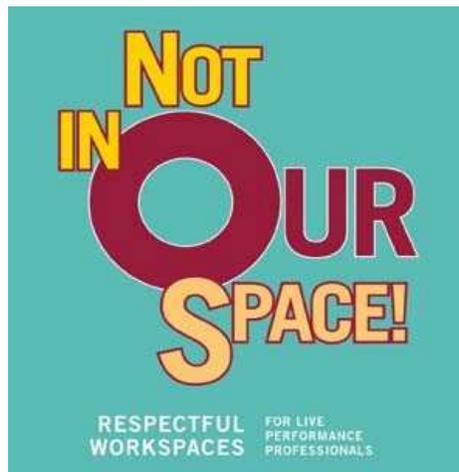


PER<sup>\*</sup>SISTENCE  
— Theatre Company —

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**RESPECTFUL WORKSPACE  
POLICY**

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*Based on the Respectful Workspace Policy as developed by the Canadian Actors' Equity Association (2017)*

Adopted by the PerSIStence Theatre Company Inc. Board of Directors - January 2018

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## **PREAMBLE**

Artists working in live performance have a right to workspaces free from personal and sexual harassment or violence\*.

PerSIStence Theatre Company Inc. is committed to:

- (a) the pursuit of safe and respectful workspaces for all working under its contracts; and
- (b) support for those who have experienced or witnessed workspace behaviours that do not reflect these standards.

\* See Appendix A for Definitions and Concepts

## **I WHO IS COVERED BY THIS POLICY?**

The protections under this policy apply to:

- (i) personnel under contract with PerSIStence Theatre;
- (ii) anyone in the workspace who experiences personal and sexual harassment or violence, from an individual under contract with PerSIStence Theatre.

## **II WHERE DOES THIS POLICY APPLY?**

This policy applies to:

- (i) all workspaces where work takes place under contract with PerSIStence Theatre;
- (ii) any additional work-related spaces such as:
  - (a) transportation and accommodation on tour;
  - (b) engager-organized social events;
  - (c) other events related to work, such as auditions; interviews, etc.

*Note: In some circumstances, this policy may apply to interactions that occur outside of the above-listed spaces, where the interactions or their repercussions have a strong potential to impact the workspace (i.e. social events for production members).*

### **III WHEN DOES THIS POLICY NOT APPLY?**

The policy does not apply to the following situations:

- (i) expressing differences of opinion;
- (ii) offering constructive feedback, guidance, or advice about work- related behaviour and performance;
- (iii) making legitimate complaints about someone's conduct through established procedure;
- (iv) providing reasonable direction to an individual in order to have the person improve their performance.

### **IV FAIRNESS FOR ALL**

PerSIStence Theatre recognizes its obligation to ensure that this policy and its procedures are fair.

Complainants must feel free to bring their workspace issues forward.

Those against whom allegations are made must have a full and fair opportunity to respond.

When both the complainant and respondent are covered by the protections under this policy, PerSIStence Theatre will listen to both parties to a complaint and provide a fair, unbiased third-party response, mediation, investigation and/or remedy as necessary.

### **V SHARED RESPONSIBILITY**

Both the organization and those who work with PerSIStence Theatre share responsibility for creating and maintaining respectful workspaces.

For the organization, that obligation is spelled out in government workplace legislation, as well as in various contracts and policies, both internal and external (i.e. for members of Equity).

Those who work with PerSIStence Theatre, too, have obligations to familiarize themselves with this policy and support it in the workspace.

## **VI PREVENTION THROUGH EDUCATION**

The primary purpose of this policy is to prevent personal and sexual harassment or violence from occurring in the first place. Where issues do arise, this policy provides a resolution-oriented process for receiving and investigating allegations of prohibited workspace behaviour.

To this end, PerSISStence Theatre is committed to working to ensure that all employees are made aware of workspace expectations in this area, as well as to providing resources and fair and impartial recourse when these expectations aren't met.

PerSISStence Theatre will produce specific informational material on respectful workspaces and arrange First Day Talks. PerSISStence Theatre will also produce specific educational material for its stage managers and deputies, describing inappropriate workspace behaviours under this policy, as well as frontline strategies for dealing with any issues.

## **VII RIGHT TO GO ELSEWHERE**

This policy provides internal mechanisms to address personal and sexual harassment or violence involving those working with PerSISStence Theatre.

At the same time, nothing in the policy is intended to prevent or discourage a complainant from choosing an alternative resolution process or legal action.

For example, human rights violations that relate to what is known as a protected ground may warrant the intervention of a provincial human rights tribunal. More information about protected grounds can be found in Appendix A.

If a complainant pursues such an alternative, PerSISStence Theatre may decide to terminate or suspend its internal response procedures.

## **VIII REPRISAL**

PerSISStence Theatre prohibits reprisal or threat of reprisal against individuals who make use of this policy, or who participate in proceedings as part of the response process.

If the Board of Directors determines that there are sufficient grounds to believe that members have engaged in reprisal or threats of reprisal, PerSISStence Theatre may commence the disciplinary proceedings.

## **IX DEFINITION OF TERMS**

This policy relies on the common definitions and concepts noted in Appendix A.

## **X THE SUPPORT AND RESPONSE PROCESS**

PerSIStence Theatre is committed to addressing allegations of workspace issues covered by this policy, to assist in finding an appropriate resolution and, when necessary, to investigate alleged infringements. Consequences can include:

- (i) reprimand;
- (ii) remedial action;
- (iii) termination of employment.

Restorative justice may also be considered as part of the resolution process. It emphasizes a non-adversarial, non-retributive approach to justice encouraging healing in victims and the meaningful accountability of offenders.

In what follows, use of the singular “complainant,” “respondent” or “employee” shall be understood to equally apply in the plural where such is the case.

Before contacting the PerSIStence Theatre Board of Directors, a complainant is strongly encouraged to write down some notes on the occurrences experienced or witnessed and to gather any relevant documentation.

This documentation and recollection of events will be very useful in helping everyone understand the situation. Suggested guidelines for note taking appear in Appendix B at the end of this policy.

The response options under this policy range from consulting with a Human Resources member of the Board of Directors, to informal or formal reporting to the Board of Directors, to an investigation process or disciplinary action by the Board of Directors. These are not mutually exclusive as an effective response may combine elements of all approaches.

## **XI CONSULTATION WITH PERSISTENCE THEATRE**

Any person who experiences or witnesses personal and sexual harassment or violence is encouraged to contact a Human Resources (HR) Committee member of the Board of Directors who will listen and provide an informed and supportive strategy for addressing concerns

Contact information for current members of the Human Resources Committee will be provided at the First Day Talks of all productions.

An HR Committee member will be able to offer general information and present the complainant with a range of response options. They will:

- (i) listen and make confidential notes about the workspace concern(s);
- (ii) note if the complainant believes that their safety (or that of others) is at risk or threatened and take appropriate action;
- (iii) identify that the complainant has the right to file a formal complaint with the Board of Directors, and assist with that process, if requested;
- (iv) identify that the complainant has the right to withdraw from any further action at any point;
- (v) identify that the complainant has the right to use avenues of recourse outside this policy, and that such action may suspend or terminate action taken within this policy;
- (vi) identify the time limits which apply to the process under this policy;
- (vii) address issues of confidentiality and anonymity related to this response process;
- (viii) identify additional resources that PerSIS tence Theatre or sister organizations have available;
- (ix) discuss with the complainant how they wish to proceed; and
- (x) follow up to determine the status of the situation and provide ongoing support as needed.

Notes taken by the HR Committee member are intended to supplement the complainant's own notes, and will be kept for at least twelve months after the last of the incidents reported. They may be retained longer if they are submitted as part of a more formal complaint process (see below), or where corroborative reports from other occurrences suggest there is a pattern of behaviour warranting longer-term monitoring.

## **XII INFORMAL RESPONSE**

The goal of this response option is to provide support for both victims and witnesses (potential complainants) so that problematic behaviour is dealt with quickly and efficiently.

An informal response may be used when the issue is relatively minor in nature and may be resolved through informal discussions with the relevant parties.

The HR Committee member will present a range of informal strategies for resolving the problem quickly, which may include:

- (i) reviewing the harassment policy;
- (ii) suggesting different response mechanisms;
- (iii) suggesting different approaches for discussing the concern;
- (iv) contacting key production personnel on the complainant's behalf, if requested.

### **XIII FORMAL REPORTING**

In some circumstances, a formal complaint to the engager may be necessary.

Some examples of when a formal complaint may be required include:

- if the result of an informal response is unsatisfactory (does not resolve the problem or if any party is dissatisfied);
- if there has been an act of physical violence;
- if anyone associated with the production/performance uses threatening language toward anyone else associated with the production;
- if anyone feels pressured into divulging personal information or to engage in a personal non-platonic relationship with anyone else associated with the production;
- if anyone commits a non-consensual sexual act or uses sexually explicit language or gestures toward anyone else associated with the production; or
- if someone uses their position of power to get anyone associated with the production to engage with them in a non-platonic manner.

When there is a serious incident, the Board of Directors should be immediately informed in order to help ensure the safety of everyone; ensure appropriate medical treatment is provided or sent for, if required; and contact the appropriate authorities as soon as possible.

Although not an easy thing to do, formal reporting involves talking to an HR Committee member of the PerSIStence Theatre Board of Directors.

An HR Committee member will be available to assist and provide support in preparing and making a formal complaint to the Board of Directors. Contact information for current

members of the Human Resources Committee will be provided at the First Day Talks of all productions.

An HR Committee member is also available for ongoing support and information. Finally, the HR Committee member will request a report from the Board of Directors once the incident has been resolved.

The complainant will most likely be asked to give written details of their concern(s) – the notes taken earlier will be critically important here. The more detailed the information available to the Board, the more they have to work with in changing the situation.

Depending on the situation, the Board may suggest, as a first step, acting as a go-between in addressing the issue with the respondent. As well, some form of alternative dispute resolution, such as mediation may be suggested.

An investigation into the allegations may take place and the Board should provide an estimate of how long the process will be.

Complainants should ask for a timeline estimate if none is provided.

The investigation will involve the complainant, the person against whom the alleged complaint was laid (the respondent), and any other individuals who can help the investigator(s) understand what took place.

### **POLICY ADMINISTRATION**

PerSIStence Theatre will administer this policy on an ongoing basis, with an emphasis on education and proactive monitoring, and updating as needed to keep the policy current and effective.

The following elements are key to the administration of this policy.

### **XIV OBLIGATIONS & SIGNIFICANT RISK**

When PerSIStence Theatre determines that a workspace situation poses a significant risk to those exposed to it, it will act prudently and to the best of its ability to address this situation.

This may mean that the procedures outlined in this policy, including those specifying confidentiality, will be set aside.

PerSIStence Theatre has an obligation to investigate potential workspace harassment, workspace violence or workspace sexual harassment even in the absence of a formal complaint.

If an allegation is such that an outside agency, such as the police, would be a more appropriate avenue for response, PerSIStence Theatre may refer or recommend referral of the matter and suspend any further internal response.

## **XV TIMELINESS**

The absolute best way to effectively address an alleged workspace problem is to respond quickly. Once a production has closed, it becomes increasingly difficult to respond in a meaningful and effective way. PerSIStence Theatre encourages anyone wishing to act under this policy to take the earliest possible opportunity to contact an HR Committee member.

## **XVI TRAINING**

PerSIStence Theatre will arrange for its HR Committee members to receive initial and periodic renewal training specifically geared toward response and support on the workspace issues addressed in this policy, as well as support and assistance for carrying out these responsibilities. Replacements, as needed, will be appointed and trained in a timely manner.

## **XVII CONFIDENTIALITY**

PerSIStence Theatre understands that it is difficult to come forward with a complaint of bullying, harassment, sexual harassment or discrimination.

PerSIStence Theatre staff, Board Members and third-party professionals involved in a workplace complaint will maintain confidentiality except as necessary to protect PerSIStence Theatre personnel, investigate complaints and take corrective action or as otherwise required by law.

Those involved in the investigation, including witnesses, will be advised that all information discussed during the proceedings will, to the extent possible, be handled discreetly in order to ensure a fair process for all parties involved.

Records pertaining to any application of this policy will be held in strict confidence.

## **XVIII ANONYMITY**

Confidentiality does not mean anonymity. It may be possible, in some circumstances, to maintain the anonymity of a party to a complaint. However, a fundamental principle of fairness in complaint proceedings is that the respondent must be able to knowledgeably address the details of a complaint, and that will likely involve informing them of the identity of the complainant.

PerSIStence Theatre will ensure mechanisms and strategies to address and respond to concerns and fears of reprisal as per provisions under Obligations & Significant Risk above.

## **XIX CONFLICT OF INTEREST**

A single HR Committee member may not work with both the respondent and complainant on an issue; two HR Committee members must be assigned.

Similarly, HR Committee members may not serve on a matter, in which they have a personal relationship with one of the parties or where involvement might place them in any other conflict of interest.

## **XX IMPACT vs. INTENT**

In all matters of gauging alleged negative workspace behaviours, the impact of the behaviour or condition will be considered to be of primary importance, rather than the intent behind the behaviour or condition.

## **XXI WITHDRAWING A COMPLAINT**

A complainant may withdraw a complaint at any stage in the response process. However, PerSIStence Theatre may continue to act on the issue identified in the complaint in order to comply with its obligations under law.

## **XXII COMPLAINTS MADE IN BAD FAITH**

Complaints which are trivial, frivolous, vexatious or made in bad faith will result in prompt termination of the response process. In the case where such a complaint has been made by PerSIStence Theatre personnel under contract, disciplinary proceedings may also be considered.

## **XXIII POLICY REVIEW**

The organization's Board of Directors will review this policy at least every three years. The policy may also be reviewed and revised as appropriate (e.g., in the case of a significant revision of an agreement or applicable legislation, or as a result of finding that a procedure contained in the policy is either contrary to legal practises or inoperable).

## **XXIV COSTS**

PerSIStence Theatre shall be responsible for the costs of the administration of this policy including the costs of any mediation or investigation services, incurred by PerSIStence Theatre on behalf of those protected by the policy. All parties retaining independent legal counsel or assistance shall do so at their own expense.

## **XXV ACCOMMODATIONS FOR FORMAL AND INFORMAL COMPLAINTS PROCESSES**

In order to ensure procedural equity and so that parties can fully access and participate in the complaints and resolution procedures outlined above, PerSIS tence Theatre will ensure accommodation of the special needs of all persons involved (e.g., documents in alternative formats, off-site and afterhour meetings, interpretation and translation).

## Appendix A

### DEFINITIONS AND CONCEPTS

The following definitions and concepts are those most commonly used in creating workspace standards and in identifying workspace issues. They may, however, be added to or altered by legislated or negotiated standards in a given workspace. Please understand these definitions to be a guideline, and that they may not be comprehensive.

### PERSONAL HARASSMENT

Harassment means engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome.

For the purpose of this policy, harassment includes comment or conduct initiated by one person towards another, which causes humiliation, offence or embarrassment, or which has the purpose or effect of unreasonably interfering with the person's work and/or creating an intimidating, humiliating, hostile or offensive environment.

Ordinarily, repeated comment or conduct is required to demonstrate harassment, however single acts of sufficient severity may also constitute harassment.

Harassment may include, but is not limited to:

- physically intimidating behaviour and/or threats;
- use of unwelcome profanity (swearing), vulgarity;
- ridiculing, taunting, belittling or humiliating another person;
- derogatory name-calling;
- inappropriate or insulting remarks, gestures, jokes, innuendo or taunting;
- unwanted questions or comments about a person's private life;
- posting or display of materials, articles or graffiti etc. (including social media/online), which may cause humiliation, offence or embarrassment.

Bullying is a distinct form of personal harassment and may include some of the following:

- loud, abusive behaviour;

- unjustified criticism;
- shunning behaviours (including withholding information, ganging up, deliberate isolation from colleagues or exclusion from joint activities);
- repeated delegation of demeaning tasks.

## SEXUAL HARASSMENT

1. Engaging in a course of vexatious comment or conduct because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome; or
2. Making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement and that person knows or ought reasonably to know that the solicitation or advance is unwelcome.

Sexual harassment may include, but is not limited to:

- reprisal or threat of reprisal for the rejection of a sexual solicitation or advance, where the reprisal is made by a person in a position to grant, confer, or deny a benefit or advancement;
- unwelcome remarks, jokes, innuendo or taunting about a person's body, attire, gender or sexual orientation;
- unwanted touching or any unwanted or inappropriate physical contact; such as touching, kissing, patting, hugging or pinching;
- unwelcome enquiries or comments about a person's sex life or sexual preference;
- leering, whistling or other suggestive or insulting sounds;
- making sexual or romantic solicitations or advances to a co-worker after it has been made clear by the co-worker that such solicitations and advances are unwelcome;
- inappropriate comments about clothing, physical characteristics or activities;
- posting or display of materials, articles or graffiti etc.(including social media/online) that is sexually oriented;
- requests or demands for sexual favours, which include or strongly imply promises of rewards for complying and/or threats of punishment for refusal.

## **DISCRIMINATION**

Harassment may also relate to a form of discrimination as set out in federal or provincial human rights legislation, which prohibits discrimination and harassment on the basis of certain protected grounds. Consult the applicable federal and provincial legislation for the specific list of protected grounds.

## **SYSTEMIC HARASSMENT/DISCRIMINATION**

Systemic harassment or discrimination includes policies, practices, procedures, actions or inactions that may appear neutral, but which effectively create conditions of discrimination or harassment. These practices are often embedded in an institution or sector, and may be invisible to the people who do not experience it, and even to the people who may be affected by it.

To combat systemic harassment/discrimination, it is essential for an organization or sector to create a climate in which the diverse needs of people are considered in all aspects of operations, and negative practices and attitudes can be challenged and discouraged.

## **NEGATIVE/POISONOUS/TOXIC WORK ENVIRONMENT**

Any or all of the above conditions can have the effect of poisoning the work environment for everyone. A person does not have to be a direct target of harassing or discriminatory behaviour to be adversely affected by a negative environment.

## **REPRISAL**

Reprisal involves any adverse action taken against an individual because he or she reported unwelcome behaviour, complained to an engager about unwelcome behaviour in the workspace, or participated in an investigation or legal proceeding relating to a complaint, including as a witness.

Reprisal also includes adverse action taken against someone who is associated with the individual opposing the unwelcome behaviour, such as a family member.

Examples of reprisal include:

- termination from the production
- denial of future work opportunities
- any other adverse action that would discourage a reasonable person from opposing the unwelcome behaviour

## PROTECTED GROUNDS

The Newfoundland and Labrador Human Rights Act (2013) protects people in our province from discrimination.

The Human Rights Act prohibits discrimination and harassment on the basis of the following prohibited grounds:

- Race
- Colour
- Nationality
- Ethnic origin
- Social origin
- Religious creed
- Religion
- Age
- Disability (including perceived disability)
- Disfigurement
- Sex (including pregnancy)
- Sexual orientation
- Gender identity
- Gender expression
- Marital status
- Family status
- Source of income
- Political opinion
- Criminal conviction (unrelated to employment)

The Human Rights Act also does the following:

- Prohibits discrimination because of a person's association or relationship with a person or persons who are identified by one of the prohibited grounds listed above.
- Prohibits retaliation against persons who have made a complaint or have given evidence or helped in some way in a complaint.
- Prohibits sexual solicitation or advances by a person who is in a position to give or deny a benefit.
- Ensures equal pay for same or similar work.
- Approves special programs designed to reduce or eliminate disadvantages suffered by certain groups of people.

Learn more at: <https://thinkhumanrights.ca/human-rights-act/>

## Appendix B

### **GUIDELINES FOR WORKSPACE NOTES**

The following are guidelines for complainant notes and forms.

The notes taken are intended to provide a clear and durable record of workspace occurrences that contravene workspace policies.

Since any response process will necessarily involve people who were not present “in the room” when the situation occurred, being able to bring those people up to speed is important.

HR Committee members can provide guidance during the documentation process, as some people may find it difficult to create a detailed account of their experience.

The more that is known, the better positioned PerSIStence Theatre will be to take appropriate action.

Notes should include:

- name of the respondent (person about whom the complaint is being made)
- details on the occurrence(s) in narrative or point form format explaining the incident and impact it had
- location, time and date of the occurrence(s)
- names of any witnesses to the occurrence(s)
- section of policy that the complainant feels has been contravened by the respondent
- form of harassment that has taken place
- preferred (if any) solution to resolving the issue
- any relevant documentation (either that the complainant has or believes to exist)

## Appendix C

### COMPLAINT AND DISCIPLINARY PROCESS

A formal report on an incident of alleged workspace harassment to the PerSIStence Theatre Board of Directors must include the following information.

1. Personal Contact Information – Complainant
2. Personal Contact Information – Respondent
3. General Grounds for Complaint
  - an act of harassment on a prohibited ground
  - an act of personal harassment
  - an act of sexual harassment
  - an act of violence
4. Specifics of the Complaint
  - What happened
  - Who was involved
  - When it happened (day, month, year)
  - Where it happened
5. Documents Supporting the Complaint
6. Confidential List of Witnesses
7. Steps Already Taken to Resolve the Complaint
8. Declaration of Complaint