# Sample Q & A's Policy on Representation Workplace Harassment for Locals

**To provide representation, I need to decide whether there was harassment. How do I do that?**

Under this policy, you should provide representation unless you consider that no harassment has occurred. This is the same question that human rights commissions ask when they are deciding whether to investigate a complaint as well.

You are not required to conduct a full investigation into the complaint – that is the employer's job. Read the allegations, look at the definition of harassment, and talk to the complainant/grievor. If, taken as true, these allegations *could* constitute harassment, the Union can represent and – in so doing – make sure that the employer fully and fairly investigates the allegations.

If you decide that the allegations, if taken as true, would not meet the definition of harassment, you should communicate your reasons to the complainant/grievor – preferably in writing. For example, if someone alleges that a manager is monitoring his/her work performance, and there is no reasonable information that would suggest that this is motivated by discrimination or harassment, you need not provide representation.

**What do I do if allegations of harassment are made against one or more PSAC-represented employees?**

The employer is responsible for maintaining a harassment free workplace and is responsible for investigating a complaint. The person(s) alleged to have engaged in harassment (Respondent(s)) will be advised by the employer as a result of the filing of a grievance or complaint.

A Respondent may seek assistance and advice from the Union with respect to the process in place in the workplace for addressing allegations of harassment.

For example, the Union will provide the Respondent with information outlining the grievance or complaint process and employer contact information. It will remain available to answer questions related to process and may step into making general representations where a fair and thorough process is not being followed by the employer.

If the Respondent receives discipline as a result of the grievance/complaint, then he or she can approach the Union with a request for representation. The Union will consider whether any resulting discipline was warranted or was excessive, or whether any other resulting corrective measures were reasonable in deciding whether it will provide representation.

For employees employed in the Federal Public Service, where a Respondent has been found guilty of harassment and the disciplinary measure is an involuntary deployment, the Union will not provide representation where it believes the deployment was reasonably necessary to address the harassment.

**What do I do if there are Cross-Complaints?**

This happens when person A files a harassment complaint against person B, and person B files a harassment complaint against person A.

Where a series of cross-complaints are filed, it becomes difficult for the Union to take a representational role, particularly where the allegations could – on their face – meet the definition of harassment. These situations are extremely complex and divisive. It makes the most sense for the Union to play a role that ensures that the employer deals with the allegations in a timely and fair

manner. The Union's role, therefore, is to monitor the process rather than to adopt the role of full representative for one side or the other.

When the process is concluded and the result is disciplinary action or other corrective measures, an employee can approach the Union but the Union needs to decide whether the measures are excessive before deciding to represent the affected employee.

**What do I do if I feel I am being harassed?**

Any employee in a PSAC-represented bargaining unit who believes he or she is experiencing harassment in the workplace (the Complainant) can approach his or her Local Union Representative for information and/or assistance.
A grievance may be filed by an employee experiencing harassment or, if the employer has a harassment policy, a complaint may be filed.

**I have been named the Respondent in a harassment complaint. What do I do?**

Approach your Local to ask questions if you are unsure about what to expect. Co-operate with the investigation and provide as much relevant information as you can. If you receive a disciplinary sanction as a result of a finding of harassment, then you can approach your Local for appropriate representation. The Union can provide you with representation if it believes that the sanctions are excessive or unreasonable in the circumstances.

**Why do I not receive full representation as the Respondent?**
The Union cannot argue both sides of the harassment equation. If a set of allegations could constitute harassment, then the employer has a responsibility to deal with it effectively. The Union's ability to hold the employer to that important responsibility is most effective where we provide

representation to a complainant. We cannot, on the one hand, say that the allegations constitute harassment, while on the other hand, we say they do not. At the end of the day, the grievance/complaint process is a fact-gathering exercise to determine if the allegations are supported. Because of this, we can still play a role for you by giving you information about the process and to monitor the employer while it investigates the allegations.