



# Prevention of Psychological or Sexual Harassment and Discrimination in the Workplace

## POLICY AND PROCEDURES

<b>Owner</b>	Biothermica Technologies Inc. (« BIOTHERMICA »)
<b>Approved by</b>	Guy Drouin, Chairman of the Board
<b>Date of Approval</b>	2021-05-07
<b>Review schedule</b>	Annually
<b>Applicable to</b>	All personnel of Biothermica Technologies Inc.
<b>Related policies</b>	<ul style="list-style-type: none"><li>• Code of Conduct (PI-018)</li><li>• Prevention of Sexual Exploitation and Abuse Policy (PI-016)</li></ul>
<b>Contact</b>	Mikael Mongelard, Legal Affairs Director <a href="mailto:mikael.mongelard@biothermica.com">mikael.mongelard@biothermica.com</a>



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## 1. Terms and Definitions

### Discrimination

"Every person has a right to full and equal recognition and exercise of his human rights and freedoms, without distinction, exclusion or preference based on race, colour, sex, gender identity or expression, pregnancy, sexual orientation, civil status, age (except as provided by law), religion, political convictions, language, ethnic or national origin, social condition, a handicap or the use of any means to palliate a handicap."

Discrimination exists where such a distinction, exclusion or preference has the effect of nullifying or impairing such right." (C-12 Charter of Human Rights and Freedoms, art. 10)

Discrimination is not always intentional and is not always directed at a particular individual. Discrimination may be the result of practices and policies that appear to be neutral but may in fact discriminate against groups or individuals based on the prohibited grounds of discrimination set out in human rights laws.

Grounds for discrimination:

- race
- national or ethnic origin
- color
- religion
- age
- gender
- sexual orientation
- gender identity or expression
- marital status
- family status
- disability
- genetic characteristics
- a conviction which has been the subject of a rehabilitation or a suspension of the criminal record (or personal pardon).

### Harassment

Harassment is a form of discrimination. It is conduct that has the purpose or effect of:

- creating an intimidating, threatening, hostile or offensive work environment;
- unreasonably interfering with an individual's job performance, employment or contract opportunities, or work environment.

### Psychological Harassment

"Any vexatious behaviour in the form of repeated and hostile or unwanted conduct, verbal comments, actions or gestures, that affects an employee's dignity or psychological or physical integrity and that results in a harmful work environment for the employee. For greater certainty, psychological harassment includes such behaviour in



the form of such verbal comments, actions or gestures of a sexual nature.

A single serious incident of such behaviour that has a lasting harmful effect on an employee may also constitute psychological harassment." (N-1.1 *Act Respecting Labour Standards*, art. 81.18)

The definition of **discriminatory harassment** as it relates to one of the grounds provided for in the *Charter of Human Rights and Freedoms* (C-12), is described in the following section.

Harassment may include, but is not limited to, the following acts or attempted acts:

- spreading malicious rumors or gossip about an individual or a group;
- engaging in bullying or cyberbullying (threatening, spreading rumours, or speaking negatively about a person in-person or online);
- making threats by phone, email, or by other means to a staff member, including from a partner, former partner or family member;
- making jokes or offensive remarks;
- playing unwanted tricks;
- socially excluding or isolating someone;
- inappropriately stalking or following a person;
- tampering with a person's work equipment or personal belongings;
- vandalizing or hiding personal effects or work equipment;
- deliberately interfering with a person's work;
- constantly criticizing, undermining, belittling, humiliating, or ridiculing a person;
- invading a person's privacy;
- ridiculing or disciplining someone in public;
- engaging in unwelcome physical contact;
- making sexual innuendoes or insinuations;
- making unwanted and inappropriate invitations or requests, including those of a sexual nature;
- hanging or displaying offensive posters, cartoons, pictures, or other visual material;
- making aggressive, threatening, or rude gestures;
- abuse of authority, including the following:
  - constantly changing work guidelines;
  - restricting information;
  - setting impossible deadlines that will result in failure; and/or;
  - arbitrarily denying requests for leave, training, or promotion.
- engaging in any of the above acts, engaging in the behaviors described or making the comments described above against an individual because of the following reasons:
  - race;
  - national or ethnic origin;
  - color;
  - religion;
  - age;



- gender;
- sexual orientation;
- gender identity or expression;
- marital status;
- family status;
- genetic characteristics;
- disability or use of a means to palliate that disability;
- any other prohibited ground of discrimination listed in the *Charter of Human Rights and Freedoms* (C-12).

## Acts of Non-harassment

Harassment does not include the following:

- exchanges of pleasantries and consensual interactions in the workplace (unless such exchanges include hurtful remarks about others, especially if they are consistent with the unlawful acts or comments listed above);
- reasonable actions by management in a fair manner, such as day-to-day actions by a manager regarding:
  - performance;
  - absenteeism;
  - assignments;
  - disciplinary actions;
  - dismissal (as long as these actions are not abusive or discriminatory).
- any disagreement in the workplace, if not handled properly or resolved, can lead to harassment.

The notion of harassment must be distinguished from other situations such as interpersonal conflict, work-related stress, difficult work constraints or the normal exercise of management rights (attendance management, work organization, disciplinary measures, etc.).

## Other Definitions

**Incident:** An incidence of harassment or discrimination in the workplaces.

**Workplaces:** Workplace or any other place where individuals are required to be in the course of their employment.

**Law:** Act Respecting Labour Standards N-1.1

**Responding Party:** The person who is alleged to have been responsible for the incident in a notice of an incident.

**Principal Party:** The employee or staff member who is the object of the incident.

**Witness:** A person who witnessed an incident or is informed of an incident by the Principal Party or the Responding Party.



## 2. Policy Objective

The objective of this policy is to affirm BIOTHERMICA's commitment to prevent and stop any situation of psychological or sexual harassment within its company, including any form of discriminatory harassment. It also aims to establish the principles of intervention that are applied in the company when a notice of incident of harassment or discrimination is filed, or a situation of harassment or discrimination is reported to the representative designated by BIOTHERMICA.

This policy also has the following objectives:

- to ensure that BIOTHERMICA employees and interns are aware that harassment and discrimination are unacceptable practices and inconsistent with the values promoted by the company, in addition to being a violation of the law.
- to specify the types of behavior that may be considered offensive and that are prohibited by this policy.

The purpose of this policy is to ensure that reasonable and practical steps are taken to prevent harassment and discrimination and to provide a safe working environment for all staff. Any breach of this policy will result in disciplinary action up to and including dismissal or termination of the contract.

## 3. Policy Statement

BIOTHERMICA does not tolerate or admit any form of psychological or sexual harassment or discrimination within its company, whether:

- by managers toward employees;
- between colleagues;
- by employees toward their managers;

The obligations indicated in this policy apply to the behavior of staff inside and outside the premises of BIOTHERMICA in the course of employment.

Any behaviour related to harassment or discrimination may result in the imposition of disciplinary measures, up to and including termination.

## 4. Core Principles

BIOTHERMICA undertakes to:

- take charge of the complaint or report as soon as possible;
- preserve the dignity and privacy of those involved, i.e., the Principal Party, the Responding Party and the witnesses;
- ensure that all persons involved are treated humanely, fairly, and objectively and that appropriate support is provided;
- protect the confidentiality of the intervention process, including information related to the complaint or report;



- offer to meet with the individual(s) involved, with their agreement, to resolve the situation (mediation);
- conduct a prompt and objective investigation, if necessary, or assign the responsibility to an external party. The persons concerned will be informed of the outcome of this process. If the investigation does not establish that unacceptable behaviour has occurred, all physical evidence will be retained for ten (10) years (under the Civil Code of Quebec) and destroyed thereafter;
- take all reasonable steps to resolve the situation, including appropriate disciplinary action.

Any person who commits a breach of this policy will be subject to appropriate disciplinary measure(s). The choice of the applicable measure will take into account the seriousness and consequences of the act(s) as well as the previous record of the person who performed them.

A person who would lay false accusations with the aim of causing harm is also liable to appropriate disciplinary action(s).

## 5. Scope of Policy

This policy applies to all BIOTHERMICA personnel, including in the following locations and settings:

- workplaces;
- communications by any means, technological or otherwise.

This policy applies everywhere except in countries where it would contravene local regulations, in which case the latter must be followed. This policy will still apply in the event that it is more restrictive than local law.

## 6. Roles and Responsibilities

### BIOTHERMICA

BIOTHERMICA's role in preventing psychological or sexual harassment and discrimination includes the following:

- provide workplaces and any other places where individuals are required to be in the course of their employment that are free from harassment and discrimination;
- commit to prevent harassment and discrimination in the workplace and in any other place where individuals are required to be in the course of their employment.

BIOTHERMICA is committed to taking reasonable steps to:

- provide a work environment free of any form of harassment or discrimination in order to protect the dignity as well as the psychological and physical integrity of individuals;
- disseminate the policy so as to make it accessible to all its personnel by posting it on its website and sending it by e-mail at the time of the annual review;
- prevent or, as the case may be, put an end to harassment or discrimination situations by:
  - implementing a procedure for handling notices of incidents of psychological or sexual



- harassment or discrimination;
- ensuring that the policy is understood and respected by all staff;
- promoting respect between employees;

### Legal Affairs Director

The Director of Legal Affairs receives notices of incident of harassment and discrimination and ensures resolution process for these incidents. He is responsible for the application of the Policy for the Prevention of Psychological or Sexual Harassment and Discrimination in the Workplace and the handling of incidents within BIOTHERMICA.

The primary responsibilities of the Director of Legal Affairs are to:

- provide information to personnel about the company's policy on psychological or sexual harassment, including discriminatory harassment;
- intervene informally to try to resolve situations;
- receive notices of incident from Witnesses or Principal Parties;
- recommending the nature of actions to be taken to stop harassment or discrimination;
- review this policy and, if necessary, update it annually or after any changes;
- develop or identify training on the prevention of harassment and discrimination in the workplace;
- review and, if necessary, update the training annually and after any changes are made to any component of the training;
- in the case of incident investigations, provide a copy of the investigation report to the Principal Party and the Responding Party;
- determine, with BIOTHERMICA, which recommendations from the investigator's report should be implemented;
- implement, with BIOTHERMICA, the recommendations contained in the investigator's report that have been chosen;
- ensure that the settlement process is completed within one year of receiving notice of an incident;
- ensure all personnel read this policy and signed the consent form (Appendix D).

### Management Team

It is the responsibility of all managers to create a culture of respect in the workplace, which includes:

- communicating BIOTHERMICA's commitment to maintaining respectful workplaces;
- fostering workplaces free of harassment and discrimination;
- leading by example by behaving appropriately in workplaces and ensuring that all members of their team do the same;
- explaining the process for resolving incident notices filed with the Legal Affairs Director;
- dealing with harassment or discrimination cases as soon as they become aware of them, whether or not a notice of incident is filed;
- intervening during the resolution process of an ongoing incident, including taking steps to ensure that the persons involved in the incident notice do not have to meet, if the situation so requires;
- ensuring that harassment or discrimination cases are handled sensitively and with respect for privacy.



Managers are in particular expected to create and maintain an environment in which staff and anyone who works for or is affiliated with BIOTHERMICA know what BIOTHERMICA expects from them and build a climate of trust in which they are comfortable reporting any suspicious or inappropriate behavior.

## Personnel

Personnel must:

- respect their co-workers at work;
- report harassment or discrimination to their manager or the Legal Affairs Director;
- cooperate with the investigation of a harassment or discrimination case and ensure that the investigation process respects the privacy of the parties.

Personnel can expect:

- to be respected in the workplaces;
- that reported harassment or discrimination will be dealt with in a timely, effective and private manner;
- fair process and privacy during a harassment investigation;
- to be free from retaliation for reporting harassment or discrimination or cooperating in a harassment or discrimination investigation.

It is the responsibility of all personnel to behave in a manner that maintains an environment free from psychological or sexual harassment and discrimination.

## 7. Preventative Measures

Preventing harassment and discrimination starts with training and educating staff.

### Staff Training

BIOTHERMICA's Legal Affairs Director develops or selects the workplace harassment and discrimination training to be provided to employees.

The training shall be appropriate to the culture, conditions and activities of the workplaces and contain the following:

- the elements of the Policy for the Prevention of Psychological or Sexual Harassment and Discrimination in the Workplace;
- how to recognize, reduce and prevent harassment and discrimination in the workplace;
- how to respond to a situation of harassment or discrimination.

He shall review and, if necessary, update the training at least annually and following any change to any element of this policy.

The Legal Affairs Director shall ensure that a staff member receives training:

- within three (3) months of the date of commencement of employment or, for a staff member whose employment began before the effective date of this policy, within one year of the effective date of this policy;



- at least annually thereafter;
- after any training update or assignment to a new task or role that involves increased or specific risks of harassment or discrimination in the workplace.

### General Resources and Additional Documentation

BIOTHERMICA provides staff with information regarding general resources for finding help (a support group, phone line, etc.) and additional literature.

#### General Resources:

- Au bas de l'échelle (for non-unionized workers) <http://www.aubasdelechelle.ca/english-version.html>
- GAISHT Groupe d'aide et d'information sur le harcèlement sexuel au travail de la province de Québec inc. (consulter le département de relation d'aide et la page des liens utiles) <https://www.gaihst.qc.ca/home>
- Ordre des psychologues du Québec 514-738-1881 [Home - Ordre des Psychologues du Québec \(ordrepsy.qc.ca\)](http://www.ordrepsy.qc.ca)
- Info Santé 811: referring to appropriate and available resources

#### Additional Documentation:

- PDF of sketches illustrating harassment situations (in French) [180x120 \(2e-observatoire.com\)](http://180x120.2e-observatoire.com) ;
- Quebec DVD dealing with the problem of sexual and psychological harassment in the workplace <https://www.gaihst.qc.ca/film> ;
- Training by the Commission des droits de la personne et des droits de la jeunesse du Québec <https://www.cdpdj.qc.ca/en/our-services/activities-and-services/training-session-no-one-deserves-sexual-or-discriminatory-harassment> ;
- Self-training (1h35) <https://www.cdpdj.qc.ca/en/our-services/toolbox/self-training>
- Appendix B – Frequently Asked Questions: Information for Staff

## 8. Incident Resolution Process

The process for resolving an incident is outlined in Appendix C – Diagram of incident resolution process.

Any form of discrimination or harassment in the workplace must be reported, whether the situation is ongoing or completed.

#### **Strategies to adopt when you believe you are being harassed in the workplace:**

- Clearly express your disagreement with the Responding Party's behavior;
- Inform the party that their behaviour is offensive and contrary to this policy;
- Tell your co-workers or someone you trust;
- Keep a log of events (location, dates, times, actions, Witnesses) and record the outcome of the discussion with the Responding Party;
- Contact a support group (see general resources in Section 7 Preventative Measures).



This policy is not intended to discourage or prevent an employee from exercising any other rights under the law.

## 8.1 Reporting Guidelines

### Making a Notice of Incident

BIOTERMICA designates the Legal Affairs Director and empowers him/her to receive notices of incident. A manager may also receive notice of incident and must forward it to the Legal Affairs Director no later than seven (7) days after receiving it.

A Principal Party or witness may give notice of incident, **either orally or in writing**, to his/her Manager or the Legal Affairs Director. The person receiving oral notice will make notes using the form attached (Appendix A – Notice of Incident).

Notice can only be given if the Responding Party or Principal Party is a staff member. If not, then the Principal Party is directed to pursue another complaint process.

A witness may give notice of an incident anonymously.

The notice of incident contains the following information:

- the name of the Principal Party and the Responding Party, if known;
- the date of the incident
- a detailed description of the incident.

The Appendix A provides a form, as an example only, to assist the Principal Party or Witness in formulating the notice of incident.

The staff member shall fill the notice of incident as soon as possible, not to exceed one year from the date of the last perceived incident of harassment or discrimination, unless prevented from doing so.

At any time, the Principal Party may terminate the resolution process by notifying the manager to whom the incident notice was given or the Legal Affairs Director not to continue the process.

### Reading the Notice of Incident

The Legal Affairs Director will conduct an initial review of each notice of incident. Following this initial review, the incident is deemed resolved when the anonymous notice of incident does not contain the name of the Principal Party or identify the Principal Party.

## 8.2 Responding to the Notice of Incident

### Contact with the Principal Party

The Legal Affairs Director shall, within seven (7) days of the date the notice of incident is given, contact the Principal Party to inform them:

- of the fact that their notice of incident has been received or that, as the case may be, they have been named or designated in the notice provided by a witness as the Principal Party;
- how to access the present Policy on BIOTERMICA's website;



- of each step of the resolution process.

### Contact with the Non-anonymous Witness

If notice of incident is given by a witness who is not anonymous, the Legal Affairs Director will contact the witness to acknowledge receipt of the notice within seven (7) days of the date the notice is given.

### Contact with the Responding Party

The first time the Legal Affairs Director contacts the Responding Party about the incident, he will inform the Responding Party:

- of the fact that they have been named or designated as the Responding Party in the notice of incident;
- how to access on BIOTHERMICA's website to the Policy for the Prevention of Psychological or Sexual Harassment and Discrimination in the Workplace;
- each step of the settlement process.

### 8.3 Negotiated Settlement

The Legal Affairs Director, the Principal Party and the Responding Party shall make all reasonable efforts to resolve the incident for which notice of an incident is given and such efforts shall begin no later than forty-five (45) days after the date the notice was given.

A reasonable effort includes a review by the Principal Party and the Legal Affairs Director to decide whether the notice of incident describes an act, conduct or comment that constitutes an incident of harassment or discrimination itself. One way they can resolve the incident is by jointly deciding that the notice of incident does not describe an act, conduct, or comment that constitutes an incident of harassment or discrimination.

### Mediation

Wherever appropriate and possible, the parties to the harassment or discrimination complaint will be offered mediation prior to proceeding with an investigation. Mediation is voluntary and confidential. It is intended to assist the parties to agree on a mutually acceptable resolution to the notice of incident. The mediator will be a neutral person. The mediator can be the Legal Affairs Director or an external speaker. The mediator will not be involved in investigating the complaint.

### 8.4 Investigation

If i) the situation does not allow for mediation, ii) mediation does not succeed in settling the complaint or iii) the Principal Party requests it, an investigation will be initiated. All investigations will be handled by an individual who has the necessary training and experience. In some cases, an external consultant may be hired for this purpose.

The Legal Affairs Director shall notify the Principal Party and the Responding Party of the investigation.

As part of this policy, the investigator must:

- be trained in investigative techniques;
- have knowledge, training, and experience relevant to harassment and discrimination in the workplace.



The Legal Affairs Director provides the investigator all information relevant to the investigation. The investigator will interview the Principal Party, the Responding Party and any Witnesses that have been identified. All people who are interviewed will have the right to review their statements.

### Investigation Report

The investigator will prepare a report that will include:

- a description of the allegations;
- the response of the Responding Party;
- a summary of information learned from Witnesses (if applicable);
- a decision about whether, on a balance of probabilities, harassment or discrimination did occur; and
- its recommendations for eliminating or minimizing the risk of a similar incident at work.

The Director of Legal Affairs provides a copy of the investigation report to the Principal Party and to the Responding Party.

### Implementation of Recommendations

BIOTERMICA, together with the Director of Legal Affairs, chooses the recommendations made in the report to be implemented. BIOTERMICA must implement all selected recommendations.

### Corrective Actions and Remedies

If the Principal Party has been able to prove that their notice of incident was correct, BIOTERMICA will decide on the disciplinary action to be taken. They must reflect the seriousness of the behavior, be consistent with the measures already taken in a similar situation and take into account whether this is a first violation or a repeat offense.

Remedies for the Principal Party who was harassed or discriminated may include in the first place an oral or written apology.

Corrective action for the Responding Party found to have engaged in harassment or discrimination may include:

- a reprimand;
- a suspension;
- a transfer;
- a demotion; and/or
- a dismissal.

The Principal Party and the Responding Party will be notified, in writing, of the decisions taken with respect to sanctions and remedies.

Personnel are required to cooperate in any investigation of non-compliance with these guidelines. Retaliation against any staff member for filing a notice of incident under these policies or for cooperating in the investigation of such an incident is strictly prohibited. Any person who engages in such retaliation will be subject to immediate disciplinary action up to and including termination of employment. If it is determined that the notice of incident was deliberately unfounded or fictitious, appropriate disciplinary action may be taken against the person who



filed the notice.

## 8.5 Process Completion

The incident resolution process is completed when one of the following occurs:

- the incident is resolved (complaint dropped, complaint unfounded, mediation);
- the investigator has submitted a report and BIOTHERMICA has implemented the recommendations.

BIOTHERMICA, assisted by the Legal Affairs Director, ensures the settlement process is completed within one (1) year from the date the notice of incident is filed.

Where the Principal Party or Responding Party is temporarily absent from work for a period of more than ninety (90) consecutive days after the date the notice of incident is given, BIOTHERMICA, assisted by the Legal Affairs Director, shall ensure that the settlement process is completed no later than:

- within one (1) year of the date the notice of incident is given;
- within six months of the date of the return to work of the principal or responding part.

Any other remedy authorized by law is not precluded by this policy.

## 9. Time Period to File a Notice of Incident by a Former Employee

### Time Period to File a Notice of Incident

As part of this policy, a former employee may file a notice of incident no later than three (3) months after the date of termination of employment.

### Circumstances for Extending the Time Period

If a former employee demonstrates in an application to the Legal Affairs Director that they were unable to make the incident known to him within the time period because they incurred trauma as a result of the incident or because of a health condition, the time period may be extended.

## 10. Confidentiality and protection of personal information

All parties to a harassment or discrimination notice of incident are required to exercise discretion, to respect the privacy of all other parties involved and to limit the discussion of a harassment or discrimination complaint to those that have a need to know.

BIOTHERMICA and all persons involved in the process of resolving the notice of incident for harassment or discrimination will comply with the requirements of the *Act Respecting the Protection of Personal Information in the Private Sector* (P-39.1) to protect personal information.

## **Appendix A – Notice of Incident**

This notice of incident form contains the minimum information necessary to record the incident and to assist the Principal Party in formulating their complaint in as much detail as possible.

Principal Party: \_\_\_\_\_

Responding Party: \_\_\_\_\_

Witness: \_\_\_\_\_

Place: \_\_\_\_\_

Date and time of the incident: \_\_\_\_\_

Recurrence or frequency: \_\_\_\_\_

Nature of the incident (e.g. psychological, sexual harassment or discrimination): \_\_\_\_\_

Detailed description of the facts (nature of the gestures or behavior, the words, or implications):

To be submitted to your immediate manager or the Legal Affairs Director.

Given on \_\_\_\_\_

YYYY-MM-DD

to

LAST NAME, First Name

## **Appendix B – Frequently Asked Questions: Information for Staff**

### **Is<sup>1</sup> harassment just a matter of opinion?**

No. Because of variances in life experiences, different people may have different perceptions of what harassment is, but we can still develop some common understandings. Any unwelcome behaviour that demeans, humiliates, or offends a person, or puts sexual conditions on a person's job, is harassment.

### **What if everyone else in the workplace is comfortable with the behaviour?**

People react to behaviour in different ways. A person may think her or his conduct is welcome or innocuous, when in fact the recipient dislikes it, but is going along with it to avoid a confrontation. This can happen especially where there is a difference in age, racial or cultural background, seniority, level of authority, or personal power between those concerned. Sometimes people feel they have to join in to avoid being ostracized, victimized, or teased by their peers.

However, if you are uncomfortable with this behaviour, you have the right to file a complaint and follow the steps outlined in this policy.

### **How does a person know what behaviour is unwelcome?**

Sometimes a person can directly say that something is offending or humiliating. Other times, we have to be aware of non-verbal messages and clues. If someone looks embarrassed or hurt, turns away, leaves the room, or avoids another, chances are they do not welcome certain behaviour.

The courts have created the “reasonable person” rule; in other words, we assume that a reasonable person would know that certain types of behaviour are unwelcome. For example, a reasonable person would know that asking for sexual favours, and threatening someone’s job if they do not comply, is unacceptable. In cases like this, the courts may presume the behaviour was unwelcome, even if the complainant has never said “no” or “stop,” and seemed to go along with the situation.

### **What if colleagues want a sexual relationship?**

A relationship where both people are involved of their own free will is not harassment. However, if one person decides to end the relationship, the other does not have the right to insist, or to continue the sexual attention. And managers should be cautious when getting involved with workers, especially anyone who is under their supervision. The imbalance of power may mean that the worker has not actually consented, but feels coerced into the relationship.

### **Can it be harassment if it only happened once?**

Yes. Frequently, harassment is a series of incidents. However, even something that only happens once can be harassment, if it was unwelcome to the person it was directed at.

### **What if the harassment takes place outside the workplace, or after regular work hours?**

Any place or time that people are gathered for work-related reasons is still considered part of the “workplace”. This includes business travel, conferences, telephone calls, company social gatherings, and job interviews. Harassment is not permitted in any of these situations, and employers are responsible for dealing with it in these circumstances.

### **CASE STUDY The Victim’s Perception**

An aboriginal employee alleged that he was harassed by racist comments, jokes, and names from his supervisors and colleagues. Some of the witnesses claimed that although such jokes or comments were made, they were made in fun spirit between friends, and that no offense was meant. The tribunal

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<sup>1</sup> Canadian Human Rights Commission, 2006, *Anti-Harassment Policies for the Workplace: An Employer's Guide*. Available at <https://www.chrc-ccdp.gc.ca/eng/content/anti-harassment-policies-workplace-employers-guide>



found that the intention of the person making the comments is irrelevant: “The issue is the perception of the individual who is victimized.”

The fact that the victim did not object to the comments and even participated in the “joking” was raised as a defense. The tribunal held that this did not mean that the victim had consented to the racist comments, jokes and names or made this behaviour acceptable. According to the testimony of an expert witness, people may go along with activities “that they find objectionable and demeaning because they feel powerless to stop it and as an ego defense mechanism” ...it is “a form of coping.” (*Swan v. Canadian Armed Forces*)

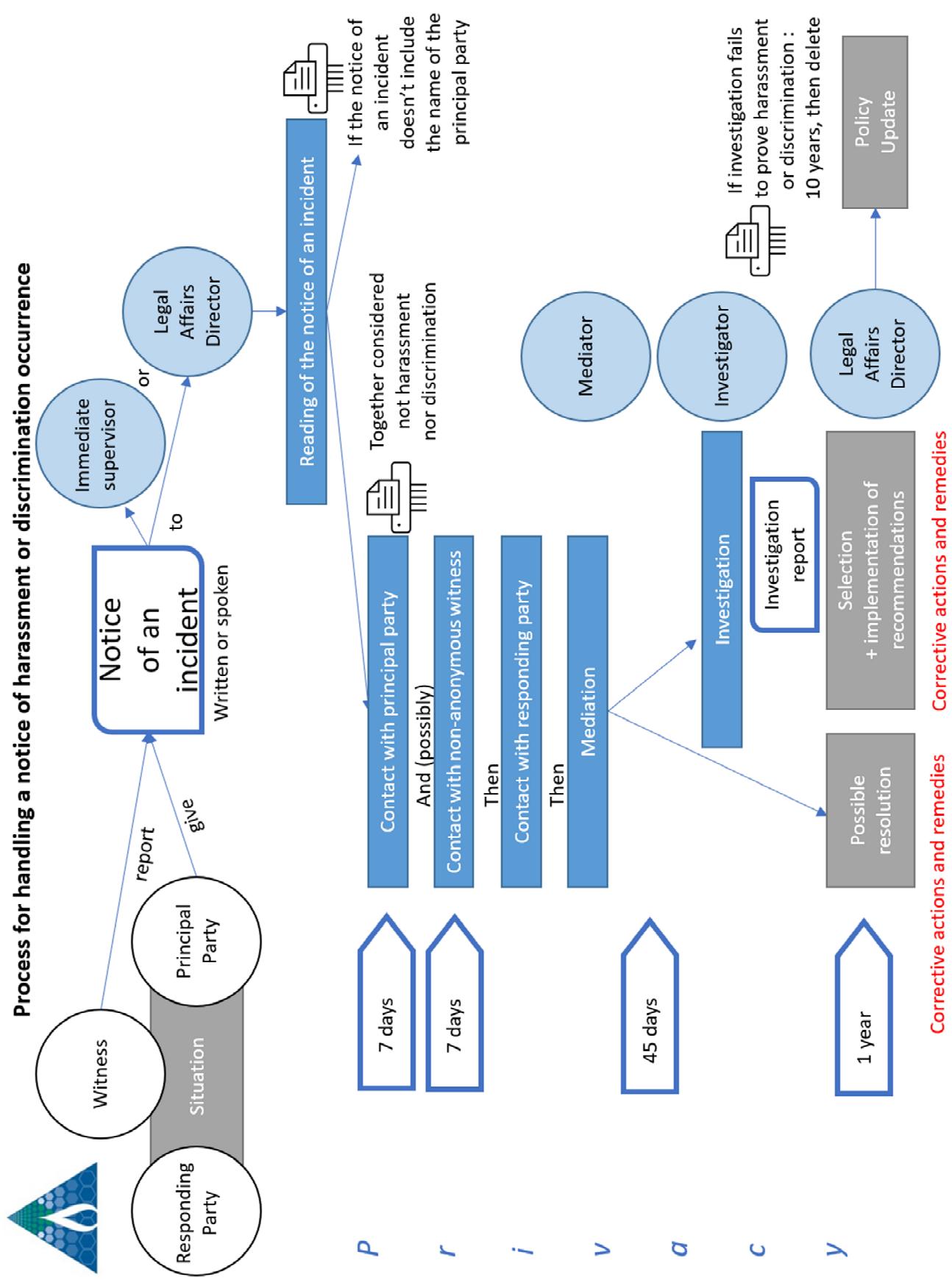
### **What if I didn't mean to harm or offend anyone?**

Even the best intended comment or action might be harassing, if it is unwelcome or offensive to another person. Harassment is not about a person’s intent. It is about how the behaviour affects the victim. You may only have intended to be funny, for example; but if someone else is humiliated by what you did or said, you may have harassed them without meaning to.

### **What if I am sexually assaulted at work?**

If the harassment involves physical or sexual assault, you should contact the police. Physical and sexual assaults are criminal offences.

## Appendix C – Diagram of incident resolution process





## Appendix D – Consent Form

# Consent Form

I hereby acknowledge that I have read and understand the Policy for the Prevention of Psychological or Sexual Harassment and Discrimination, including BIOTHERMICA's position that it will not tolerate or condone any form of harassment or discrimination within its organization.

I understand that if I have any questions regarding the Policy for the Prevention of Psychological or Sexual Harassment and Discrimination or any of its related policies and procedures, I should contact my immediate manager or the Legal Affairs Director of BIOTHERMICA.

Further, I understand that this policy does not constitute a contract of employment or a relationship of any kind between BIOTHERMICA and myself.

BIOTHERMICA reviews the Policy for the Prevention of Psychological or Sexual Harassment and Discrimination regularly and reserves the right to amend and interpret the policy as it deems appropriate in its sole discretion.

I acknowledge that I have received a copy of this BIOTHERMICA Policy. A copy of this form is kept in my employee file.

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Printed Name	Signature	Date
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Immediate manager	Signature	Date
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