

On receiving the harassment complaint, the clerk or moderator shall forward the complaint to a committee of three individuals who are members of the court of jurisdiction (or assessors appointed by a higher court), who shall promptly conduct an investigation. Steps may be taken to ensure the safety and comfort of the complainant. This should ensure no contact is possible between the complainant and the accuses during the investigation and if further offence is considered a risk, the accused may be removed from the court or event or temporarily suspended from employment. It should be made clear that this is on a ‘without prejudice’ basis. The investigation will be handled in a confidential manner, unless disclosure is necessary for the purposes of investigating or taking corrective action or is otherwise required by law.

During that investigation, the investigating committee must meet separately with the one making the allegation and the alleged offender, as well as any witnesses to the alleged incident(s). They may also invite but not require, a meeting with both parties together.

Following the investigation, the complainant and the individual alleged to have engaged in harassment will be informed of the results of the investigation and of any corrective action that has been taken. The investigating committee’s report (if any) will remain confidential.

If possible, the investigating committee shall offer a means to resolve the matter in a manner that is acceptable to both parties. However, if the investigating committee finds that harassment has occurred, it will take appropriate remedial action and any necessary steps to prevent a recurrence. The person found to have engaged in harassment will be disciplined appropriately. Discipline of employees may include a suspension without pay or dismissal from employment, the requirement to offer an apology privately or in public, an agreement to take training, a verbal or written behavioural covenant or other remedy. In the case of an employee of the church, if the recommended corrective action is related to employment, the report and recommendation shall be forwarded to their employer for action and
implementation. If the accused is accountable to a presbytery, the committee may forward the report and recommendation to the presbytery of jurisdiction for information and possible action.

If an acceptable resolution cannot be found or if the remedial action taken by the investigating committee is unacceptable to the person who made the harassment complaint, the person may initiate a disciplinary case, which shall follow the steps outlined in the Book of Forms (345ff), with the provision that sections 350-353 do not apply. Similarly, the individual alleged to have engaged in harassment reserves the right to a disciplinary case, with the same provision, if not satisfied with the decision or corrective action decided by the investigating committee.

In commencing a disciplinary case regarding allegations related to conduct during a synod or General Assembly meeting, the complaint shall be referred to the court that holds the membership of the alleged offender.

**Record Keeping**

The church will keep confidential records of all complaints or incidents or workplace harassment, including:
- a copy of the complaint or details about the incident,
- a record of the investigation including notes,
- copies of witness statements, if taken,
- a copy of the confidential investigation report,
- a copy of the results of the investigation, as provided to the individual who made the complaint and the individual alleged to have engaged in harassment and
- a copy of any corrective action taken to address the complaint or incident.

Documents associated with the harassment complaint, incident and/or investigation will not be disclosed unless necessary to investigate an incident or complaint of workplace harassment, take corrective action or otherwise as required by law. All records will be kept for at least two years from the conclusion of the investigation.

**No Retaliation**

Regardless of the outcome of a harassment complaint, the church will not tolerate retaliation against any employee for making a complaint of harassment in good faith, reporting suspected discrimination or harassment or for cooperating in such an investigation. Such retaliation is a violation of this policy.

Employees who make a malicious complaint of harassment may be subject to disciplinary action.

Nothing in this policy prevents or discourages an employee of the church from filing an application with the applicable Human Rights Tribunal on a matter related to the applicable human rights legislation within the time period prescribed by such legislation or from exercising any other legal avenues that may be available.

**Policy and Program Review**

This policy, once approved by the General Assembly, will be read at least annually by sessions, ministry boards, presbyteries, synods, camps, colleges and standing committees in The Presbyterian Church in Canada to reduce the risk of harassment, including workplace harassment and sexual harassment. To ensure the policy continues to comply with applicable legislation, the Life and Mission Agency will conduct a review at least every three years. All employees of the church are to receive training on the contents of this policy.

**Proposed legislation for dealing with allegations of harassment within the church**

It is proposed that after suitable consultation with the church and amendment, the following information would be added to the Book of Forms:

349.2 Allegations of harassment within the church may be dealt with by the Policy and Procedures for Addressing Harassment in the Church (A&P reference) or may be dealt with directly as a disciplinary case if desired by either party to the allegation.

349.3 Sections 350, 351, 352 and 353 do not apply to an allegation made under the Policy and Procedures for Addressing Harassment in the Church.
Next Steps

To facilitate church-wide consultation about the material covered in this report, the following recommendations are presented.

**Recommendation No. 7** (adopted, p. 14)
That the proposed policy and procedures for addressing harassment in the church be sent to sessions, ministry boards, presbyteries, synods, camps, colleges and standing committees for study and report to the Life and Mission Agency by February 15, 2020.

**Recommendation No. 8** (withdrawn, p. 53)
That the Life and Mission Agency prepare questions and study material to accompany the circulation of the proposed policy and procedures for addressing harassment in the church to facilitate study of the material and to further help develop best practices for preventing and responding to incidents of harassment in the church.