

# Cultural Human Resources Council

The logo consists of a dark blue rectangular background with a vertical light blue stripe on the left side. The text is arranged in two columns. The left column contains the words 'RESPECTFUL', 'WORKPLACES IN', and 'THE ARTS' in a bold, sans-serif font. The right column contains 'MILIEUX DE TRAVAIL', 'RESPECTUEUX DANS', and 'LES ARTS' in the same font. The words 'RESPECTFUL' and 'RESPECTUEUX' are light blue, while the other words are yellow.

**RESPECTFUL MILIEUX DE TRAVAIL  
WORKPLACES IN RESPECTUEUX DANS  
THE ARTS LES ARTS**

## Reporting and Investigating Mechanisms for Workplace Harassment in the Arts

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## IMPORTANT

This report is provided for informational purposes only, to help cultural organizations navigate incidents and claims of workplace harassment and/or workplace violence. Its content does not constitute legal advice. If in doubt about any of the terms required in a policy or actions in dealing with an incident or complaint of workplace harassment, it is strongly recommended that you consult with a lawyer who specializes in employment law.

**Cultural Human Resources Council  
Reporting and Investigating Mechanisms for Workplace Harassment in the Arts  
Respectful Workplaces in the Arts (RWA)**

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Cultural Human Resources Council  
**Reporting and Investigating Mechanisms for  
Workplace Harassment in the Arts**  
Respectful Workplaces in the Arts (RWA)

## Executive Summary

### Introduction

The arts and entertainment world has reverberated with the shock waves begun by the activism of the #MeToo and #TimesUp movement of recent times. Canada's cultural scene has felt these shock waves as well – we are in a critical time of heightened awareness about our obligations, combined with a desire to undergo systemic change. The legislation requiring employers and providers of services to ensure harassment-free events and workplaces is not new - this has existed for quite some time across provincial and territorial jurisdictions (with some exceptions). But what we are witnessing now, through several sector forums, sessions, conference topics, and working groups, is a sincere wish from cultural employers to not only be compliant, but to be progressive as a sector to demonstrate our values above and beyond legislative minimums in creating respectful workplaces and spaces to make art that is fair and safe for all.

The cultural sector needs to come together to create resources for both individuals in navigating workplace harassment situations, and for employers in managing the response and investigating reports that come forward.

### Project Scope and Objectives

While the topic is broad and complex, the specific scope of this report is to examine the issues of reporting and investigating mechanisms in the cultural sector in Canada.

The key objectives of this report are to study and present the following:

1. Research on existing **Reporting** mechanisms for complainants, respondents, and witnesses of harassment (including sexual harassment, discrimination, bullying and violence).
2. Research on **Investigating** mechanisms for employers.
3. **Recommendations** for reporting and investigating mechanisms where they do not exist in the performing, visual, and literary arts.

This has been achieved through:

- a review of existing mechanisms and programs;
- consultations with key stakeholders;
- a review of the results of community consultations conducted by the Cultural Human Resources Council.

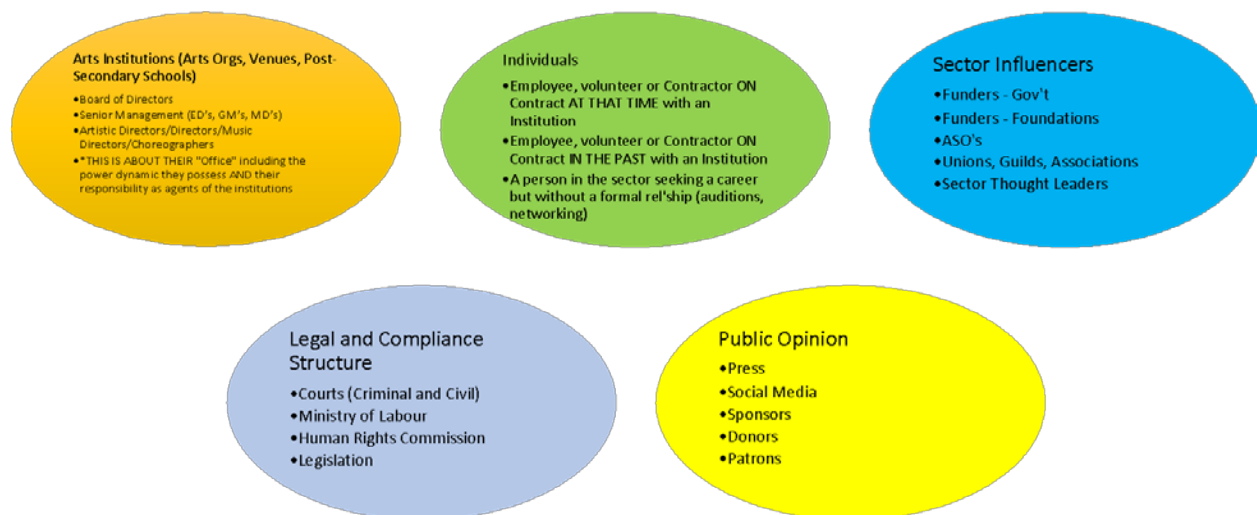
## Background

### What are we talking about?

When the topic of Workplace Harassment is addressed in and out of the sector, there is discussion about a number of different terms, such as: Workplace Harassment, Workplace Violence, Sexual Misconduct, Sexual Harassment, Bullying, and more. There is a difficulty in defining what might be included in different contexts, and there is no easy single definition.

### Complexity of the cultural sector

In addition to the challenge of the lack of a singular definition of workplace harassment in Canada, the cultural sector also provides unique conditions that add an additional layer of complexity to the situation. There is a network of 'players' that are involved with and/or have an impact on the sector at any juncture of a cultural project:



Source: LeSage Arts Management, 2018

In any given context – from a temporary artists co-op to a long-standing brick and mortar arts institution, and in all cases in between - there could be a myriad of combinations of the above players involved which will influence how workplace harassment will be managed.

### Remedies available to complainants for workplace harassment

Depending on the context of the incident, the nature of the relationship of those involved, and applicable provincial/territorial jurisdictions, the complainant or the subject of harassment may choose various paths or options for remedies to bring a complaint forward:

- organization's internal policy & procedures
- union collective agreement's grievance and arbitration procedures
- Human Rights or Occupational Health & Safety – tribunals or complaints process
- civil proceedings – i.e. a statement of claim
- criminal proceedings.

### Workplace harassment, reporting and investigation mechanisms – a working definition

For the purposes of this study, a set of definitions excerpted from *CHRC’s HR Management Toolkit – Workplace Harassment and Violence* by Williams HR Consulting, is being used.

<http://culturalhrc.ca/hrtools/index-e.php>

### Research & Methodology

A crucial part of this study was to conduct primary research in the form of consultation with key stakeholders in the cultural sector to understand:

- What are current practices, concerns, and gaps in Reporting and Investigating Mechanisms?
- How can we approach a sector-wide solution?
- Does a solution need to be discipline specific or geographically specific?

This primary research was undertaken in the following phases:

- Foundational interviews
- Sector consultations
- Community consultations with equity-seeking groups

### Recommendations for the Cultural Sector

Taking into consideration the legal frameworks, existing resources, and the results of the sector and community consultations, the following are the recommendations that the cultural sector should undertake to address ‘Reporting and Investigating Mechanisms for Workplace Harassment in the Arts’.

Recommendations are framed into two sections:

- Solutions for **individuals** regarding **reporting** mechanisms (1 to 4)
- Solutions for **employers** regarding **investigating** mechanisms (5 to 10)

### Recommendations for Reporting Mechanisms

1. ***Establish a confidential, independent third-party sector-wide resource for the complainants, respondents and witnesses of workplace harassment.***
2. ***Further examine the viability for anonymous reporting mechanisms.***
3. ***Develop experiential training to respond “in-the-moment” to incidents of harassment.***
4. ***Access financial support for individuals.***



## Recommendations for Investigating Mechanisms

5. ***Create a third-party resource for employers.***
6. ***Provide training on conducting the 'intake'.***
7. ***Develop complaint response checklist / Decision tree.***
8. ***External Investigations***
9. ***Internal Investigations***
10. ***Portal for Best Practices and Resources***

## Conclusion

It is crucial for the cultural sector to come together now to create resources for both individuals in navigating workplace harassment situations, and for employers in managing the response and investigating reports that come forward. The recommendations put forward will advance this objective.

What has come clear from all parties consulted is that there is a strong desire for the sector to do better – not just to approach compliance as a minimum – but to do more according to the sector's values. The sector is often very adept at responding to external challenges with great resiliency, adaptiveness, and resourcefulness – but there are times when external interventions are needed. By deploying existing resources made specific to the sector, the sector has an opportunity to take a leadership role in the response to this issue.

These are challenging but exciting times as the cultural sector embraces this significant era of rapid change. The challenge is for an under-resourced sector to navigate issues of workplace harassment in a professional, legal and empathetic way. The excitement is because of the possibility that comes with the momentum of reactive change that can build a more just, fair, and inclusive cultural sector.

# Cultural Human Resources Council

## Reporting and Investigating Mechanisms for Workplace Harassment in the Arts

### Introduction and Scope

#### Introduction

We face the challenge in this sector that cultural organizations are severely under resourced, and particularly in the area of Human Resources management. **Employers** are struggling with understanding and implementing even the minimum requirements of legal compliance. And even if an employer does create the policies and programs as required by law - if an incident or complaint comes forward, there is often not the capacity, expertise or structures within management and the board to manage these difficult situations.

And meanwhile - in a sector fueled by contract work, unconventional workplaces, and unpredictable schedules - **Individuals** subject to misconduct or harassment may not know or understand their rights, be aware of the instruments and supports to bring complaints forward, and will often fear retaliation of being 'blackballed' for speaking out.

An Angus Reid Institute national online survey in 2014 showed that 3 out of 10 Canadians (28%) have been sexually harassed in the workplace [43% women, 12% men]. And yet, 4 out of 5 of these people did not report the behaviour to their employers. When asked why they didn't report – the main reasons cited for not reporting: they preferred to deal with it on their own, they felt the issue was too minor, there was a lack of faith in the employer to respond well, lack of certainty if the incident was harassment or assault, and fears of negative impacts on their job and/or career.<sup>1</sup> In an update to the research in 2018, of those surveyed, 72% of women who experienced harassment, and 73% who experienced assault said they did not report it<sup>2</sup>. And only 1 in 10 said they did report it and received a satisfactory resolution. The rest found their employer dismissive, or did not see any concrete action taken.

The cultural sector needs to come together to create resources for both individuals in navigating workplace harassment situations, and for employers in managing the response and investigating reports that come forward.

#### Project Scope and Objectives

While the topic is broad and complex, the specific scope of this report is to examine the issues of reporting and investigating mechanisms in the cultural sector in Canada.

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<sup>1</sup> Angus Reid Institute, 2014

<sup>2</sup> Angus Reid Institute, 2018

The key objectives of this report are to study and present the following:

1. Research on existing **Reporting** mechanisms for complainants, respondents, and witnesses of harassment (including sexual harassment, discrimination, bullying and violence).
2. Research on **Investigating** mechanisms for employers.
3. **Recommendations** for reporting and investigating mechanisms where they do not exist in the performing, visual, and literary arts.

This has been achieved through:

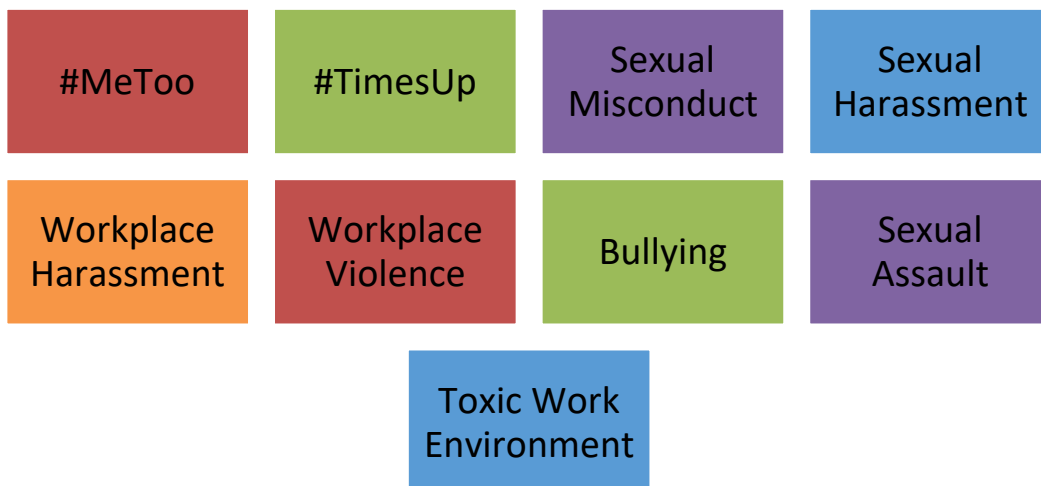
- a review of existing mechanisms and programs;
- consultations with key stakeholders;
- a review of the results of community consultations conducted by the Cultural Human Resources Council.

## Background

Prior to reviewing the research, it is key to understand the legal framework and definitions regarding workplace harassment, conditions specific to the cultural sector, and the spectrum of the remedies in dealing with complaints.

### What Are We Talking About?

When the topic of Workplace Harassment is addressed in and out of the sector, there is discussion about a number of different terms, such as: Workplace Harassment, Workplace Violence, Sexual Misconduct, Sexual Harassment, Bullying, and more. There is a difficulty in defining what might be included in different contexts, and there is no easy single definition.



In addition to varying terminology for incidents as noted above, there are also different frameworks for workplace harassment across provincial and territorial jurisdictions. There may not only be

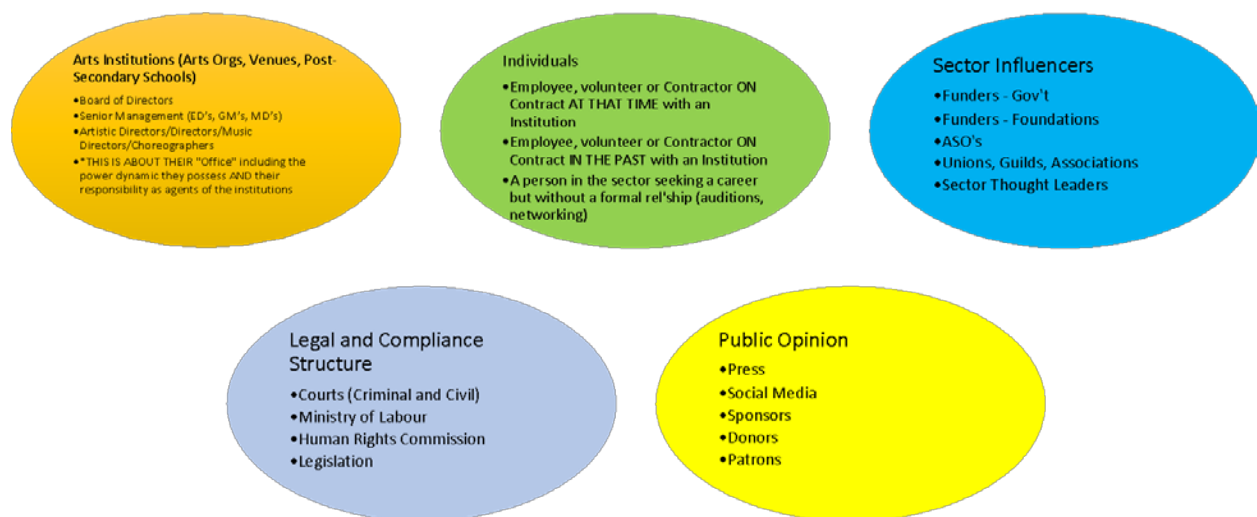
differences in definitions, but legislation may sit within Health & Safety and/or Human Rights Commissions – with different policies and procedures to follow.

For example, in Ontario, Workplace Violence and Harassment (including Sexual Harassment) falls within the jurisdiction of both the Ministry of Labour and the provincial Human Rights Commission and carries specific definitions. British Columbia has similar language regarding workplace bullying and harassment under its WorkSafe guidelines under the Workers Compensation Act, but the specific definition for sexual harassment can be found and applied from case law, citing Janzen v. Platy Enterprises Ltd. (Supreme Court of Canada, [1989] 1 SCR 1250).

In all cases, leaders and boards of directors of cultural organizations who are employers need to understand their obligations under the laws specific to the thresholds of their organization in their jurisdiction.

### Complexity of the Cultural Sector

In addition to the challenge of the lack of a singular definition of workplace harassment in Canada, the cultural sector also provides unique conditions that add an additional layer of complexity to the situation.



Source: LeSage Arts Management, 2018

There is a network of 'players' that are involved with and/or have an impact on the sector at any juncture of a cultural project:

- Arts institutions and their artistic leadership, management and Boards This could also include contract artistic staff in a position to cast/hire/fire. Institutions are both in a position of power, and have obligations as employers.
- Individual 'workers' These could be currently on full-time contract or short-term contracts with the arts institutions, employees, independent contractors or volunteers, and could have a past interaction with the institution, or could be those who are auditioning/seeking work.

- Sector influencers These could be funders, Arts Service Organization's (ASO's), unions, guilds, etc. which are involved in some of these institutions, with some of these individuals depending on the context.
- Legal and compliance structures Ministries of Labour, Human Rights Commissions, Health & Safety, Labour Relations, Civil & Criminal Courts etc. will apply in certain contexts.
- Public opinion This has the potential for influence due to public pressure or scrutiny.

In any given context – from a temporary artists co-op to a long-standing brick and mortar arts institution, and in all cases in between - there could be a myriad of combinations of the above players involved which will influence how workplace harassment will be managed.

### Remedies Available to Individuals for Workplace Harassment

Depending on the context of the incident, the nature of the relationship of those involved, and applicable provincial/territorial jurisdictions; the complainant or the subject of harassment may choose various paths or options for remedies to bring a complaint forward:

- an organization's internal policies and procedures – including reporting and investigating mechanisms governed by the applicable provincial/territorial human rights or occupational health & safety requirements;
- in a unionized environment, collective bargaining agreement's grievance and arbitration procedures;
- filing a complaint directly with applicable administrative bodies of applicable statutory legislation (i.e. Human Rights or Occupational Health & Safety);
- through civil proceedings – i.e. a statement of claim;
- through criminal proceedings – contacting the authorities when something is a violation of law under the Criminal Code. It's important to note that notwithstanding other remedies as listed above, if something is against the law organizations and individuals have a duty to contact the police.<sup>3</sup>

It is also important to acknowledge the duties and rights of respondents and witnesses to harassment in the above remedies.

Additionally, there are options that individuals have availed themselves of in the cultural sector, such as sector association bylaws – i.e. Member to Member codes of conducts or bylaws for unions, guilds, and Arts Service Organizations (ASO's); and public opinion – i.e. making public statements about misconduct through the media, or on social media.

## Workplace Harassment, Reporting and Investigating Mechanisms

### A Working Definition

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<sup>3</sup> Johnson, 2017, p. 156

For the purposes of this study, a set of definitions excerpted from *CHRC's HR Management Toolkit – Workplace Harassment and Violence* by Williams HR Consulting, is being used.

<http://culturalhrc.ca/hrtools/index-e.php>

### Workplace Harassment Definition

“Workplace harassment, including *sexual harassment, bullying and discriminatory harassment* is typically defined as engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome. Under occupational health and safety legislation, the definition often includes the limitation that the comments or conduct have to be against a worker in a workplace.”<sup>4</sup>

### Reporting Mechanisms

“Organizations should put into place clear procedures for reporting workplace harassment and/or violence. Workers should be aware to whom they should report complaints or incidents of workplace harassment or violence (e.g., the Executive Director or General Manager). Organizations should consider measures to encourage bystanders to report observed incidents of harassment in the workplace. Some organizations use measures such as reporting hotlines, which facilitate the anonymous reporting of incidents. While this may prove effective in encouraging the reporting of incidents where workers may not be comfortable raising issues that involve co-workers, very specific reporting guidelines should be put in place to ensure that anonymous reporting of incidents provides adequate information for the organization to conduct an investigation into the circumstances related to the reported incident. Some organizations may find that they cannot effectively triage a complaint of harassment, particularly when the complaint is against a member of senior management, such as the Artistic Director. In those cases, organizations should consider using an external resource to triage complaints.”<sup>5</sup>

### Investigating Mechanisms

“A complaint of harassment or violence should be investigated. In some Canadian provinces, employers have to properly investigate incidents as well as complaints of workplace harassment. This means that if the person allegedly experiencing harassment does not complain but the organization learns that it is happening, or if the person specifically says that they do not want the issue investigated, the organization still must investigate. A workplace investigation is a fact-finding mission. Not every investigation will be the same, even if they are all conducted by or for the same employer because an appropriate investigation depends on the complaint or incident, and on each particular workplace. Investigations can be internal or external. The choice, like other details of the investigation, depends on both the kind of behaviour that allegedly occurred and the workplace in question. If done correctly, a workplace investigation will create a paper trail of the response to an

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<sup>4</sup> Cultural Human Resources Council, 2018, p. 4.

<sup>5</sup> Ibid., p. 14.

incident or complaint and the reason for a particular action (e.g., decision to discipline, terminate, or do nothing). Because of this, a proper investigation can limit risks for an organization.”<sup>6</sup>

In addition to the above definitions, lawyer Sheryl L. Johnson has outlined important considerations in designing and implementing a workplace harassment investigation procedure in *Sexual Harassment in Canada: A Guide for Understanding and Prevention* (2017):

- the procedure should be designed to encourage complainants and witnesses to come forward to report, with the organization taking all complaints seriously;
- investigations should be handled with sensitivity, fairness, consistency, and confidentiality;
- procedures must ensure that an impartial and neutral person will investigate the complaint promptly, complaints will be treated with the strictest confidentiality and privacy, and all involved in the investigation must also respect the confidentiality;
- investigations must be legally defensible.<sup>7</sup>

As part of the process to conduct the investigation, an employer can opt to use an internal or external investigator. The decision regarding the use of internal or external investigators can be determined based on various factors including:

- the seriousness of the allegations;
- whom the allegations are made against (is it the leader or senior management?);
- ability to undertake an objective/neutral process internally;
- costs involved;
- the training/skills/ability of those available to conduct the investigation.<sup>8</sup>

There can be serious repercussions for the employer if reporting and investigating mechanisms for workplace harassment are improperly carried out.

## Existing Mechanisms and Resources

It is important to understand the types of existing resources and mechanisms available to the cultural sector for reporting and investigating workplace harassment. These include:

- Cultural Human Resource Council resources
- Canadian cultural sector Codes of Conduct
- collective and advocacy movements
- cultural best practices in Canada and internationally

A sample list is available in Appendix A, and for more information, please see the Cultural Human Resource Council’s Respectful Workplace in the Arts at <http://respectfulartsworkplaces.ca/>.

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<sup>6</sup> Cultural Human Resources Council, 2018, p. 15.

<sup>7</sup> Johnson, 2017. p. 212-213.

<sup>8</sup> Ibid., p. 2018-19.

## Third-party Reporting Services – How do they work?

There is a common concern stated by those in the sector about the lack of reporting of workplace harassment due to fear of reprisal and retribution against the victims and bystanders lodging complaints – often resulting in ‘blackballing’. As a result, there are numerous suggestions and requests to provide third-party Reporting mechanisms – but without a common understanding of what this would look like. To understand how this might be used in the cultural sector, the following is an outline of existing types of services, and exactly how these different mechanisms work. Services can be grouped under different circumstances according to the context:

- under an organizational purview
- union / guild / association member services
- sector-wide services
- “information escrow” systems

### **Under an organizational purview**

Anybody that uses these mechanisms has an existing employment relationship with the employer.

#### Ombudservice

Acts as an organizational mediator between employer and staff, with a goal to level out the power in the organization.

Sample Process - Omega Ombudservice <http://omega-ombs.ca/>

They take on specific roles that are separate or interdependent. They can:

*Listen* – caller can speak with an impartial and independent person on the phone, just to talk through the situation. Sometimes this is all the caller needs, if not, they can move forward.

*Advise* – give the caller the tools for how they can go back and intervene with the management of the organization. i.e. ways to help them with conflict resolution, constructive dialogue, mediation and more. Advice can be given both to the individual and the organization. If this is not enough, you might move further.

*Make informal interventions* – the ombudservice would bring the parties together to attempt a solution. If that doesn’t solve the problem, then move to the next step.

*Investigate* – if the parties don’t arrive at a resolution, it could proceed to a formal process, including an investigation.

Note: The service reports aggregate information back to the organization, no matter which level is accessed providing numbers, trends, and types of topics. If reports come forward, but the person wants to remain anonymous, the Ombudservice can advise the organization to do a ‘light intervention’ to remind everybody about policies and obligations, but can’t proceed with a complaint if the person will not use their name.



### Anonymous Reporting Tool

Sample Process 1 – Grant Thornton - Confidential Anonymous Reporting for Employees (CARE): an anonymous reporting service that allows employees, contractors, suppliers, or other interested stakeholders to report unethical or unlawful incidents to an employer — confidentially – including workplace violence and harassment.

- Trained interviewers take the report of the ‘Reporter’, which can be anonymous – by phone, email and online submission.
- CARE will work with the individual to review the legalities, and options available to them. They are provided alternatives, including remaining anonymous, and that if they do name themselves, a full investigation can happen. *If the reporter does not name himself or herself it can't be actionable.*
- The employer is contacted with the report (but no name of the person who submitted the report) – and can communicate anonymously through their system to the Reporter over email.
- Even if a formal complaint does not come forward, the employer could opt to take action. Scenario: The employer may receive several anonymous reports about the same alleged harasser. They are potentially not in a position to conduct an investigation, but WITH THE PERMISSION OF THE REPORTERS may sit down with the alleged harasser and frame it as a ‘performance talk’ - say, “There is no official complaint, but x # of people have reported to CARE that y is happening.” Summary of the allegations is provided [AGAIN WITH PERMISSION], but no names revealed. The organization can try to address the behaviour with the person, review the Code of Conduct, review what is and isn't acceptable. You can't do official corrective performance discipline, as it's not a formal investigation – but the employer has taken action based on information brought forward, and has gone as far as they can. This approach would need to be done with a certain level of legal and HR expertise in order to handle the situation properly.
- In seeking providers, it is crucial to secure one with servers in Canada in order to comply with Canadian Privacy Act. Many of them have servers that reside in the U.S.

Sample Process 2 - ClearView Connects: an anonymous and confidential reporting service <https://www.clearviewconnects.com/home>. Individuals submit anonymous and confidential reports that are delivered directly to the organization. Individuals submit information without sharing any personal details, and this information is forwarded confidentially to the organization. ClearView does not investigate reports, or take any actions based on information submitted, it simply forwards the information.

### **Union / Guild/ Association member services**

Unions will have mechanisms to support their members with reporting through:

- members reporting an incident with an engager/employer covered by a governing collective agreement;
- members reporting an incident with an engager/employer NOT covered by a governing collective agreement;

- mechanism for members to report incidents about other members in the same union (but not under an engager).

### Selected Mechanisms

- Alliance of Canadian Cinema, Television and Radio Artists (ACTRA) Toronto – Reporting mechanisms for critical or emergency situations are identified, including harassment through (a) during business hours to the ACTRA Toronto Office; and (b) after hours emergency and sexual harassment reporting by telephone, email and online forms to Morneau Shepell, forwarded to ACTRA Toronto staff in real time.  
<https://www.actratoronto.com/performers/at-work/problems-on-set/#EXPECT>
- Canadian Actors Equity Association (CAEA) - Under the resource “The Equity Support Spectrum” paths to resolution are identified for members to lay out a variety of ways to respond to workplace harassment including speaking to a Respectful Workspace Advisor (RWA), working with engagers to manage applicable incidents under their workplace harassment policies and procedures, the role of stage managers and deputies, and a formal complaint system between members. <https://www.caea.com/features/Not-In-Our-Space>

### **Sector-wide services**

These are accessible by any members of the sector, whether in or out of a formal relationship with an institution/organization/employer.

#### Juripop – L’Aparté [www.aparte.ca](http://www.aparte.ca)

This is a third-party service for a wide range of workers (staff, artists, volunteers, board) in the entertainment industry in Quebec. This is not an Ombudservice. Services for the individual include support on the phone – offering solutions, legal recourse options, references to other organizations and in person to help fill out paperwork, and accompany them to police, lawyer, meetings with management. Will not represent individuals in court. External contact on behalf of the complainant is only with their permission. It is not anonymous. If witnesses call, they are encouraged to have the complainant call in.

#### Unison Benevolent Fund <https://unisonfund.ca/services/counselling-health-solutions>

Unison Benevolent Fund is a non-profit, registered charity that provides counselling and emergency relief services to the Canadian music community. It is an assistance program, created and administered for the music community, by the music community. There are two distinct types of support available through the fund: financial assistance and counselling & health solutions. With regard to the latter, through voluntary and confidential support services, eligible Canadian music makers are able to access qualified professionals who can provide counselling and other resources to support individuals and their immediate family members dealing with health, legal, relationships or work-related concerns.

### **Information escrow systems**

A potential solution for the sector's desire for anonymous third-party reporting can be found outside of the sector, in "Information escrow" platforms. Under an information escrow system, the victim provides or inputs confidential information to a trusted third-party, to be held in 'escrow' and only released under certain conditions. It allows the victim to report in a timely manner and allows them to control when and how the information is used; and it identifies trends in repeat perpetrators.

#### Examples

*Safe Space* – RallyEngine - Canadian-based App with confidential reporting system that allows a 'survivor-centered design for reporting – and "information escrow" to help identify repeat perpetrators. Highly secure, safe space for a survivor to go online and record/document/map out the timing and content of the incident, to be helped until they want to take action, or identify a common perpetrator. It is confidential only to the person who fills in their own information until they decide to disclose. This typically requires a moderator and was initially designed for a university context where a designated official is empowered to enforce the harassment-free environment <https://www.rallyengine.com/services/safespace>.

*Project Callisto* – U.S. Tech platform that connects victims of the same perpetrator to identify repeat offenders. Callisto Campus and Callisto Expansion (2018 - moving into workplaces). Callisto Expansion has 2 main functions: legal options counselling which connects individuals with legal options counselors, and advises victims of their rights and help them navigate options; matching escrows where victims input the identity of their perpetrators under the precondition that, if a match is found, a Callisto legal options counselor reaches out to each victim individually <https://www.projectcallisto.org/>.

## **Research and Methodology**

A crucial part of this study was to conduct primary research in the form of consultations with key stakeholders in the cultural sector to understand:

- What are current practices, concerns, and gaps in reporting and investigating mechanisms?
- How can we approach a sector-wide solution?
- Does a solution need to be discipline specific or geographically specific?

This research was undertaken in the following phases.

### **Foundational interviews**

Interviews with individuals holding subject matter expertise and sector experience in order to guide the research.

## **Sector consultations**

Telephone interviews with individuals from a cross section of representatives from:

- arts organizations, arts service organizations, arts unions/guild, artists, international peers, experts / service providers;
- representation across geographical regions, differing organizational size/structure, and a cross section of cultural and artistic disciplines;
- scope was English Canada and Francophones outside of Quebec.

Refer to Appendix B for detailed Consultation Invitation and Question Bank.

## **Community consultations with equity-seeking groups**

Through a separate process, feedback was gathered through community consultations with equity-seeking groups across Canada. This research was not undertaken by the author of this report, but feedback derived from notes generated from these meetings has been included in the findings.

In October 2018, CHRC engaged local coordinators to organize consultations with equity-seeking groups (from Indigenous, racialized, official language minority, LGBTQ and deaf and disabled communities) in Vancouver, Edmonton, Winnipeg, Toronto, Ottawa, Montreal, Moncton, Halifax and Yellowknife. CHRC also engaged experienced local facilitators to lead the consultations. The participants were asked to discuss a national code of conduct for respectful workplaces, to explain their training needs in terms of harassment, and to comment on reporting and investigating mechanisms in cases of harassment. The coordinators took notes at the consultations and each submitted a summary report to CHRC. CHRC in turn provided to the consultant the comments from all the sessions relating to reporting and investigating mechanisms in cases of harassment. These were reviewed by the consultant and incorporated into this report.

## **Analysis of the Consultations**

### **General Comments**

- A respectful workplace looks, feels, and sounds like many things, including: being heard, feeling safe, knowing there's a way to solve the conflict if it arises, having a mutual understanding of what to expect, and to have a place that allows you to be creative/do your best job/push your creative limits.
- There are no Human Resource departments in most arts organizations, and people are not ready to take on issues as they arise. The prevailing opinion from those consulted was that, with a very few exceptions, organizations are not ready to respond to an incident of workplace harassment.
- While this topic is specifically about Reporting and Investigating – there still needs to be a focus on prevention – stopping the behaviour. There are still organizations that haven't even put in place basic policies.

- It is essential to get the word out far and wide to make more people aware of the occurrences of harassment; and the need for policies, procedures, and avenues of support and resources to counter and eliminate it.
- There's a systemic challenge in Canada because of the big gulf between the largest entities and the smaller ones: meeting the needs of all is challenging when the resources and staffing vary so widely.

## Reporting Mechanisms

### Third-Party Independent Service

There is strong support from those consulted to have a *third-party independent service* for individuals that provides, at a minimum: information, resources, legal advice, and/or counselling as required. There is a desire for this to be delivered in different formats (in person, on phone, online). There is mixed support for this third-party to advocate on behalf of the individual (i.e., attend meetings, help fill out paperwork). There is little support for this third-party to legally represent the individuals. In the case of unionized employees, some unions reported that they can and should fill this role.

There were very mixed responses about whether a reporting mechanism could or should be fully “anonymous” (i.e. the complainant does not need to reveal their identity):

- *Pros* – There is a widespread acknowledgement of the real challenges of fear of reprisal for those that come forward – particularly with the job insecurity of artists and contract workers. There's a potential to be blackballed, or labelled as “difficult to work with”, so the individual will just ‘not be cast’, or ‘not be asked back’. And in the case of repeat offenders in positions of power, they will continue to offend across the sector with different organizations/engagers.
- *Cons* – There is very little that can be actioned in a fair procedure if the complainant does not come forward with a formal complaint, and the respondent has the right to a fair process. The fear is that there could be false allegations and abuse of the system, which could be counterproductive to progress in the sector. There is also concern that this would do little to normalize reporting and ultimately resolving the inherent conflict involved.

### Other Considerations

Unions/guilds would want to be sure that any mechanisms in place do not usurp their duty to represent members before engagers. In most cases, they supported the above services for either only non-union workers, or those that work outside of collective agreements. However, some artists feel strongly that they need an alternative method from the service provided by their unions as there can be a conflict when the alleged harasser under an engager is also a union member. For small organizations with 1 or 2 staff members, often founder-led, how do you provide alternate contacts to report incidents to if the issue is about the leader/founder?

## Investigating Mechanisms

### Resources for Employers

With a few exceptions, Arts Service Organizations (ASO's) do not have resources to assist organizations with reporting and investigating mechanisms – but it is something being reviewed now. If employers don't have trained Human Resources staff, they are not likely to know how to respond to an incident/report of harassment, including:

- performing the 'intake' of the complaints and incidents;
- triaging the situation;
- knowing how to map out the response and investigation process, taking into consideration the needs and rights of complainants, witnesses, and respondents;
- knowing when it's appropriate to conduct the investigation internally or externally.

### Internal Investigations

Many of those consulted felt that having access to templates and processes would be helpful, including a 'decision tree' framework to help shape the response. Provide a 'crisis checklist' and steps to undertake an investigation. No investigation is ever the same – and you need to be clear on things like the difference between the criminal standard of proof of 'beyond a reasonable doubt', and the civil threshold of the 'balance of probabilities'. Many of those consulted also felt that in most cases, these situations should in fact be handled with external expertise, as there is not the expertise, time, or the ability to conduct a neutral investigation. There is a risk to the employer if there is a poorly conducted investigation process – there could be serious legal ramifications down the road.

### External Investigations

Employers would need assistance in determining the resources available to handle external investigations – mediators, human resources consultants, lawyers. Employers will often not undertake an external investigation as it can be costly, and they do not have the financial resources to pay for it. Directors & Officers Liability insurance generally just covers defense in case of legal action, and emergency grants don't cover this. For unions/guilds dealing with member to member complaints (no under an engager or organizational purview) – some reported that they undertook external investigators to ensure an objective process.

### Other Sectoral Notes and Issues

Unions and employers could be stronger in enforcing policies – i.e. if there is a proven harassment claim – will the union take action to remove them from membership, and will the employer take action by not casting them/engaging them again – even if they are 'stars' or 'top earners. While employers need to be mindful of their compliance requirements, the sector would be wise to look to alternative resolution methods for both conflict resolution and restorative justice. "We are too focused on punishment and prevention – but really we should look at systemic issues and change." The sector needs to keep in mind the 'trifecta' – support the employer, support the complainant, and support the respondent. If resources already exist out of sector, they should be used – don't start from scratch.

## Recommendations for the Cultural Sector

Taking into consideration the legal frameworks, existing resources, and the results of the sector and community consultations, the following are the recommendations that the cultural sector should undertake to address Reporting and Investigating Mechanisms for Workplace Harassment in the Cultural Sector.

Recommendations are framed into two sections:

- Solutions for **Individuals** regarding **Reporting** Mechanisms (1 to 4)
- Solutions for **Employers** regarding **Investigating** Mechanisms (5 to 10)

### Recommendations for Reporting Mechanisms

1. ***Establish a confidential, independent third-party sector-wide resource for the complainants, respondents and witnesses of workplace harassment.***

It could provide the following services:

- a) Resources, Counselling, Advice: A free service that provides immediate confidential support and counselling to complainants, respondents and witnesses across multiple platforms (in person, via phone, online). Services could include:
- reviewing the specifics of the situation, outlining legal alternatives, providing advice and identifying the steps to take;
  - referral to further resources based on jurisdiction and location;
  - counselling – intake for dealing with the person in distress.

This service could be provided by existing Employee Wellness Programs, Legal Clinics, and Ombudservices, but should be provided with customized training and information specific to different artistic disciplines and taking into consideration regional/cultural differences.

- b) Case Management: Additional support for the individual by advocating and assisting through attending meetings, contacting employers/engagers, and assisting in filling out forms. It is important for unionized persons to be aware of and consider assistance from their union as well, when available.

2. ***Further examine the viability for anonymous reporting mechanisms.***

It is notable that while there were numerous mentions, there is not consensus that there should be a sector-wide anonymous reporting mechanism that would result in formal investigations. There is a need however to address the lack of reporting and mitigating concerns of backlash and retribution for those coming forward. There is support for anonymous third-party reporting mechanisms which would require further legal review:

- Anonymous reporting to a central body, so trends and data are gathered in aggregate form of the calls and situations being reported to assist in systemic change and identify specific risks.
- “Information escrow” and “Matching escrow” systems - ways to confidentially gather data and identify if there is a ‘repeat offender’ whose name occurs in multiple reports.

and is not released except under certain conditions with the permission of the complainant.

3. ***Develop experiential training to respond “in-the-moment” to incidents of harassment.***  
The sector needs to develop and deliver more training, communication and dialogue to help individuals know exactly how to call out and respond to inappropriate behaviours – experiential training, simulations, and role playing to help deal with situations in the moment. The goal is to deal with the issue before it escalates.
4. ***Access financial support for individuals.***  
In the case of individuals who have exhausted available sector resources, individuals need access to financial support that would allow them to access funds to cover legal fees or other costs associated with reporting workplace harassment.

#### Recommendations for Investigating Mechanisms

5. ***Create a third-party resource for employers.***  
(This would be separate from resource a resource created for Individuals). Provide an external resource focused on providing information on legal compliance, advice on situations and access to resources – with knowledge across provincial/territorial jurisdictions and artistic disciplines. Support can be divided into:
  - Urgent/critical response: Support in responding to a report or complaint, including access to legal, HR, and Crisis Communications support. Assistance in triaging a situation and creating a plan to respond to the situation.
  - Ongoing support and prevention: With a focus on education, prevention and maintenance of programs - this support would provide ongoing access to human resources and employment law expertise in the areas of policy development, training, and annual reviews of programs and procedures – i.e. employers get a set number of hours per month with an HR expert, employment lawyer, etc.
6. ***Provide training on conducting the ‘intake’.***  
Employers need training on how to respond to complaints coming forward, and how to manage the intake of the report. It is crucial that reports are handled appropriately both for the sake of the individuals coming forward, and to prevent risk to the employer by proper handling of a complaint. Considerations include:
  - to be trained and capable to deal with people in distress, with experience counselling them;
  - understanding the definitions, the legalities and the procedures (including understanding when it is appropriate to alert the police in the case of violations of law in a timely way);
  - training on what to say and what not to say if somebody reports something to an employer. Being empathetic, de-escalating, but not taking sides or prejudicing a situation.



7. ***Develop complaint response checklist / Decision tree.***

What should employers do if an incident occurs, or a complaint comes forward? Create a resource that guides an employer to build a method and response based on the specifics of the situation. Elements to consider:

- Who is going to own this process? Is the main person receiving complaints the leader? Who are the alternates? Is there an HR representative that will be involved?
- What are legal compliance requirements?
- How to triage the specific situation? (i.e. the seriousness of the situation, the parties involved)
- A checklist of information that should be gathered, and how documented.
- Provide guidance on understanding when it's time to engage outside expertise – and is that person a lawyer, a mediator, an HR consultant, etc.
- Guidance on how and when to engage the board chair and/or board of directors.
- Draft case studies with varying circumstances and various options for ways to shape the investigation process.

8. ***External Investigations***

There was considerable feedback that most employers do not have the expertise, time, or structure to carry out a fair, unbiased investigation, and that employers should be encouraged and incentivized to carry out third-party investigations when appropriate. And the more senior the alleged harasser, the more reason for early engagement of external parties to investigate. Resources to help employers could include:

- creation of a vetted list of professionals who have experience in arts sector – lawyers, mediators, investigators - or access to a shared resource in each region;
- grant funds or subsidy to help employers pay for an external investigation (with a mediator, or investigator or lawyer as required) to pay for legal fees;
- consultations with and study of viability of expanding insurance coverage to include no fault counselling that can be triggered before a claim – i.e. covering the costs of external investigations. Explore a group insurance model – i.e. could engagers pay a % of their budget into a shared policy, which could be accessed for engagers to deal with an incident – for access to coaching and investigation expertise.

While these external resources are recommended, it must be clear to leaders and boards that these are tools to assist in fulfilling their obligations, and that they need to play a strong role in overseeing this.

9. ***Internal Investigations***

Examine utilizing a Joint Health & Safety Committee model to assist in a portion of the internal investigation process. Also, an organization could designate a harassment officer – like a Fire Warden or Health and Safety Representative - to be trained in dealing with workplace harassment issues.

#### 10. **Portal for Best Practices and Resources**

Create a central portal for sharing Best Practices, research, templates, policies and procedures across peers, and cross-tagged or categorized by province, by artistic discipline, by size, entity, etc. This portal could include two components:

- Vetted / curated information – information that is reviewed and vetted by a panel of experts, including referrals to external services.
- Crowd sourced information – shared resources crowd-sourced and populated by the sector. Additional possibility for shared resources for communities and collectives to come together.

## Closing Thoughts

### What Next? Thoughts for Future Study

While the scope of this study was specific to examining Reporting and Investigating Mechanisms for Workplace Harassment in the cultural sector – these must be considered in the entire spectrum of the issue. Several important points emerged in the research that lay outside the scope of this report but are important to bring forward, particularly under the themes of prevention and restoration.

#### Prevention

- *A sector under stress* - there is an overarching theme of the impact of overwork, and a systemic and relentless under-resourced work situation. Are we dealing with the overall mental wellness of our industry?
- *Conflict resolution and mediation* – there's a call to finding a way for the early interventions and mid-way points before needing to proceed to a formal investigation. A way to deal with the more minor incidents that can be solved by mediation internally with the two parties. But the employer needs support and training to properly do this.
- *Representation of Boards and leaders* - increasing diversity (gender, cultural, socioeconomic) and having more representation of groups that are often more vulnerable to harassment and discrimination in positions of power could be a powerful path to prevention.

#### From Aftermath to Restoration

As we move through responding to these situations - what can we do as a sector to embrace solutions for individuals and employers to deal with the aftermath of a complaint and investigation?

- *Aftermath* - How can employers and the sector move forward together after serious incidents?

- *Restorative justice* - As noted by an interviewee, “Can the sector approach this as a carrot and not a stick? Meaning – can we get both sides to consent to a mediation process and/or restorative justice?”
- *Moving from minimum requirements to demonstrating values* - how can we get everybody to demonstrate VALUES above and beyond compliance? Can we ensure we don’t ‘hide’ behind policies and structures and learn how to communicate and engage with each other in respectful and safe ways? And would this be a way to combat the low levels of reporting that happens due to fear of retaliation?

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## Appendices

### Appendix A – Existing Mechanisms and Resources

Please note that this section is an overview of the types of existing resources and mechanisms available to the cultural sector for reporting and investigating Workplace Harassment. This list is not exhaustive, and new resources become available on a regular basis. For more information, please see the Cultural Human Resource Council’s Respectful Workplace in the Arts at

#### Cultural Human Resources Council

As part of their national *Respectful Workplaces in the Arts* initiative, the Cultural Human Resources Council has created the resources to assist the cultural sector <http://respectfulartsworkplaces.ca/>.

#### Canadian Cultural Sector Codes of Conduct

Different from binding organizational policies and collective agreements, codes of conducts are often adopted by entities such as arts service organizations and organizations to signal norms and proper practice for their members. It is not necessarily actionable – and should be clearly distinguished from Policies and Programs that are binding. Current sector-wide codes of conducts include:

- **Canadian Creative Industries Code of Conduct** – *“The Code of Conduct is a set of voluntary commitments developed by a coalition of Canadian creative industry stakeholders. Each organizational signatory is solely responsible for upholding its commitments under the Code and its obligations under the law.”* Signatories to this Code of Conduct commit to ensuring compliance but may not have completed all compliance steps. The Code was developed by a large group of organizations in the cultural sector as one of three working groups, including Reporting and Education & Training. <http://www.readthecode.ca>

**Music Industry Preamble** – More than 35 music groups have agreed to sign the above code of conduct, with the following preamble “We, the Canadian music community signatories, support the Canadian Creative Industries Code of Conduct. We recognize that in the music industry, the terms work, workplace and work-related, are extremely broad and can include any physical or virtual spaces at any time.”

- **Developing a Code of Conduct for Live Performing Arts**  
A Working Group of sector volunteers undertook the task of developing a national code of conduct for the live performing arts. The WG included in its consideration the comments from the consultations with equity-seeking groups in October/November. Their work is going through review by the Respectful Workplaces in the Arts Coordinating Committee.

- **Harcèlement: Code de Conduite | Harassment: Code of Conduct** – Developed in Quebec in collaboration with 43 associations, unions, cultural organizations, and groups to be used and displayed on film sets, theatres, museums, art centers, self-managed artists. L’Aparté is listed as the source for confidential help, resources and legal information.  
<https://uda.ca/services-et-outils/harcelement-services-offerts/harcelement-code-de-conduite>
- **Regroupement Québécois de la danse (RQD)** – a non-profit association representing more than 500 dance professionals, have created a “Declaration in favour of harassment-free work environments” – available in both French and English:  
[https://www.quebecdanse.org/images/upload/files/Declaration\\_harcelement\\_milieu-culturelAN\\_v2.pdf](https://www.quebecdanse.org/images/upload/files/Declaration_harcelement_milieu-culturelAN_v2.pdf)  
<https://www.quebecdanse.org/images/upload/files/Declaration-tolerance-zero-harcelement-2017.pdf>
- **Statement from Dance Service Organizations** – A collective of Canadian Dance Arts Service Organization’s joint statement about concern of pervasiveness of sexual harassment, abuse of power, racism and more; commitment to develop incident reporting tools, anti-harassment clauses for contract, resources for qualified mediators; and fostering of change in board and leadership composition to represent equity-seeking communities.  
[http://www.cad-acd.ca/docs/advocacy/Statement%20from%20Dance%20SOs\\_Final.pdf](http://www.cad-acd.ca/docs/advocacy/Statement%20from%20Dance%20SOs_Final.pdf)
- **Not in our Space!** – A national anti-harassment and respectful workplace collaboration campaign between Canadian Actors’ Equity Association (CAEA)  
<https://www.caea.com/FEATURES/NOT-IN-OUR-SPACE> and Professional Association of Canadian Theatres (PACT) <https://pact.ca/initiatives/not-in-our-space/> which seeks to ensure healthy and productive working conditions for all professionals working in live performance across the country. Resources include materials, joint “First Day Statement”, policies, templates, etc. CAEA’s resources also include Facebook group with videos and resources, and a portal with member support resource links (including crisis support, legal support, financial support, Human Rights Commissions, etc.)  
<https://www.facebook.com/notinourspace/>  
<https://www.caea.com/Portals/0/Documents/Features/NotInOurSpace/Member-Support-Services.pdf>

### Collectives and Advocacy Movements

In addition to resources for policy development, and sector codes of conduct – it is important to recognize collectives and advocacy movements in the sector who have come together to raise awareness, develop resources, and create supports for individuals in the sector.

## Selected list

- Got Your Back Canada – Formed by artists as a way to connect artists to support as well as creating opportunities to advocate together. Posting of harassment policies of theatre companies, in-person support meetings, training. <https://gotyourbackcanada.com/>
- #AfterMeToo – partnered with Canadian Women’s Foundation - a national movement created within the Canadian film and television industry to address workplace sexual violence in Canada. Released a report in 2018 auditing existing policies in the entertainment industry with set of recommendations, symposium, and creation of a fund to support services for victims of sexual violence. <https://www.aftermetoo.com/>
- Project SoundCheck™ - a sexual harassment and assault prevention initiative in the live music / venue sector, created jointly by the Sexual Assault Network and Ottawa Coalition to End Violence Against Women. Bystander Intervention Training, Resource Materials, Safety Audits, Train the Trainer, Messaging & Protocols, and an Anonymous Reporting Tool. The goal for anonymous reports is to compile data and themes to be used for larger scale advocacy. <https://www.projectsoundcheck.ca/>
- Generator Toronto – Part of Artist Producer Resource – a portal of “the tips, tricks, and best practices for producing live performance in Canada” for the independent producer. The section on harassment includes: definitions and templates, sample policies and codes of conduct, links to legal support/mediation services. Generator Toronto has hosted two “Urgent Exchange” panel sessions on this topic (January and December 2018) with speakers touching on areas such as: bystander intervention, conflict resolution processes, consent education, and more. <https://www.projectsoundcheck.ca/> Videos available here. <https://www.youtube.com/playlist?list=PL5ENjuK8JSb3InInImdZ1zF5UMPPpWGvj>
- [https://artistproducerresource.ca/tiki-index.php?page=Creating-a-Harassment-Policy&highlight=space%20policies&fbclid=IwAR1c5-ZH\\_zfxKtN5m96zv-lvg8aeQZL6Iq2S7XDdzygrQ9hk3MXrpkHJ\\_cM](https://artistproducerresource.ca/tiki-index.php?page=Creating-a-Harassment-Policy&highlight=space%20policies&fbclid=IwAR1c5-ZH_zfxKtN5m96zv-lvg8aeQZL6Iq2S7XDdzygrQ9hk3MXrpkHJ_cM)

## **Legal Clinics**

The following is a sample of existing legal resources in Canada.

- Artists’ Legal Outreach (B.C.) – group of volunteer lawyers and law students working with artists and arts organizations providing resources, workshops, and clinics – by donation. - <http://artistslegaloutreach.com/>
- The Barbra Schlifer Commemorative Clinic (Toronto) – specialized clinic for women experiencing violence, providing counselling, legal representation, and language interpretation. <https://schliferclinic.com/>
- Human Rights Legal Support Centre (Ontario) - independent agency providing legal services to individuals when they take an application to the Human Rights Tribunal of Ontario. <https://www.hrlsc.on.ca/en/>

## Canadian and International Research Reports

### *Canada*

Directors Guild of Canada (DGC): Independent Audit of DGC Anti-Harassment Policies and Practices (2018). This report <https://www.dgc.ca/en/national/news/respectful-workplace-audit/> is a result of a national “Listening Tour” interviewing more than 60 DGC members in BC, AB, MB, ON, QC and Atlantic Canada, plus collection of recommendations. Key recommendations from DGC include:

- on-set safety talks on respectful workplace and psychological safety;
- clearly posted definitions for harassment and inappropriate behavior;
- training for staff handling allegations of harassment, and for management roles;
- HR services hired at arms-length funded by producers to support all players in the sector;
- establishing a peer support program;
- providing a single hotline across the country to receive complaints requests for intervention or information relating to inappropriate behaviour and harassment;
- explore web-based information escrow applications – i.e. SafeSpace software to preserve documentation of incidents and allow complainants to identify common harassers.

#AfterMeToo – Research, report, and recommendations regarding sexual violence in film, television, and theatre from the #AfterMeToo collective (2018). <https://www.aftermetoo.com/>  
#AfterMeToo’s recommendations include:

- increase funding for support services for survivors of sexual violence;
- create an independent, national organization to address sexual violence in the industry including receiving disclosures of sexual violence, providing referrals to crisis counselling, legal advice, and coordinating independent expert investigations;
- investigate cases of historical sexual violence in the industry;
- impose substantial consequences for perpetrators of sexual violence;
- create a Safety Fund to support counselling and legal advice for survivors;
- prohibit Sexual Violence in contracts, collective agreements, and workplace policies;
- make training mandatory for all industry members in sexual violence prevention;
- create technology to support survivors – to access information, to report online, and to case-track potential for lost employment;
- demand leadership accountability.

### *International – selected examples*

- Chicago Theatre Standards – This collective of Chicago theatres formed the “NotInOurHouse” movement and development of a “wholly-free, voluntary, non-legally-binding tool for self-regulation in theatre spaces. The CTS seeks to mentor institutions, theatre-makers, teachers, students, parents and anyone who would like to learn more about procedural preventions and potential responses to unsafe practices, with a special focus on



harassment, bullying and discrimination.” : <https://www.notinourhouse.org/download-the-standards/>



- Society of London Theatre & Theatre UK - Encouraging Safer and More Supportive Working Practices in Theatre – report detailing the industry-wide action in theatre and performing arts to prevent and tackle harassment and abuses of power.

Resources include: 10 Principles for Safe Working Practices, Theatre Helpline (24-hour confidential service), Resources and Guidance with sample policies, checklists, key themes from industry forums, best practices suggestions, lists of organizations and individuals with expertise, and “Dignity at Work” Training. <https://solt.co.uk/what-we-do/encouraging-safer-and-more-supportive-working-practices-in-theatre/>

- Guardians at The Old Vic – UK – The Guardians Network was formed from a network of performing arts organizations (such as BFI, English National Ballet, English National Opera, The Old Vic, Tate, and others). The Old Vic Guardians are a group of trained staff who offer a confidential outlet for colleagues to share concerns about behaviour or the culture at work. Available is an information pack advising how organizations and individuals can become ‘Guardians’ including a recruitment process and pro-bono training for organizations in the network. Additional resources include sample policies, and guidelines created through the “OK/Not OK” Sessions.



<https://www.oldvictheatre.com/about-us/guardians-programme>

- Gender Equality in Practice in Irish Theatre – Working Group of 10 theatre organizations in Ireland coming together under a program launched by the Department of Culture, Heritage and the Gaeltacht, in order to address and rebalance the gender equality deficiencies in Irish theatre. Each theatre committed to creation of gender policy statements, and measures across programming, staff and board relations including:
  - Gender blind readings for plays
  - Unconscious bias training for all staff
  - Equality of gender of board members
  - Addition of Dignity at Work clauses to employee’s charter
- <https://www.chg.gov.ie/minister-josepha-madigan-launches-gender-equality-policies-of-ten-irish-theatre-organisations/>
- <https://www.gatetheatre.ie/gender-equality-dignity-policy/>
- <http://www.druid.ie/news/latest-news/launch-of-gender-equality-in-practice>

## Appendix B – Consultation Invitation and Question Bank

### Consultation Invitation

Dear colleagues,

I am writing on behalf of the Cultural Human Resources Council (CHRC), who have engaged me to prepare a report on **Reporting and Investigating Mechanisms to Deal with Harassment**. This report is a small part of their larger **Respectful Workplaces in the Arts** initiative (more info can be found here: <http://respectfulartsworkplaces.ca/reporting-and-investigating-mechanisms>). I have copied CHRC's Executive Director Susan Annis, who is the lead on the overall project.

The aim of this report is to include examples from all parts of the cultural sector in Canada and in other countries surrounding existing reporting and investigating mechanisms for workplace harassment. It will also include recommendations for establishing efficient, effective mechanisms across the sector for the performing, literary and visual arts in Canada.

We would greatly appreciate if you could take 20-30 minutes to speak with me on the phone - your feedback will be very valuable for this project. We are reaching out to leaders in cultural organizations, arts service organizations, unions/guilds/associations, funders, and more - it is important for us to have a wide range of perspectives on current best practices and as well as sectoral needs and challenges regarding reporting and investigation mechanisms.

If you are willing and interested, you can choose a time slot between October 17 - November 2 on the [Signup.com](http://signup.com) platform - just go to the link below. You don't need to register for the platform - you can just sign in as a guest:  
<http://signup.com/go/EweFwqJ>

If you would rather schedule with me directly, or don't see a time that would work, please do feel free to reach out directly.

Many thanks,  
Jeanne

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## Question Bank Interviews

These questions were used as a base, with the conversations evolving according to the interviewee.

### Arts Organizations

#### INTRO/GENERAL

- Ice breaker (artistic discipline, how many staff/artists)
- Do you have dedicated internal HR staff?
- Do you have policies in place for Workplace Violence/Harassment?
- Do you have a Board contact/committee that would oversee this policy and/or if any incidents occurred?

#### REPORTING - for individuals

- Does your policy have explicit processes about how a person who is experiencing or who has witnessed harassment can report?
  - is disclosure clear?
- Do you use a third-party for reporting?
  - if so, who?
- Do you think the sector should take on a confidential third-party service for individuals to report?
  - what services should they provide? a) providing information, sourcing, and resources, b) reporting to applicable institutions, b) representing the individual?
  - should it be unique to each artistic discipline?
  - should it be separate in each province and territory, given the difference in provincial and territorial legislation?
- Do you think there should be an anonymous service for people to REPORT?

#### INVESTIGATING - support for ORGANIZATIONS

- In general - do you think organizations are prepared when an incident comes to them?
- Is the process for investigating clear?
- Do you use external / third-party resources investigating? (can you share who it is? Lawyer, consultant, mediator)
- Investigations could be Internal or External dependent on the specific circumstance. Would a decision tree/framework to help decide if it can be internal/external be useful?
- For INTERNAL - What if there was training for organizations for conducting internal investigations when appropriate?
  - could a staff person or a Board member learn enough in a one-day workshop, for example, to be ready if a complaint of harassment comes up in their organization?
  - could CHRC take on the development and delivery of training for internal investigations?
- For EXTERNAL
  - what about lists of resources? Or vetted investigators?
  - or maybe we could look at shared investigation-trained people in a city, or in a discipline, or in a province?

## Unions/Guilds

### INTRO/GENERAL

- What is your union/guild's legal entity - registered union vs association/guild?
- Are you national / provincial?
- What specific artistic discipline do you represent?
- What type of 'workers' do you represent? How many?

### REPORTING

- Do you currently have resources for your members to assist in REPORTING MECHANISMS?
  - internally or externally administered?
  - are your existing mechanisms just for when your members are in an organizational/presenter context?
  - what about outside an employment structure?
  - or do you also have member to member reporting policies and procedures?
- Do you think there should be a confidential third-party service in the sector for reporting?
  - what services should they provide? a) providing information, sourcing, and resources, b) advocating for the individual and assisting in reporting to applicable institutions, c) representing the individual?
- Do you think there should be an anonymous third-party service in the sector for reporting and/or investigating? If so:
  - should we recommend that single third-party for the arts be established?
  - should it be unique to each artistic discipline?
  - should it be separate in each province and territory, given the difference in provincial and territorial legislation?

### INVESTIGATIONS

- In general - do you think organizations are prepared when an incident comes to them?
- Investigations could be Internal or External dependent on the specific circumstance. Would a decision tree/framework to help decide if it can be internal/external be useful?
- For INTERNAL - What if there was training for organizations for conducting internal investigations when appropriate?
  - could a staff person or a Board member learn enough in a one-day workshop, for example, to be ready if a complaint of harassment comes up in their organization?
  - could CHRC take on the development and delivery of training for internal investigations?
- For EXTERNAL
  - what about lists of resources? Or vetted investigators?
  - or maybe we could look at shared investigation-trained people in a city, or in a discipline, or in a province?

## Artists

### INTRO/GENERAL

- What specific artistic discipline have you worked in?
- In your experience, have you been aware of REPORTING and INVESTIGATING MECHANISMS?

### REPORTING

- Are you aware as an artist of resources to assist in REPORTING MECHANISMS?
  - are your existing mechanisms just for when you are in an organizational/presenter context?
  - has this been with the engager or with a union/guild?
- What about outside an employment structure?
- Or what about member to member reporting policies and procedures?
- Who would you call?
  
- Do you think there should be a confidential third-party service in the sector for reporting?
  - what services should they provide? a) providing information, sourcing, and resources, b) advocating for the individual and assisting in reporting to applicable institutions, c) representing the individual?
  
- Do you think there should be an anonymous third-party service in the sector for reporting? If so:
  - should we recommend that a single third-party for the arts be established?
  - should it be unique to each artistic discipline?
  - should it be separate in each province and territory, given the difference in provincial and territorial legislation?

### INVESTIGATIONS

- In general - do you think organizations are prepared when an incident comes to them?
- Investigations could be Internal or External dependent on the specific circumstance. Would a decision tree/framework to help decide if it can be internal/external be useful?
- For INTERNAL - What if there was training for organizations for conducting internal investigations when appropriate?
  - could a staff person or a Board member learn enough in a one-day workshop, for example, to be ready if a complaint of harassment comes up in their organization?
  - could CHRC take on the development and delivery of training for internal investigations?
- For EXTERNAL
  - what about lists of resources? Or vetted investigators?
  - or maybe we could look at shared investigation-trained people in a city, or in a discipline, or in a province?