



HOUSE OF COMMONS  
CHAMBRE DES COMMUNES  
CANADA

## **Standing Committee on the Status of Women**

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FEWO



NUMBER 046



1st SESSION



41st PARLIAMENT

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**EVIDENCE**

**Thursday, October 25, 2012**



**Chair**

**Ms. Marie-Claude Morin**



## Standing Committee on the Status of Women

Thursday, October 25, 2012

•(0845)

[*Translation*]

**The Chair (Ms. Marie-Claude Morin (Saint-Hyacinthe—Bagot, NDP)):** Good morning, everyone. If you can please take your seats, we will begin the meeting. It is 8:45 a.m. on the dot.

Welcome to the 46th meeting of the Standing Committee on the Status of Women. Today we are continuing our study on sexual harassment in the federal workplace.

Once more, we have with us the officials from the Treasury Board Secretariat, Mr. Ross MacLeod and Ms. Martine Glandon. Welcome.

You are not going to have 10 minutes today, given that you already used those 10 minutes last time. We are just going to spend one hour on questions and discussions. So it will be even more lively than last time.

We will start with Ms. Truppe. She has seven minutes.

[*English*]

**Mrs. Susan Truppe (London North Centre, CPC):** Thank you, Madam Chair. I don't know if it could be any more lively than last week.

Thank you for coming back. We were cut short, so we all have more questions for you. We found your testimony very interesting, and we appreciate your time last week and again this week.

When you were here last time, you talked about the five-step process that deals with sexual harassment complaints. Could you go through the five steps and what happens in them?

**Mr. Ross MacLeod (Assistant Deputy Minister, Governance Planning and Policy Sector, Treasury Board Secretariat):** I'll ask my colleague Martine Glandon to walk us through the five steps.

**Mrs. Susan Truppe:** That would be great.

**Ms. Martine Glandon (Manager, Values and Ethics, Treasury Board Secretariat):** The first step is acknowledging receipt of the complaint. We make sure the employee understands that if a complaint on the same issue has been dealt with through another avenue of recourse.... We have to see if it was dealt with elsewhere or if it's receivable.

We mentioned the 12 months last week. We want to make sure the written complaint is made within 12 months of the last incident. There are some criteria that need to be looked at.

**Mrs. Susan Truppe:** A written complaint within 12 months of the last—

•(0850)

**Ms. Martine Glandon:** Incident or event of alleged harassment.

**Mrs. Susan Truppe:** So if the employee had one incident, and you've acknowledged it, then do you need something in writing as well?

**Ms. Martine Glandon:** To me, the definition of harassment is a series of evidence. We're saying from the last evidence or the last event, the person has 12 months to go forward and put in a complaint of harassment.

**Mrs. Susan Truppe:** Right, if they're thinking about it.

**Ms. Martine Glandon:** Exactly.

Also, in step one, the party is made aware of the option of informal conflict resolution. They may go ahead with a formal complaint, but they may also go with either mediation or informal conflict resolution. That's mainly what happens in step one.

Step two is reviewing the complaint. We want to make sure the allegation meets the definition of harassment. There is a definition within the policy instrument that describes harassment. Then the respondent is notified whether the complaint is admissible. That's in step two.

Step three is exploring options. Based on the information provided, you decide if it should be fact-finding, if we should go through an investigation, or if an informal resolution is an option. So you're looking at all the possible options with the party.

**Mrs. Susan Truppe:** Sorry. Who's looking at that option? Is the person who was harassed looking at the option or is it the...?

**Ms. Martine Glandon:** The person within the department who is responsible—

**Mrs. Susan Truppe:** It's the department that decides the option...?

**Ms. Martine Glandon:** Well, it's a discussion with the—

**Mrs. Susan Truppe:** With the two?

**Ms. Martine Glandon:** Yes, and with the complainant as well.

**Mrs. Susan Truppe:** Okay.

**Ms. Martine Glandon:** Step 4 is rendering a decision and notifying in writing. Once the fact-finding or the informal resolution or the investigation is complete, then they render a decision and the parties are notified in writing of the decision.

Step 5 is restoring of the workplace. Even though restoring of the workplace is in step 5, we see it as something that should be done throughout the whole process. It's about talking to those who may not be directly involved, but who are part of the environment where the parties are working. It's something that managers should address to see if there are any needs, etc., and also, at the end, when the decision has been rendered, it's to make sure that everybody's okay. If there's anything we should be doing within the environment per se, it's done as well.

**Mrs. Susan Truppe:** Right, to do something with the environment to assist the person who was harassed. For example, if the result was favourable for the person who was harassed and it was in her immediate environment—if we're talking about a woman—then steps would take place in this step 5 to make sure that whatever the issue was, it's not in the same environment. So if another person was responsible, they'd be moved to another area? Whatever needs to be done?

**Ms. Martine Glandon:** Yes, it may be that, but it may also be just other co-workers. There might be an impact on the co-workers. There may be an impact on witnesses. It's everybody, not only the parties involved.

**Mrs. Susan Truppe:** Okay. Thank you.

You also mentioned Treasury Board's role as a monitor of departmental performance. How does Treasury Board monitor the performance of departments in regard to their policy on sexual harassment?

**Mr. Ross MacLeod:** We have a number of means of monitoring departmental performance. The main one we use is called the management accountability framework, which actually uses things like the public service employee survey, for example, to rate departmental performance in areas such as harassment and fulfillment of various policies. That information is actually used in the determination of deputy ministers' performance pay or pay at risk at the end of the year, so there is quite a lot of attention paid to it by departments.

We also have other possibilities to do follow-ups or audits if we need to in terms of ensuring compliance from departments. There's a framework for compliance that we can use, which has a progressive discipline approach, effectively, if we need to get to the bottom of something we're seeing that's disturbing us.

• (0855)

**Mrs. Susan Truppe:** Okay.

[Translation]

**The Chair:** Ms. Truppe, I am going to have to stop you there. Your time is up. Seven minutes go by quickly.

[English]

**Mrs. Susan Truppe:** Thanks.

[Translation]

**The Chair:** Now we are going to go over to the official opposition's side.

Ms. Ashton, you have seven minutes.

**Ms. Niki Ashton (Churchill, NDP):** Thank you.

[English]

Thank you very much for coming back for more questions on this study.

Picking up on your last point, Mr. MacLeod, around the management accountability framework, you referenced the survey, but this survey doesn't have explicit references to sexual harassment. Is that...?

**Mr. Ross MacLeod:** No. As you'll recall from our last presentation, we did not have that in the last survey.

The question was about how we actually monitor departments, so that's one of our main tools for monitoring them. As I mentioned in the last presentation as well, we will be having a look at survey questions for the next round. We always adjust them from survey to survey to take account of new issues and so on, and that's one, obviously, that we would be having a look at.

**Ms. Niki Ashton:** I know it came up last time, but I'm wondering why there isn't a question on sexual harassment.

**Mr. Ross MacLeod:** In doing a survey of that size, you're always facing a tension between how much you're looking for—how many questions you can ask—and your response rate, so we're always trying to balance the number of questions.

The news that led to the study of this committee wasn't that prominent at the time. We were actually designing the survey over a year ago. Given the evidence we'd had from previous discussions with departments, we didn't include it, but obviously, since the developments that have happened in the last year, we will be looking at that again.

**Ms. Niki Ashton:** In the description of how the policy on sexual harassment is implemented, it was made clear that there is no shortage of information made available to department heads and HR departments, and no one can claim that the written tools to prevent harassment are not being made available.

However, given that the overall levels of harassment are very high, the 29% that was referenced, I wonder about accountability. How is the departmental duty to prevent harassment being made accountable?

Are there mechanisms in place to ensure that the tools are being used in every department and agency? On accountability and oversight, what is being done?

**Mr. Ross MacLeod:** I'll just mention that Treasury Board's role with respect to its policies is monitoring, not oversight, but we do have those tools in place to actually do that.

We have a continual conversation with the leads in departments who are in charge of making sure that the policy is implemented. Our senior officials here at TBS meet with them regularly.

**Ms. Niki Ashton:** At the what? Sorry.

**Mr. Ross MacLeod:** At the Treasury Board Secretariat. We meet with them on a regular basis to ensure—and there's a series of communications that happens as well.

When the harassment policy was approved by Treasury Board, our communications went from deputies to heads of HR to the lead practitioners in the area of harassment prevention, and included messages to all staff and additional materials on the website. As I mentioned too, the feedback loop is really through the management accountability framework, as we know from the survey results.

Finally, if there were well-known and publicized incidents of harassment in organizations, we have the compliance framework to do a follow-up if we need to.

**Ms. Niki Ashton:** You mentioned that Treasury Board doesn't have an oversight role. It seems to me that the 29% is significant. Well, it's frankly shocking.

Why couldn't we have somebody in charge of oversight?

**Mr. Ross MacLeod:** The deputy head responsibilities in the Financial Administration Act give them the responsibility for that, so it's really a legal matter.

We monitor all of our policies, and we find, generally speaking, that the monitoring activities are fairly effective at bringing issues as they arise to departments' attention, leading to corrective action.

I should clarify too: it's a perception survey that we do, so this is people's perceptions of all types of harassment at work, from all sources. As Martine mentioned earlier, there is a formal process you go through to resolve harassment issues. Those become the documented cases of harassment. There is a step to take between the perception of harassment that's reported in the survey and the actual resolution of it. It's still a puzzle to us why there's such a big difference. We don't know yet.

• (0900)

[*Translation*]

**Ms. Niki Ashton:** How much time do I have left?

**The Chair:** You have two minutes.

[*English*]

**Ms. Niki Ashton:** We talked last week about culture in the workplace. We've heard from various witnesses about cultures conducive to a safe and healthy workplace, one without harassment.

I wonder if Treasury Board is taking into consideration the current times we're in, with respect to the significant cuts made to the public service and the kind of work environment that it creates for public servants, and of course with special attention to potential harassment, but also perhaps the increased unwillingness of certain people to come forward with harassment allegations because of the fear of losing jobs that are being lost currently in certainly a much tighter and much more challenging environment in that workplace.

Is there any understanding of that situation with respect to harassment and perhaps a plan of action?

**Mr. Ross MacLeod:** On monitoring what's happening in the workplace, I'll note that the public service employee survey was taken as the final proposals were being submitted to the government in preparation for Budget 2012. We were in the middle of that process at the time. The overall results of the survey, with a couple of unfortunate exceptions, were very positive in terms of the work environment.

There was one other question that related to employees' willingness to launch complaint processes. We found a rather high response rate in unwillingness to launch those, which I think is core to your question.

In the preparations the government made for the actual down-sizing we've been through in the last—and I've been heavily involved with those as well. We took great care to ensure that the workplace was restored and cared for as much as possible during that. Personally, I know the deputy ministers were very concerned about that, and had made that a priority.

**Ms. Niki Ashton:** Is there—

[*Translation*]

**The Chair:** Your time is up, Ms. Ashton. You are going to have to stop there.

Now we move back to the government side.

Ms. Ambler, you have seven minutes.

[*English*]

**Mrs. Stella Ambler (Mississauga South, CPC):** Thank you, Madam Chair.

Thank you to both of you today for coming back to tell us a bit more.

My questions will centre around consultation and training. When you were here last week you mentioned that consultation with employees is used to implement the policy as part of the process. I'm wondering how this works, and if you find that employees often have good suggestions, good ideas. Maybe you could give us an example of a policy that has developed from a suggestion made by an employee.

**Mr. Ross MacLeod:** Sure. I think we can answer that question on two levels. I'll answer the first one in terms of how it related to the development of the policies, and I'll ask my colleague, Martine, to talk about the details of the policy, because there is a requirement for deputies to include bargaining agents in the discussion within their departments.

We went through several months of consultation with bargaining agents in developing the policy. Our staff paid great attention to the proposals they had made to us, and one that I know was included in the policy was allowing two routes for a complaint process related to harassment.

We had originally thought that putting it through this five-step process that we talked about would be a good way to do it because we thought this was very restorative of the workplace. The bargaining agents were very insistent that they wanted to use a normal grievance process as well. So we have two routes in there, and that was a specific item that we kept in response to their suggestions.

They felt that people would be a bit intimidated by the formal process. A grievance process is a little less onerous, so we left it in the policy in response to their suggestions.

I'll now turn to Martine to discuss how deputies should engage bargaining agents in the actual implementation of the policy.

• (0905)

**Ms. Martine Glandon:** Thanks.

Following some discussion with the bargaining agents, when they said they had some information and they knew which departments may be having a bit more difficulty going through the process and may need a bit more enhancement to their process, we added a policy requirement that says something like "Regularly consulting with bargaining agents, informal conflict resolution practitioners, and other stakeholders..."

In a sense, we're saying that when you deal with harassment, don't do it in a silo. You have other colleagues in different areas within your department; have a great discussion with them and see exactly what's underlying all that. Is it a specific manager, a specific person? Have a bigger picture.

We have a requirement for a deputy head to discuss with other stakeholders what's going on as well.

There is also a possibility under the monitoring and reporting requirement, whereby we are allowing for some focus groups, so we're getting more information about what's working well and what's not working so well, and with different stakeholders as well.

**Mrs. Stella Ambler:** Thank you.

I think also last week we did touch on the training aspect, in particular whose responsibility it is to train employees with regard to what's acceptable and what's not.

I'd like to hear more about the School of Public Service, the kinds of training they do and their relationship with other departments. Is the training available on demand, is it mandatory, and what courses are offered to deal with sexual harassment?

**Ms. Martine Glandon:** I guess the courses that are offered by the Canada School of Public Service are more about harassment in general than sexual harassment per se.

I can't find the names, but three courses are offering that right now. I believe one is on investigation and the others are on harassment.

Each department decides if those courses should be mandatory or not. It's up to the deputy head to decide what should be part of their training curriculum.

**Mrs. Stella Ambler:** Are some of the courses for managers and some for the employees?

**Ms. Martine Glandon:** Yes.

**Mrs. Stella Ambler:** Okay, that's good to know.

Last week we also talked about lack of respect and the culture. I think that was you, Mr. MacLeod. That lack of respect creates a culture of harassment or a culture in which harassment can happen. The problem is that it's tough to legislate respect. What can we do as a government, as the Treasury Board Secretariat, to help create that culture?

**Mr. Ross MacLeod:** I think it's absolutely correct that you can't do this through rules. What we tried to do with this policy and the

new directive is back off the prescriptive rules as much as possible and encourage and require departments to actually build that culture of respect.

Culture is a sometimes difficult thing to latch onto. You can recognize a healthy culture when you see it, and vice versa. That's why we think, before we even get into implementing the exact rules of this policy, it is important that deputies create a culture of respect in their departments. Culture starts at the top. It is really important to model it to ensure that people feel safe and can actually raise issues. The core of it is this respect of one human being for another that actually allows for that.

I don't know that there's a culture of harassment anywhere, but I think people read the signals around them, and are very good at doing that. That's really the core of it.

What we've tried to do is give deputies all the tools they need to do it. We're not necessarily prohibiting things and giving detailed directions. What we've tried to do is say that these are the tools that will help them provide this type of workplace in their own contexts. Some federal workplaces are quite difficult, such as correctional services, border services, and so on.

• (0910)

[*Translation*]

**The Chair:** Thank you.

Now Ms. Fry has the floor for seven minutes.

[*English*]

**Hon. Hedy Fry (Vancouver Centre, Lib.):** Thank you very much, Madam Chair.

I'm just here for today, so I wasn't privy to all the questions you've asked and the answers that have been given. If I ask something that was already asked, can somebody tell me to shut up, because they know the answer? Now don't take that generically.

I am curious about a couple of things. One is the reluctance to report. We know why people are reluctant to report. There is a fear of recrimination, a fear of being fired, and a fear of ratcheting up of the harassment that's been going on.

You say that you want to make sure that people do not feel intimidated and that they feel they can come forward. But we have seen, in many instances, that when people do come forward, there are usually some underhanded ploys that are used. In other words, their credibility is impugned by somebody, somehow, in some leaked report. Suddenly we find things out about the person who is complaining.

It's not the overt intimidation I think people are afraid of. It's the covert intimidation in which their credibility is dismissed. We've seen that in cases of rape, where, of course, women are afraid because everyone said, well, you wore a short skirt and therefore....

This kind of credibility issue is an important one, and I think it comes to the level of a department itself, where the culture is such that people don't feel they have to be afraid. How do you create that culture in your department?

**Mr. Ross MacLeod:** Do you mean in the Treasury Board Secretariat itself?

**Hon. Hedy Fry:** Yes. How do you create that culture in departments as you set out certain guidelines for them?

**Mr. Ross MacLeod:** I really think it starts at the top in departments, and that's why deputy ministers are named in the policies.

There are a few other elements I should introduce. We introduced, on April 2, a new code of values and ethics for the public service. One of the elements is respect for people. It's written down, and the code is a condition of employment for all public servants in the public sector.

We have, as well, the Public Servants Disclosure Protection Act, which gives people quite strong legal protection in the case of disclosure of wrongdoing. And of course, this would be wrongdoing.

**Hon. Hedy Fry:** That actually answers a question I was going to ask, which is whether you have a screening process when you hire. You have a code of ethics that creates a formula for looking at new hires.

If you're not going to only rely on people reporting after the fact, do you monitor the workplace at all? Do you have monitoring structures in place so that people can be aware constantly of watching behaviour around them? This would be managers, mostly, who would be in an area where they could watch behaviour. Is there such a monitoring-cum-prevention kind of situation going on? Are you building on that somehow?

**Mr. Ross MacLeod:** The federal government is the largest employer in the country, so we're quite huge. In the past there were attempts by the Treasury Board Secretariat and other central agencies to do fairly detailed monitoring of what departments did. It was largely unsuccessful because it's very hard for us to see deeply inside organizations. That's why we have relied on deputy heads to ensure that this happens. The check that we have on them is the monitoring that we actually do through the management accountability framework and other instruments we can use if there are issues.

**Hon. Hedy Fry:** But deputy heads are not on the floor. When I was a minister, I knew deputy heads weren't on the floor. So how do you look at the on-the-floor behaviour? It's an ongoing environmental scan. How do you do that? Do you have managers who are asked to do that, which is what I was asking. I wasn't asking about the deputy heads—they're the last resort when people are worried or looking at the responses. What about the ongoing everyday management process?

**Mr. Ross MacLeod:** Many of them run very large organizations. The direction that we provided to them was very widely distributed, and managers and departments were encouraged to be aware of it. Heads of HR and lead practitioners for anti-harassment and values and ethics were also notified so that they could inform their departments. We evaluate departments yearly on the values and ethics element of the management accountability framework, and that's where these issues would reside. In cases where we were aware of issues coming up, we could also introduce additional measures to track what's going on. We think the key thing is creating the environment, and that starts with good knowledge on the part of managers. We've done our best to make sure they have that.

**Hon. Hedy Fry:** In the case of harassment, especially sexual harassment, it isn't so much about respect. Rather, it's about someone

using a position of authority in a particular way to intimidate. So the idea of sexual harassment is about a person with greater authority making people feel uncomfortable.

The thing about sexual harassment is that it doesn't have to result in an actual act. It can be based on the discomfort that someone can feel knowing that there are, for example, little overtures of inappropriate touching. Is there an early warning system, or does someone have to have a formal complaint saying something actually happened?

**Mr. Ross MacLeod:** We've graduated this approach so that people can deal with it quickly, and we encourage departments to deal with it quickly because harassment that's not dealt with is very damaging. There are a number of off-ramps that allow people to resolve matters quickly, so they're not locked into a year-long or a year-and-a-half-long process to deal with it. We're trying to encourage people to use the tools that are there to deal with things rapidly, so that they can effectively deal with the issues.

We know from the survey on alleged harassment that harassment comes from many directions. It's probably worth thinking about. It can come from people who are not superiors. That's just one thing we've noticed in the data. It's worth paying attention to the question in general.

• (0915)

**Hon. Hedy Fry:** I know. Sometimes having authority doesn't mean being a superior person; it just means being bigger and much more intimidating, using a kind of physical authority.

Madam Chair, how am I doing?

**The Chair:** You have 10 seconds.

**Hon. Hedy Fry:** Will the new policy that you've written cover managers?

**Mr. Ross MacLeod:** Yes.

**Hon. Hedy Fry:** And what will happen to non-represented employees? How will they be looked after in this new system? Currently, they're not represented by the unions.

**Mr. Ross MacLeod:** They still have full access to the protection of the policy.

**Hon. Hedy Fry:** But they have only one stream of access.

**Mr. Ross MacLeod:** You can launch a grievance even if you're not unionized.

[Translation]

**The Chair:** Thank you. I am going to have to stop you there.

Ms. James now has the floor for five minutes.

[English]

**Ms. Roxanne James (Scarborough Centre, CPC):** Thank you, Madam Chair. I want to welcome back both of our witnesses today.

I have a question regarding Treasury Board policy. Is the policy we're discussing here today something the Treasury Board makes up, or does it flow from or is it governed by legislation?

**Mr. Ross MacLeod:** It's connected to a number of pieces of legislation, like the Financial Administration Act, which details many of the responsibilities of deputy ministers. It relates to the ethics code, for example—

**Ms. Roxanne James:** Is sexual harassment in the workplace under the umbrella of other legislation? I don't think you've come up with the policies yourself.

**Mr. Ross MacLeod:** Yes, we developed them in the Treasury Board. But when you develop a policy for the government, an internal administrative policy, it has relationships to other legislative and policy instruments.

**Ms. Roxanne James:** Does that include the labour code or other —

**Mr. Ross MacLeod:** We are required to keep a safe workplace for employees, yes, so it's under the labour code.

**Ms. Roxanne James:** Thank you.

Going back, I know a couple of my colleagues touched on this, and I'm talking about the formal versus the informal method of filing a complaint or a grievance. Do you actually encourage one method over the other?

**Mr. Ross MacLeod:** We encourage people to use all the tools that are available. Again, from where we are, it's hard to see what every incident looks like. We do want to make sure that deputies have a range of tools available so that they and departments can deal with this in a holistic way. One advantage of the new policy is that it does provide a lot of avenues for resolution, some of which can be quite quick. What we encourage is really very case-specific.

**Ms. Roxanne James:** Thank you.

I have a private member's bill that deals with the complaint and grievance process within our prison system, but I see clearly in the statements you made on October 16 that there are two different types of formal mechanisms to filing a complaint. One is filing a complaint of harassment in accordance with the policy of harassment prevention and resolution; the second is filing a grievance. You're clearly differentiating the two.

What is the clear difference between filing a complaint versus filing a grievance?

**Mr. Ross MacLeod:** I'll start, and I'll ask Martine to join in.

As you'll recall, we originally proposed that we have one route, and the unions advised us in consultations that they would like to keep the grievance route. This is a fairly clearly defined process that we've set up within the policy. It is easier to trigger a grievance, and it's something that bargaining agents are more comfortable using from time to time. That's a tool they're more used to using.

Martine.

• (0920)

**Ms. Martine Glandon:** The other one is there because some didn't feel comfortable going through the grievance process, so way

back we decided that an internal process should also be available, and that's the complaint process.

**Ms. Roxanne James:** Why would someone not feel comfortable going through the grievance process? Again, I'm trying to determine what it is with one that would cause someone to choose going through the grievance procedure—that's a requirement, apparently, from the unions—or actually submitting or filing a complaint. I'm trying to figure out what would be the key difference, and why someone would choose one over the other. If it's a matter of feeling uncomfortable, I want to know why they would feel uncomfortable.

**Ms. Martine Glandon:** If I look at a comparison of the two processes in front of me, the grievance is the one that deals with the chain of command. The manager is involved, and higher up as well. With the complaint process, it is a delegated manager or a representative from the department who is looking at it, and they may be more distanced from the situation.

**Ms. Roxanne James:** Aside from the situation—they don't want to discuss it with someone who's—

**Ms. Martine Glandon:** Yes, that would be the main difference, I would say, between the two processes.

**Ms. Roxanne James:** Also, with regard to the informal mechanism, it says here that it includes discussions with an informal conflict resolution practitioner or with an employee assistance program counsellor. I'm guessing neither of these two are actually on hand in various organizations or departments, so how does that process actually get initiated? What happens in order to call in that resolution practitioner or program counsellor? What is required? We're not getting the full details here?

**Mr. Ross MacLeod:** Departments are required to have both available to their employees. They're delivered in different ways in different organizations, but they're all available to all employees.

**Ms. Roxanne James:** Are they present, so that you can knock on a door and say, "I have an issue", or do you have to go through someone to request that type of consultation?

**Mr. Ross MacLeod:** Employees can request it directly.

**Ms. Roxanne James:** Okay.

**Mr. Ross MacLeod:** Sometimes it's not in person. It depends on the set-up of the department. If you have a large, regionalized department, you may have to call the person and so on, but it is available to employees.

**Ms. Roxanne James:** Okay.

[Translation]

**The Chair:** I am going to have to stop you there. Your time is up.

Your turn, Ms. Ashton. You have five minutes.

[English]

**Ms. Niki Ashton:** Thank you. I'll be sharing my time with my colleague, Ms. Hughes.

It has come to our attention that in some departments...we heard the number 29%, but in some departments the numbers are higher, and in some a bit lower. In some departments, based on the numbers that are out there, women are experiencing more harassment than men. However, we don't know what kind of harassment, based on the fact that there is no such question.

Departments like Correctional Services of Canada have been noted as experiencing disturbingly high rates of harassment: 44% of women are harassed in this department. Indian Oil and Gas Canada, a satellite agency at Aboriginal Affairs, reported that 53% of women are being harassed. Of all female employees at Aboriginal Affairs, 39% are perceiving harassment.

I think we can all agree that these numbers are unacceptable, and we know from them that many cases, as noted earlier, are going unreported. Given this reality, I believe it's the duty of the committee to recommend that we find how many of these cases are sexual harassment in nature.

Beyond a new survey, which is obviously not going to be taking place until 2014, I'm wondering if you could suggest how, from your end, the lead could be taken to ensure that we get better data and get to the bottom of the kinds of numbers we're seeing here today, particularly those experienced by women, who, as we know, face a much higher rate of sexual harassment.

**Mr. Ross MacLeod:** There are really two key sources of data, one of which would be driven out of the actual complaint process itself. As I mentioned in my last presentation, we have asked departments for that in the past, in the MAF in 2009-10. The advantage of using a survey to do so is that people have anonymous answers to it, so I think they feel a bit more free to express their opinions about it. I will stress, though, that in a perception survey, it's a perception, and there is some more testing required to ensure whether the allegations are true or not.

There's nothing to stop an organization from doing a survey of their own, for example. For reasons of the size of the project and cost, it's very difficult to run a survey across the whole public service every year, but we do encourage departments to do surveys as they need to. In fact, a number of them do so. I'm not aware of any that have done it on this particular issue, but I think we could offer that as a follow-up to the committee, to find out if they have.

• (0925)

**Mrs. Carol Hughes (Algoma—Manitoulin—Kapuskasing, NDP):** Thank you very much.

I haven't heard all of the testimony, but from what I've reviewed, and from my experience in life, I can tell you that as a young woman working in a variety of retail sectors, I, myself, have experienced sexual harassment from management. I can also tell you that I worked for 13 years in the corrections service, so I know full well the difficulties that people face there, especially having worked as a union rep as well.

You mentioned that you recognize a healthy culture when you see it. I would challenge you on that, because sometimes in those areas things are hidden. We think everything's good, but it's not. I think we need to be very careful when we make those types of comments.

On the culture piece, we heard from you that you agreed that culture is a key in dealing with the problems of harassment. In the last meeting of the committee, a witness who is a lawyer and takes many cases of sexual harassment in the public sector said distinctly that if more women were in higher employment positions, the culture in federal workplaces would be less tolerant of harassment. I wonder if you agree or disagree with that statement. In your opinion, what kinds of specific proactive measures can be taken to ensure a harassment-free workplace?

You also mentioned that you've given them the tools, but it's up to the department heads whether or not they use those tools. I question that, as to why we would have tools and just leave it up to somebody to decide, as opposed to making it mandatory.

**Mr. Ross MacLeod:** I'll work from the last question back, if it's okay.

The department heads are required to use the policy. What we've said is to use the tools that are appropriate to your environment.

In terms of the question of representation, if you look at the data related to employment equity groups in the government, of course, of which women are one, we have very strong representation throughout the public service, and into the highest levels as well, approximately equal to their workforce availability. That's a fact that we have in the government.

**Mrs. Carol Hughes:** Are there less—

[Translation]

**The Chair:** I am going to have to stop you there, Ms. Hughes. Your time is up.

Now we move to the other side.

Ms. Young, you have five minutes.

[English]

**Ms. Wai Young (Vancouver South, CPC):** Thank you for coming back today.

I found it quite interesting what you were saying earlier, and what Ms. James was asking, in that there appear to be a set of policies and legislation scattered over different departments that have relevance to this issue. Would you say that's correct?

**Mr. Ross MacLeod:** The legal frameworks for the government are centrally held, typically, so the legislation related to our employees is mostly under the purview of the President of the Treasury Board, as are all the policies that affect them. There is one exception, which is the Public Service Employment Act. Most of it is under the purview of the Minister of Canadian Heritage and the Public Service Commission.

**Ms. Wai Young:** I apologize. I may not have caught this in the previous presentation.

Could you therefore list for me, so that it's clear in my head... because right now it's a little scattered, exactly the legislation...? State what the legislation is, how it flows, and within which departments. Today we heard about this code of ethics and conduct, which was a little new for me. Could you give us that framework so that it's clearer, in my mind anyway, as to how this works and how it all hangs together?

**Mr. Ross MacLeod:** For Treasury Board and deputy ministers, a key piece is the Financial Administration Act, which actually sets out many deputy responsibilities relative to their employees. There is the Public Servants Disclosure Protection Act, which allows for the disclosure of wrongdoing and protection of employees who do that, a protection from reprisal, for example. The Canada Labour Code requires the government, as an employer, to provide for a safe and healthy workplace for employees.

Those are the three main pieces of legislation that I can think of.

The values and ethics code is a stand-alone instrument that is a condition of employment, subject to the various requirements of those laws, which applies to the whole public sector, for example. It's the kind of special instrument that's quite unique in that respect.

Then there are the harassment policy and directives that are subsidiary to the other legal authorities that I described above, but particularly the Financial Administration Act.

Other Treasury Board policies relating to our employees generally follow from those authorities, depending on the specific nature of the policy. So they do cascade down from the original legislation. The code is a bit of an exception because it's a unique instrument; then the rest of the policies have to derive from some legal instrument. Most of them—the FAA, the Canada Labour Code, and so on—would relate to the ones having to do with the area that you're investigating.

• (0930)

**Ms. Wai Young:** Is it fair to say, then, that in the public service these acts, these codes, these policies, are shared, and everybody within the different layers of supervisory capacity and responsibility have been assigned different levels of this? Can it go from deputy minister, as Ms. Fry was saying earlier, down to the managerial level, down to the co-worker level even, because they have to have policies posted in the workplace, etc., so that people become aware and are familiar with these different policies and acts?

**Mr. Ross MacLeod:** Yes, they are all bound by them. They're bound by the law, they're bound by the code, they're bound by the policies, and it's their duty to know what their responsibilities are.

**Ms. Wai Young:** Exactly.

Would it be fair to say, then, that a manager working within a particular unit, whether it's the RCMP or Treasury Board, or wherever, ought to be aware of those things because that's part of their accountability, part of their monitoring, and it's part of their own evaluation, in terms of their job, might I even say?

I don't want to make it too simplistic, but in many ways they're responsible for the safety and for whether people feel comfortable coming forward with these allegations or not. It's their responsibility to ensure an open workplace, a comfortable workplace, and a safe

workplace, where their staff or their colleagues can come forward with these types of allegations.

**Mr. Ross MacLeod:** Correct.

**Ms. Wai Young:** So where that falls down is on this whole side of human interaction—is that correct?—where people either have cultural, linguistic, or different barriers, or they have different perceptions?

[Translation]

**The Chair:** Your time is up, Ms. Young.

[English]

**Ms. Wai Young:** Are we out of time?

**The Chair:** It's finished. Sorry.

**Ms. Wai Young:** Thank you very much.

[Translation]

**The Chair:** So I am going to give Ms. Ashton the floor for five minutes.

**Ms. Niki Ashton:** Thank you very much.

[English]

Last week, Mr. MacLeod, you mentioned certain sectors of the workplace. You used the word “sophisticated” in terms of the understanding of sexual harassment. I find that word challenging at the best of times, and I would certainly like to know what you were referencing in that context.

But recognizing that in some workplaces there is a different culture, obviously, I'm wondering what efforts are under way to understand that culture. Since you came, a number of our witnesses spoke about a deeply hierarchical nature, where women aren't in positions of decision-making. It's simply that hierarchical structure, but perhaps other things as well.

It's not enough just to understand. What is being done to recognize that these cultures must change and that they are unacceptable? Sophisticated or not, everybody knows that sexual harassment is wrong, and while it may take different forms in certain workplaces, or be more prevalent, what is being done to target and change the specific workplaces where there may or may not be higher levels of sexual harassment?

**Mr. Ross MacLeod:** The comment was made in relation to the varying levels of harassment. The only ideal level of harassment is zero. It's fair to say that all organizations in the Government of Canada have work to do to get to that point.

The context was that there are varying levels of harassment. If you look at the Canadian Human Rights Commission, for example, you will see it is among the lowest in terms of all kinds of reported harassment in the survey. That is part of it. All departments are required to have action plans coming out of the public service survey. All deputies have agreed to do that, and they're doing it. We will be reporting on their action plans as we go through the next rounds of the MAF. That isn't specific, of course, to sexual harassment, but all kinds, which is a good thing in terms of changing culture.

• (0935)

**Ms. Niki Ashton:** What's the timeline for that?

**Mr. Ross MacLeod:** This year they have to have a plan in for the MAF.

**Ms. Niki Ashton:** So would it be 2012?

**Mr. Ross MacLeod:** We'll be measuring the results this year following up on the survey results from last year.

**Ms. Niki Ashton:** Early next year....

**Mr. Ross MacLeod:** Yes. We are in the process of doing that right now, actually.

Having a plan in place would be a first step. In terms of the representation of people in the government, as I mentioned earlier, it is fairly close to labour force availability throughout, even at very senior positions. What remains a puzzle is, even with those conditions, how this still happens.

One thing we've found that has worked very well, in issues we've identified as problems through our monitoring with departments in the past, is making it known. Transparency is a good driver of better performance. We also have a public service management dashboard, where departments can share best techniques. In terms of doing it, for example, CRA ran a respect campaign a few years ago. They looked at harassment and discrimination, for example. They thought the core value they needed to work on was respect rather than treating the symptoms of the lack of it. Sharing those practices can, one, shed light on the issue, and, two, give people the actual practical tools to make a difference.

**Ms. Niki Ashton:** Thank you.

[Translation]

**Mrs. Anne-Marie Day (Charlesbourg—Haute-Saint-Charles, NDP):** Thank you for coming. It is greatly appreciated.

I have two questions for you.

When a woman is in charge, are there fewer cases of harassment, in your view?

How could this study, and everything we can gather from the witnesses, help you? How could we focus the study in order to find ways to reduce harassment in the workplace?

**Mr. Ross MacLeod:** Let me answer the first question first. In our view, it is not clear that the amount of harassment changes depending on whether the senior administrator, for example, is a man or a woman. From the results, that is not clear to us.

As to the second question, we feel that the process mentioned in the guidelines will help us a little in dealing with cases more quickly than before. In the past, the old process was difficult to follow. There were a lot of steps. In our opinion, the new approach will be better, in that less time will be needed in order to deal with the complaint.

**Mrs. Anne-Marie Day:** Thank you.

**The Chair:** Now we move to the other side.

Ms. Bateman, you have the floor for five minutes.

**Ms. Joyce Bateman (Winnipeg South Centre, CPC):** Thank you, Madam Chair.

[English]

I really appreciate that you've come back, because this is such an important area. I also appreciate how you've laid out the governing pieces of legislation. That's very important for us to understand.

I'm going to ask a couple of things for clarity. First, it's my understanding, and I want to hear if I'm right, that Treasury Board is the employer for all public servants. Do your policies govern all government departments and agencies?

**Mr. Ross MacLeod:** It's a somewhat technical question.

This applies to schedules I and IV of the Financial Administration Act, which is what we would commonly call departments and agencies in the government, or what we frequently call the core public administration, so that would be it. It would not apply, for example, to crown corporations, which are further out from Treasury Board. Treasury Board is not their employer, and neither is it the employer for the Canada Revenue Agency, for example.

**Ms. Joyce Bateman:** Right. That is a large group.

**Mr. Ross MacLeod:** Correct.

**Ms. Joyce Bateman:** Every department and agency, like PWGSC or the Freshwater Fish Marketing Corporation, would be governed by Treasury Board....

**Mr. Ross MacLeod:** Yes, if it falls into one of those.... I think those would. We would have to check, but any normal department or agency would fall into that category.

**Ms. Joyce Bateman:** Okay.

You've laid out the three actual legislative pieces. On the values and ethics, in your comments earlier this morning in response to questions from one of my colleagues, you mentioned that there's a new values and ethics piece.

• (0940)

**Mr. Ross MacLeod:** That was the values and ethics code for the public sector, which covers the entire public sector, the whole federal universe. It was introduced on April 2 of this year.

**Ms. Joyce Bateman:** On April 2 of this year?

**Mr. Ross MacLeod:** Correct.

**Ms. Joyce Bateman:** But values and ethics work was done previous to that as well.

**Mr. Ross MacLeod:** Yes. This code replaced the code that had been in place for about eight years.

**Ms. Joyce Bateman:** What were the substantive changes?

**Mr. Ross MacLeod:** We did a number of changes.

We have added a new value, which is excellence, to the public service values. We think it's very important that the public service strive for excellence.

There have been a number of changes to do plain language for more of the expressions, so some of the things haven't changed a lot, but we've made them much easier to understand. We also removed conflict of interest from the old code, which is where it was, in chapter 2, and we did a separate conflict of interest policy, because it has a very complex, technical nature to it.

**Ms. Joyce Bateman:** Okay. Maybe we can have that appended to your comments—the detailed structure and structural changes to that piece—because it's important.

You spoke about the managerial accountability piece for each deputy head under the MAF. You indicated very clearly that the performance pay of each deputy head is linked to their performance, whether it's with regard to sexual harassment or any kind of harassment in the workplace—heaven forbid—and lack of respect, so you have self-interest working for you. That's always a big motivator.

How does that trickle down? How do you see the best practices...? On the authenticity piece, as with everything, there will be some excelling. How do you see that working?

**Mr. Ross MacLeod:** The responses to the management accountability framework are very interesting. They come at two levels. One is that when someone sees that affecting their pay at risk, they pay attention. What is somewhat more interesting and powerful is the reputational effect it has on a department and an organization.

We have found that when a deputy head, across the whole management accountability framework, has what we call a “requires attention” or “opportunity for improvement” mark in one of the areas of management, they get on it very quickly, and it works down through the department very quickly. Organizations are set up to deal with it. Work is assigned and the responsible people are held accountable for it. In fact, this is an opinion, but I think that's a more powerful driver than the performance pay.

**Ms. Joyce Bateman:** I actually agree with you, because the reputational piece is enormous. On the authenticity you spoke of for various senior managers, there's always a problem about people just ticking the boxes, whereas those who are leading with authenticity and sincerity.... How do you distill those differences?

**Mr. Ross MacLeod:** You see it very—

[*Translation*]

**The Chair:** A quick answer, please.

[*English*]

**Mr. Ross MacLeod:** Yes, absolutely.

You see it very quickly. I run two areas of management of the MAF myself—people management and values and ethics—and they pay incredible attention to it. I often take the call when they're not happy with their results.

**Ms. Joyce Bateman:** That's wonderful. Could you append information—

[*Translation*]

**The Chair:** Ms. Bateman, your time is up.

**Ms. Joyce Bateman:** Is it possible to have—

**The Chair:** Unfortunately not.

[*English*]

**Ms. Joyce Bateman:** I'm just thinking in terms of a written response....

[*Translation*]

**The Chair:** Is it possible to send the committee a reply in writing?

**Mr. Ross MacLeod:** Yes. There is a lot of content in the MAF, the Management Accountability Framework. It is perfectly possible to provide that to the committee.

**Ms. Joyce Bateman:** For the purposes of our discussions here, values and ethics are key to our study on the prevention of harassment.

**The Chair:** Are you okay with that, Mr. MacLeod?

**Mr. Ross MacLeod:** Perfectly.

**The Chair:** Great. Thank you.

**Ms. Joyce Bateman:** Thank you, Madam Chair.

**The Chair:** We only have one minute left.

Ms. O'Neill Gordon, you have the floor for one minute.

[*English*]

**Mrs. Tilly O'Neill Gordon (Miramichi, CPC):** I have a question that I was wondering about. One of my colleagues may have asked it, but I don't think so. I was wondering about how often harassment is perpetrated by a co-worker, not by the superior, not by the manager.

**Mr. Ross MacLeod:** We have results from the public service employee survey on that. Would it be helpful if we just supplied those results to you? They are well known, and we could give you a fairly accurate picture of it.

**Mrs. Tilly O'Neill Gordon:** Yes.

**Mr. Ross MacLeod:** I think that would do more than what my commentary—

**Mrs. Tilly O'Neill Gordon:** That comment was made here earlier, and I was just wondering. From having worked in the workplace, most times I would say any kind of comments or something like that would come more from a co-worker than a manager.

●(0945)

**Mr. Ross MacLeod:** We were a bit surprised by the survey, how much of it came from where. I can just leave you that point, but we'd be happy to provide the data to the committee.

**Mrs. Tilly O'Neill Gordon:** Yes, okay. Thank you.

[*Translation*]

**The Chair:** And with that, we conclude this meeting with the Treasury Board Secretariat.

Thank you very much for agreeing to come back before the committee.

I will suspend the session for one minute, so that we can move in camera to discuss committee business.

[*Proceedings continue in camera*]







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