



Human Resource Risk Management
Workplace Investigations
Corporate Training
Psychological Safety

Investigation Report

Leduc Fire Services

Report #1

Complainant: Mindy SMITH
Respondents: Chief George CLANCY "et al"

Date: January 10, 2021

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EXECUTIVE SUMMARY

- [1] On June 21, 2021, the City of Leduc HR contacted Veritas Solutions to conduct a workplace investigation into two allegations of discrimination and one allegation of harassment made by Mindy SMITH (the Complainant) an employee of the Leduc Fire Services (LFS), between 2018 and 2021.

Note: This report is one of five investigation reports coming out of other investigations/ complaints and concerns related to individual complaints, allegations of systemic discrimination/harassment causing a hostile work environment, and retaliation/harassing behaviour of the Chief, George Clancy. These reports are numbered 2,3,4 and 5.

- [2] The complainant is: Mindy SMITH an advanced care paramedic and firefighter with LFS.
- [3] The respondents are:
- Chief George CLANCY, LFS
 - Deputy Chief BO MOORE, LFS
 - Firefighter [Redacted] LFS
 - Other firefighters at LFS

The Main Allegations

- [4] The Complainant, who is open about her sexual orientation, alleged she was discriminated against on the basis of her sexual orientation when a LFS employee told her he did not think it was a good idea for the Complainant to share a room with her female practicum student because they are both lesbians. Additionally, the same employee is alleged to have said if the Complainant and the student were hanging out together outside of work, the Complainant should probably discontinue that behavior. The Complainant alleges this cause her adverse impacts.
- [5] The Complainant further alleges that when she returned from treatment for her mental disability, she was treated differently. She alleges that the differential treatment was associated to her mental disability and was discriminatory in nature, causing her adverse psychological and career impacts.
- [6] Lastly the Complainant alleged that she was harassed by members of the LFS Platoon #4 following a patient care report investigation conducted by the Complainant at the request of LFS management, the Complainant alleges she was intentionally omitted and isolated by a particular platoon of firefighters. She spoke to that platoon's captain and reported the bullying. The captain stated he knew bullying was occurring and said he would talk to his platoon; however, the Complainant was never informed if that actually occurred and is not aware of any steps being taken in regard to the complaint. The isolation continued and is part of a pattern of bullying and disrespectful workplace behaviour by members of the LFS, including the senior leadership.

The Investigation

- [7] The objectives were to:
- investigate the allegations to determine the facts and circumstances in relation to the complainants;
 - submit a report to the City of Leduc that makes findings of fact, with reasons, in relation to the allegations; and,
 - provide an opinion on whether Leduc City policies or provincial statutes had been contravened, particularly focusing on discrimination and harassment.
 - identify any serious risks revealed by the findings and propose recommendations to mitigate those risks.
- [8] Twenty-three (23) separate interviews were conducted of the individuals involved as complainants, respondents, or witnesses, along with the examination of five hundred pieces of information, including photos, text messages, e-mails, work schedules and organizational policies. This investigation should be read in conjunction with four other reports submitted. Report #2 -Christa Steele/complainant, Report #3 Tamara Osmak/complainant, Report #4 Systemic Issues and other Concerns, Report #5 retaliation, George Clancy/respondent.

The Findings

Discrimination based on Sexual Orientation

- [9] With respect to the allegation that the Complainant was discriminated against because of her sexual orientation, the investigator was satisfied that it was more likely than not that firefighter Redacted had treated her differently than other members of the LFS when he made the statement that it was not a good idea for the Complainant and her practicum student to share a room while on duty at the fire hall because they were both lesbians and also telling the Complainant that if she and her practicum student were hanging around outside of work, they should probably discontinue that behaviour.

- [10] This complaint was deemed founded

Discrimination based on Mental Disability

- [11] With respect to the allegation that the Complainant was discriminated against because of her mental disability, the investigator was satisfied that it was more likely than not that Deputy Chief MOORE and Chief CLANCY treated her differently, in a discriminatory way, than the other members of the LFS because of her mental disability, a protected ground under the *Alberta Human Rights Act*, RSA. The Complainant provided a number of different occurrences or incidents to the Investigator. Each of the incidents was investigated. Not all were founded allegations.
- [12] The investigation determined that DC MOORE told the complainant that LFS could not give her the deputy chief position because of her mental health, DC MOORE stating the Complainant was not doing well.
- [13] The Canadian Centre for Occupational Health and Safety has stated that negligent, reckless, or intentional actions can cause psychological harm.

- [14] While some of the specific instances or complaints made by SMITH were deemed to be unfounded, the Investigator found that it is more likely than not that many of the collective behaviours of the LFS personnel, including action or inaction by DC MOORE and Chief CLANCY were discriminatory, whether by negligent, reckless, or intentional behavior and actions.
- [15] This complaint was deemed founded overall, with some individual instances or examples provided by SMITH to be unfounded.

General Harassment/Bullying

- [16] With respect to the allegation that the Complainant was the victim of harassment by members of the LFS, particularly platoon #4, the investigator was satisfied that it was more likely than not that the Complainant was subject to abusive, unwelcome, unfair treatment that interfered with the Complainant's well-being and performance. The investigator was also satisfied that members of the LFS, and senior leadership, knew or ought to have known that this behaviour would have caused offense or harm. The investigator also finds that the said behaviour created a hostile or intimidating working environment for the Complainant.
- [17] The reasons for my findings are contained in the report that follows.

Discussion

- [18] Employees may perceive, either rightly or wrongly, that they are misunderstood, undervalued, and not treated in a respectful manner by their co-workers, supervisors, or the public.
- [19] As often happens in many workplaces, there were overlaps between discrimination and other legitimate factors in this matter.
- [20] The *Alberta Human Rights Act* prohibits discrimination in employment based on the protected grounds of race, colour, ancestry, place of origin, religious beliefs, gender, gender identity, gender expression, age, physical disability, mental disability, marital status, family status, source of income, and sexual orientation. Employers are expected to create an inclusive workplace that respects the dignity of every individual. This is not occurring at LFS in my view.
- [21] The Occupational Health and Safety Code 2020 at section 391 requires employers to train workers on various aspects of addressing and preventing harassment. In the investigator's view, LFS has not been successful in meeting this requirement.
- [22] With respect to the differential treatment of the Complainant because of her mental disability, the Alberta Human Rights Commission has stated that employers are not expected to hire or continue to employ anyone whose disability notably increases the probability of health or safety hazards to themselves, other employees and/or the public.
- [23] In October of 2020, the Complainant attended a call that triggered her PTSD. Although the response by LFS saved the patients life, the Complainant could not continue on with the remainder of her shift.
- [24] The Complainant had a recent history of suicide attempts between 2018 and 2021 and the concern that additional stress from the workplace could trigger more attempts at self-harm was

genuine in the investigator's view. This meets the criteria of a notable increase in probability for harm to the Complainant.

- [25] The Complainant is an advanced care paramedic who responds to life and death emergencies in Leduc. According to her return-to-work authorization from her doctor, the Complainant was unable to perform twenty-five separate physical and cognitive activities in any capacity at LFS after her relapse in November 2020.
- [26] Unfortunately, the manner in which management handled this situation at LFS was less than professional and compassionate.
- [27] The Complainant stated that by December of 2020, the Complainant had adapted a "nothing left to lose" campaign against management at LFS over the way females were being treated at LFS and other workplace grievances which the Complainant had been stockpiling for several years.
- [28] Unfortunately, the manner in which she was conducting herself was aggressive and disruptive and at times insubordinate, such as when she decided to hold middle management accountable for lapses in their skills and ethics on her own.
- [29] Effective communication between the Complainant and LFS management had all but collapsed by December of 2020.
- [30] This led to erroneous assumptions being made by both LFS management and the Complainant.
- [31] The Complainant then submitted her complaints, which was a collection of current and former grievances.
- [32] The evidence shows that the Complainant benefited career wise from the same individuals whom she now alleges discriminated against her or failed to stop those that harassed her. The Complainant now alleges that the preferential treatment she benefited from, which has now been withdrawn and bestowed on others, is improper and discriminatory.
- [33] In many ways, the manner in which the LFS Chief responded to the complaints and the investigation indicates that there is a possibility that systemic harassment in the guise of discipline and management may be endemic at LFS.
- [34] His comments, actions/lack of action and the appearance of tacit approval for harassing behaviour (e.g., his use of the derogatory "6-8 weeks" nickname to refer to another employee who has made a complaint) might be considered institutional betrayal, particularly where the LFS have failed to prevent or respond supportively to wrongdoings. This becomes more evident when one takes into the personal biases towards complainants (e.g., they are always negative, they are lying, they are wrong) that the LFS Chief expressed both in the workplace and during this investigation.
- [35] When coupled with the appearance/perception of favouritism, cronyism, nepotism and poorly handled complaints and grievances, the complainant's allegation that LFS has a toxic work environment becomes more fathomable.
- [36] Contrary to what the LFS Chief stated to the investigators, the accountability for the department's culture does lie with him.

Process Recommendations coming from the findings

- [37] It is important to note that discrimination and harassment have far-reaching effects, and more so in an organization where members tend to spend extensive periods of time together and rely on each other for ongoing mental health such as LFS. As well, they are dependent on each other for their safety, and potentially their lives on a daily basis.
- [38] Human rights issues arising in a workplace must be afforded LFS 's utmost attention and diligence. Employers have a responsibility to promptly investigate an allegation of discrimination. If an allegation is substantiated, the employer needs to take appropriate action to ensure the discrimination stops.
- [39] First responders are prone to mental health crises and disabilities due to the nature the trauma they are exposed to. LFS needs a professional support program in addition to its existing peer support program, for psychological injuries. LFS should be looking for a program that is administered by a health care professional, detached from the management at LFS.
- [40] Discipline based upon quality assurance audits is not a sound strategy. If process improvement and patient care improvement are the goals then administering discipline based upon the results of QA assessments of patient care reports will likely frustrate the CE and QA goals, by making the LFS membership distrustful of the process and resistant to cooperating.

End of Executive Summary

Part I - THE INVESTIGATION

SCOPE AND MANDATE

- [1] This report documents the results of a formal investigation into allegations made by Complainant SMITH of discrimination based on sexual orientation and mental disability while working as a paramedic and firefighter with the Leduc Fire Services, (LFS) from 2017 to 2021.

THE ALLEGATIONS

Allegation 1: Discrimination on Grounds of Sexual Orientation

- [2] In March-May 2017, Complainant SMITH was a preceptor for an Advanced Care Paramedic (ACP) student who was openly gay. At this time, Complainant SMITH was stationed at Leduc Fire Station #1, where females shared rooms in the fire station dorms.
- [3] During this time, she was approached by the LFS Practicum Coordinator, **Redacted** who said, "I don't think it's a good idea that you and your student share a room because you're both lesbians." Additionally, he said, "If you're hanging out outside of work, you should probably discontinue that behavior."
- [4] Complainant SMITH alleges his comments and direction to discontinue hanging around with the student constitute differential treatment based, in whole or in part, on the protected grounds of sexual orientation.
- [5] Complainant SMITH cites this as an example of a pattern of discriminatory action that adversely affected her with respect to her conditions of employment, and opportunity for promotion.

Allegation 2: Discrimination Based on the Grounds of Mental Disability

- [6] Complainant SMITH further alleged that when she returned from treatment for her mental health, she was treated differently, specifically: she was not contacted as required in the Leduc City abilities management policy for modified duties or return to work.
- [7] Complainant SMITH sites this as an example of a pattern of discriminatory action that adversely affected her with respect to her conditions of employment, opportunity for promotion.
- [8] When she returned to LFS, she alleges she was treated differently because of her mental disability. She alleges:
 - a) Between November 2019 and December 2020, she was removed from her teaching positions and committees without cause or any discussion how this would affect her mental health.
 - b) Complainant SMITH alleges that following her WCB complaint becoming common knowledge to LFS management, Complainant SMITH was no longer considered for acting time as a Captain.
 - c) The Complainant alleges that when she returned to Leduc after her last hospitalization, she noted that LFS management was treating her differently by not communicating with her and isolating her.

- d) The Complainant stated that she believed she was denied an equitable chance to compete for promotion to the deputy chief rank in January of 2020 because of her mental disability.
- e) LFS did not submit the proper paperwork when she took a partial shift off for a PTSD experience during a choking call on October 14, 2020. As a result, WCB could not complete the complaint of harassment.
- f) Between December 18, 2020, through to April 1, 2021, she was removed from the Fire Manager schedule causing her to deplete her sick time bank and causing further anxiety. This denied Complainant SMITH her working hours and wages for four months and/or workers compensation benefits.
- g) In November of 2020 she was harassed and disrespected by non-communication (isolation) when she informed her superiors of serious issues regarding legislation and policy violations potentially arising from the improper storage of controlled substances.
- h) On November 25, 2020, she was harassed and disrespected by non-communication when she informed her superiors of serious issues regarding legislation and policy violations around COVID – 19 protocols;
- i) On November 27, 2020, after being approved for training with the Psychological Health & Safety group, Captain MICHELSEN reversed the decision and denied her request for the training course.
- j) On December 17th, 2020, she was blind-sided with an impromptu meeting with DC MOORE, who alleged a myriad of issues that were not substantiated causing Complainant SMITH to leave her shift early.
- k) On January 29, 2020, and again on May 6, 2021, a member of the LFS accessed and collected health information about Complainant SMITH and then improperly shared that information with members of the LFS, contrary to the provisions of the *Health Information Act*, RSA.

Allegation 3: Harassment: Retaliation from Platoon 4: February 2018

- [9] Following a patient care report investigation conducted by Complainant SMITH at the request of LFS management, the Complainant alleges she was intentionally omitted and isolated by a particular platoon of firefighters. She spoke to that platoon’s captain and reported the bullying. The captain stated he knew bullying was occurring and said he would talk to his platoon; however, the Complainant was never informed if that actually occurred and is not aware of any steps being taken in regard to the complaint. The isolation continued and is part of a pattern of bullying and disrespectful workplace behaviour by members of the LFS.

GUIDELINES TO THE INVESTIGATION

The Investigator

- [10] Throughout the report the reader will be introduced to the third person term INVESTIGATOR and the first-person term I or I’m. For ease of reading and the purpose of this report, both terms should be interpreted as being the voice of the writer(s).
- [11] Investigator McCallum is to be understood as the lead investigator. Investigator Lemay is secondary investigator/analyst and co-writer of the report.

Other Contributors to the Investigation and the Report

- [12] Assisting investigator McCallum were Barb Sexsmith with interviews and Neil LeMay with analysis, research and report preparation and editing. Veritas Solutions Principal Director, Bob Stenhouse, provided oversight and quality assurance support and analysis.

Parallel Complaints

- [13] This investigation was conducted at the same time as two other complainants made allegations against some of the Respondents in this file, all who are employed at LFS. These additional complaints were addressed in separate reports numbered 2 and 3. Two further reports have been provided and are to be read in conjunction with this report and these have been submitted under numbers 4 and 5.

Evidence

- [14] In this report, "evidence" includes all the means of proving or disproving any matter (i.e., oral testimony, written records, demonstration, etc.). It does not include arguments on behalf of the individuals involved (sometimes called "submissions" or "representations"), which are usually made to persuade the decision-maker to take a certain view of the evidence.
- [15] Twenty-three (23) interviews of the individuals involved as complainants, respondents, or witnesses were conducted along with the analysis of five hundred pieces of information, including photos, text messages, e-mails, work schedules and organizational policies.
- [16] The majority of the twenty-three interviews were conducted by Zoom virtual interviewing, some by phone interviews and a few were asked additional questions via email. Several of the witnesses and Respondents were interviewed more than one time.
- [17] The Investigator provided each of the interviewees a preamble to the interview process and was invited to provide an initial free narrative of their concerns/perspective. This was followed by a focused discussion on a range of specific questions led by the Investigator. Each interview concluded with the interviewee being invited to share any concluding thoughts, reflections, or concerns or to address any important topic yet unaddressed. Interviewees were informed that they could take a break at any time during the interview. The Investigator also instructed the interviewees to keep the contents of the interview confidential to protect the integrity of the investigation.

Identifying the Issues

- [18] As the investigator in this matter, it is important to identify the issues. In order to do this, consideration of the policies and procedures of the LFS, as well as the relevant provisions in the *Occupational Health and Safety Act*, RSA and its regulations, and the *Alberta Human Rights Act*, RSA has occurred.

Credibility Assessments of the Individuals Involved

- [19] Credibility assessments are an assessment of a witness' honesty and reliability. Where there is more than one version of events from different witnesses, as an investigator, I am tasked with determining which version of events is the most consistent and in harmony with the preponderance of probabilities which a practical and informed person would readily recognize as reasonable in that place and in those conditions¹.
- [20] To assess credibility I as the investigator, will have to evaluate the source, content, and plausibility of what is offered by the various witnesses and individuals involved. When source, content and plausibility are strong, the evidence of that person is given more weight or importance when making a decision.
- [21] My decision making in this area is guided by the Courts, who have stated that "credibility" has two generally distinct aspects: Honesty and Reliability. Honesty speaks to a witness' sincerity, candour, and truthfulness when giving his/her evidence. The second, "reliability" refers to a complex admixture of cognitive, psychological, developmental, cultural, temporal, and environmental factors that impact upon an accuracy of a witness' perception, memory and, ultimately, testimonial recitation. The court further noted that even the evidence of even an honest witness may still be of dubious reliability².
- [22] Some aspects of credibility are positional or locational. Could the witness hear what they said they heard? See what they say they saw? Know what they claim to know?
- [23] Some aspects of credibility are weighted based on neutrality, impartiality, and objectivity. The more loyal a witness is based on relationships to one party, the more biased their evidence may be. Neutral witnesses may be more objective than partisan witnesses.
- [24] Closely tied to this is the concept of personal knowledge. Did the witness observe or hear what they are claiming, or where they told by someone else? This is called hearsay evidence and is often accorded less weight than personal first-hand observations. In the case of a witness where the complainant may have confided a concern, they are considered confidante witnesses and their evidence may provide support for the credibility of the complainant where noted.
- [25] I will also be guided in assessing the credibility of the involved individuals by the considerations set out in ASSESSING CREDIBILITY IN ARBITRATIONS AND IN COURT by the then Honourable Mr. Justice John D. Rooke, Court of Queen's Bench of Alberta, Edmonton, Alberta, March 20, 1996³ and the considerations set out Fraser Health Authority, [2004] B.C.C.A.A.A. No. 160⁴.

Weight

- [26] Once I have collected all of the available evidence as the investigator, I must then decide what evidence is relevant to the decision to be made (e.g.: did harassment or discrimination occur?)

¹ Faryna v. Chorny, 1951 CanLII 252 (BC CA)

² R. v. Taylor, 2010 ONCJ 396 (CanLII)

³ "ASSESSING CREDIBILITY IN ARBITRATIONS AND IN COURT: A Difficult Task for Judge, Jury or Arbitrator(s)," presented to the Canadian Bar Association Alternative Dispute Resolution Section (Northern), The Honourable Mr. Justice John D. Rooke, Court of Queen's Bench of Alberta, Edmonton, Alberta, March 20, 1996.

⁴ See the comments of Arbitrator Dorsey in Fraser Health Authority, [2004] B.C.C.A.A.A. No. 160, at para. 173.

Was LFS policy followed?). My analysis in this regard will consider which specific issues are potentially determinative of the complaints and allegations.

[27] Not all evidence is equally helpful in assisting a decision-maker to make findings; each piece of evidence must be weighed. For the purposes of this report, to "weigh" a piece of evidence means to assess its credibility and probative value.

[28] Weight will be assigned to the evidence according to its credibility and probative value. To simply this it has been illustrated in this matter⁵:

$$\text{Weight} = (\text{credibility}) \times (\text{probative value})$$

[29] Much like credibility, the probative value of evidence (i.e.: what does the evidence prove or disprove?), may not be entirely clear early in the investigation or analysis. Furthermore, evidence which at first appears not to be relevant may turn out to be relevant in the context of the entire evidence presented.

[30] Unlike a court of law, most evidence provided by the individuals involved is admitted, and any deficiencies in the evidence will go towards the weight I assign to it. Evidence that is considered but later found to lack any relevance or probative value will be given no weight.

Making Findings of Fact

[31] Once weight has been assigned to the evidence, I will make findings as to what facts have been proven. Findings of fact may include reasonable inferences drawn from the evidence. Unless specifically stated to be otherwise, in this matter, findings regarding alleged or disputed facts are made on a balance of probabilities.

Evidentiary Standard

[32] The standard of proof the evidence must meet in matters such as this is a "balance of probabilities", sometimes described as being "more probable than not", or "more likely than not" or that the chance of the allegation being true is more than 50 percent. The evidence must be sufficiently clear, convincing, and cogent to satisfy the balance of probabilities test. Proof beyond a reasonable doubt is not required in these matters.

Ancillary Occurrences Examined

12-year Service Medal

[33] During the course of the investigation, the Complainant alleged that she was discriminated against by LFS when they refused to give her 12-year service medal, despite the Complainant asking to receive it.

[34] Chief CLANCY responded to the following questions:

- a. Why was an invitation to the ceremony not extended to Ms. Smith?

⁵ *Maqonza v Canada (Citizenship and Immigration)*, 2019 FC 14 at para 29.

In August, I received a call from Human Resources Manager (HR), Sue Armstrong, to put a cease to any ride alongs on the ambulance, which I was participating in to identify current concerns with our EMS system. This order to cease was due to the belief of specific individuals that my ride alongs were a way for me to influence the outcome of the investigation. Of course, my reasoning for such ride alongs was in no way to influence any outcome of any investigation; it was to understand what my team was experiencing on the frontlines of the current EMS crisis in Alberta. To assist with eliminating this level of paranoia, I committed to the request of HR and ceased the ride-along initiative. I also chose at that time to not have any contact with the two individuals involved in the investigation; hence, my reasoning for not inviting Ms. Smith to the recruit graduation as it may be seen as a way for me to influence the investigation.

- b. Did you receive any information from Ms. McIntyre with respect to Ms. Smith's request to have the medal mailed to her? Who would typically be responsible for responding to requests such as Ms. Smith's?

I take pride in making sure my team are provided with the accolades they deserve as first responders. The Alberta Emergency Services Medal is an award that is presented by political leaders on behalf of the citizens of Alberta. To send this medal through the mail is something that I hesitate to do, specifically if I believe that the person will get the opportunity to receive this medal from our Mayor in the near future. I had, or have, no reason to believe that Ms. Smith will not be returning to her normal position, so I did not follow up on the request to mail it to her.

If having her medal sent to her in the mail is something that she wants, I can certainly make that happen; however, and as she lives in Leduc, I have no concern with having one of my team drop it off at her house. She can choose who she wants to deliver it. This will ensure that we do not lose it in the mail and have verification that we delivered it to her directly by a member of my staff.

The Complainant's Broken Vehicle Window

- [35] The Complainant alleges that as a result of the bullying from the platoon that was isolating her, that her window to her vehicle had been broken. With respect to the broken window on the Complainant's vehicle, it is possible that this was part and parcel of the harassment/bullying she encountered at LFS, however, in my view, there is insufficient evidence to find on a balance of probabilities that it was related to the Complainant's work or caused by a member of the LFS.
- [36] Complainant SMITH looked to the LFS management to compensate her for the broken window while it was parked on LFS property, assuming the window was intentionally damaged. In my view, their decision not to compensate her did not rise to the level of discrimination. Complainant SMITH's recourse should have been to report the matter to the RCMP for a proper investigation.

BACKGROUND

- [37] The LFS is an integrated/composite department whereby the thirty-two full time members are trained at the minimum of a primary care paramedic (PCP) and a Level I Firefighter. The preference is to hire advanced care paramedics, who have already acquired and paid for their highest level of paramedic schooling and their Level II Firefighter.
- [38] Complainant SMITH was hired by LFS as a full time Advanced Care Paramedic/Firefighter in 2013. She was the third female out of the thirty-two full time positions in the LFS. Complainant SMITH had previous experience as a paramedic prior to being hired by the LFS. Complainant SMITH is the first openly gay employee with LFS which is a male dominated workplace.
- [39] In October 2019 Complainant SMITH was diagnosed with post-traumatic stress disorder (PTSD) with concurrent substance abuse and filed Workers' Compensation claims about bullying and harassment while employed with LFS.
- [40] On May 6, 2021, she documented her allegations in a complaint pursuant in a Workers Compensation claim.
- [41] Complainant SMITH expressed feeling offended by comments, being isolated, bullied, disrespected, humiliated, falsely accused, and ultimately expressed anger that her career had been ruined. Complainant SMITH believes that her diagnosis and treatment of PTSD and Substance Abuse has been the basis for discrimination on the basis of her mental disability.
- [42] Complainant SMITH alleges the LFS has created a negative and hostile work environment that includes "a negative belief system about me to once supportive colleagues via whispering campaigns and gas lighting." Complainant SMITH's concerns relate to definitions outlined in the City of Leduc Respectful Workplace and Workplace Violence Prevention Policies

KEY INFORMATION

Complainant SMITH

- [43] Complainant SMITH stated:
- a) She was hired by the LFS as a full time Advanced Care Paramedic/ Firefighter in 2013; she was the third female employee in thirty-two full time positions.
 - b) She had to prove herself capable physically while in recruit training; there were three women and ten men in the class.
 - c) She worked out twice a day to keep up with the demands of the training. She felt she earned respect from her colleagues because of her physical capabilities, and she moved up quickly within the LFS.
 - d) She quickly adapted to the expectations and developed a close, professional relationship with Deputy Chief Broderick MOORE (DC MOORE) and Chief CLANCY. She also developed a very close relationship with two colleagues, KUHN and WIERENGA, who were also clinical educators.
 - e) When asked about her performance record, Complainant SMITH said that she has had no complaints on her file with the exception of one patient who complained Complainant SMITH made her go to the hospital, but it was a billing complaint.

- f) All four of these individuals knew about her medical diagnosis with PTSD/Concurrent Substance Abuse and knew in depth the struggles she had gone through and had overcome in regard to that diagnosis.
- g) Complainant SMITH took the initiative to complete many assigned and unassigned tasks. She was “blindly loyal” and would do anything that was asked of her by DC MOORE or Chief George CLANCY.
- h) Complainant SMITH stated that she did not totally agree with, and internally questioned some of the decisions being made by the Chief Officers but did not report or question anything because she was scared it would affect her ability to get a promotion to an officer ranked position, which the Chief Officers had made several comments Complainant SMITH was in line for. Complainant SMITH kept quiet and did what was asked of her to do.
- i) While on modified duties she wrote the Patient Care Report Audit policy, the patient care reports Writing, the Firefighter Rehab, the ISTAT policy, probably five policies and five guidelines.
- j) She stated this investigation was initiated when the complaint she submitted to the WCB alleging bullying and harassment at LFS and Leduc City Human Resources would not take her seriously.

The Impetus for Her Complaints

- [44] Complainant SMITH explained that in September 2019 when she returned to work, the City of Leduc hired Howett HR Consulting to implement a two-year program to develop knowledge and educate LFS about workplace safety. According to Complainant SMITH:
- a) This is when she began to realize what was happening to her.
 - b) SMITH admits that she had been “blindly loyal” and would do anything that was asked of her by DC MOORE or Chief George CLANCY.
 - c) Howett HR Consulting was there to make sure there was compliance with new psychological health and safety, and she was chosen to represent LFS.
 - d) This is where she learned about healthy boundaries.
 - e) In 2019 LFS made all its personnel watch a respect in the workplace video. Complainant SMITH believes it was based on a Calgary situation where a captain of 28 years was terminated over comments he made to female firefighters.
 - f) After they made everyone watch that video, it became worse because members mocked it and joked about it.
 - g) According to SMITH, DC MOORE said something like, how does something get worse after you try and roll out something? DC MOORE said, “We can't say that now” and he laughed. Complainant SMITH says you “become so desensitized to it, the type of environment and when you're in it, you don't want to ruffle anyone's feathers or make it worse for yourself because they can really make your life a nightmare.”
 - h) Complainant SMITH added, “it is the golden handcuffs, meaning they pay us so much money and you should just shut up and expect it. If we don't like it, there's 200 people waiting for a job so leave. That is very much the mentality.”
 - i) Complainant SMITH joined the psychological health and safety impact group at LFS. She felt everything they were saying on issues such as psychological hazards changed her perspective.
 - j) Complainant SMITH started to ask questions and started calling LFS management on things.
 - k) Two other LFS firefighters told Complainant SMITH they were not allowed to apply for full time positions because they were pregnant.
 - l) One of the firefighters did not get school paid for because she was pregnant.
 - m) Complainant SMITH understood LFS was wrong.

- n) She began asking questions because she was tired of the discrimination or harassment, and she felt it was being swept under the carpet at LFS.
- o) On September 23rd, 2019, Complainant SMITH attended an Officer's meeting where she brought up concerns to all the officers, including DC MOORE and Chief CLANCY. She told the assembled officers that, "the female staff do not feel welcome here."
- p) Chief CLANCY asked the entire officer group to put up their hands if they had heard or seen something to make the female staff think this way. The entire room put their hands up. This was a group of approximately twelve officers from LFS.
- q) However, nothing was ever done about this information. Complainant SMITH opines that when she brought up the issues, the look on DC MOORE's face told her she was "fucked." He looked at her like, how dare you? And Complainant SMITH believed DC MOORE felt she undermined him during the meeting so from that moment on she felt she had nothing to lose.
- r) Complainant SMITH felt it was not okay to "put a bull's eye" on her because she was asking harder and harder questions.
- s) Complainant SMITH stated that she had been diagnosed with PTSD and stress and it worsened in January 2020. She was being monitored closely by her family physician. Complainant SMITH had a change in her medication due to insomnia, which caused a reaction.
- t) On January 29th, 2020, the day after Complainant SMITH started taking Suboxone, she had a bad reaction, which dramatically worsened her anxiety and suicidal thoughts.

The Leadership Development Program (LDP)

[45] In 2016, she was encouraged by DC MOORE to apply for the Leadership Development Program which DC MOORE oversees at LFS. Complainant SMITH stated:

- a) In 2018 Complainant SMITH was the first female in LFS 103-year history to successfully graduate from the LDP), This was a two-year program that focused on leadership skills and qualifications on the fire side of business. Once completed it allowed the successful individual to move into the officer seat if a full-time officer was off work, which was a \$10.65/hour pay raise. It also allows that individual to apply for officer/leadership positions, should one become available. This is a coveted position for any employee aspiring to rise in the ranks. Being an LDP graduate means that you sit in the "right seat" as the Acting Captain of the engine truck.
- b) She experienced hip pain during training and DC MOORE told her that if she were hurt, she would fall behind her cadre. She estimates she was working 70-90 hrs/week.

Performance Evaluation Denied at End of LDP

[46] SMITH received her certification for completing the LDP, but she never received a performance evaluation while she was in the program or at the conclusion of the program.

Complainant SMITH'S Participation on Committees

[47] Complainant SMITH participated in several committees including:

- a) City of Leduc Drug Action Committee;
- b) City of Leduc Psychological Health and Safety Impact Group,
- c) Clinical Education Committee from 2014 – current. This committee is responsible for auditing patient care reports (patient care reports), investigating and providing feedback regarding significant medical calls, developing, and facilitating training on a monthly basis,

and collaborating with different organizations such as Alberta Health Services (AHS) and STARS to facilitate mandatory annual training;

- d) In 2015 Complainant SMITH became the Lead clinical educator.
 - The position involved scheduling and facilitating all the Clinical Education meetings, developed a lot of training, policies and procedures that pertained to the ambulance side of the job, and was the “go to” person for DC MOORE. The clinical educator Lead is the liaison for the hospitals and address new medical training and recertifications.
- e) After four years of proving herself and completing the LDP, she was put on modified duties because of hip pain, which eventually required surgery.
- f) During the time she worked modified duties, the Chief and DC MOORE asked her to write policy, Standard Operating Procedures, audit the Patient Care Reports, and internal investigations.
- g) Because DC MOORE does not have the medical background, he relied on the Complainant, KUHN and WIERENGA, all clinical educators. The Complainant was a go-to person that DC MOORE relied on between 2016 to 2019. She never felt she could say no to any task DC MOORE asked of her, especially the internal investigations on colleagues. She said she had no authority to discipline, for example, as an Acting Captain.
- h) She started to notice the changes in early 2018 while being on modified duties and completing tasks for the Chief and DC MOORE.
- i) Complainant SMITH said, she believes DC MOORE’s intent was not necessarily malicious, but she was removed from several committees, omitted from things she was normally involved in, and denied opportunity to work, without anyone speaking directly with her, psychologist, or a physician, and without just cause, beginning upon her return to work.

Removal from NARCAN Training

[48] In September 2019 Complainant SMITH stated that she was removed from the NARCAN training without being given any reasons or notification. She stated:

- a) She had arranged NARCAN training for LFS on her own time in addition to her work duties.
- b) On March 13, 2020, Complainant SMITH returned to work from being away in rehab, she asked to meet with DC MOORE, Doug Britton, and Jeri WOLFE because she was upset that they did not even communicate that she was no longer providing the NARCAN training.
- c) DC MOORE told her that they “kind of assumed she didn't want to do it anymore.” Complainant SMITH felt it was disrespectful to do that because of all the work she put into it.

The Fire Training Committee

[49] In February 2020 KUHN pulled her aside at shift change in the morning and said, she wanted to talk to the Complainant. KUHN told the Complainant that DC MOORE had informed KUHN that KUHN was appointed to the fire training committee. Complainant SMITH stated:

- a) She was upset because KUHN was not qualified; KUHN did not have her fire instructor certification and she was not in the officer program. KUHN told Complainant SMITH that DC MOORE just told KUHN she was on the committee.
- b) Complainant SMITH went to the chief to complain, asking him how KUHN was on that committee when she did not have her fire instructor courses but the chief did not know she was not qualified. Complainant SMITH asked him what the appropriate process was for her to bring up if she had concerns over that.
- c) The chief advised her to bring it up with the Labor Management group. **Redacted** leads that group so Complainant SMITH sent **Redacted** an email and said, can you please bring up the disparity in specifications for some of these committees and stuff and these training

opportunities. Complainant SMITH felt that some people get put on these committees based on preferential treatments.

- d) [Redacted] did not receive a response from management.
- e) At this same return to work meeting on March 13, 2020, she told DC MOORE that she wanted to be on the fire training committee and step away from the EMS training because she was in the officer program. SMITH had successfully completed her fire inspector certification prior to this meeting and felt because she was in the officer program she was qualified for the position on this committee.
- f) In July 2020, SMITH was informed by KUHN that she was given the Fire Training Committee position, which she also recognized she was not a firefighter level 2, she was not in the LDP course, and she did not have her Fire Instructor certification. MOORE was not the one to inform SMITH that despite having the conversation with her about her wanting to do it, he selected KUHN. MOORE stated that SMITH was unwilling to step down from the Clinical Educator Committee and that was the sole reason for not getting the Fire Training Committee. SMITH followed up with communication to [Redacted] lead for the Labour Management Committee, regarding the lack of process in place outlining how people are selected for these committees. [Redacted] did not receive a response from management. It shows a lack of transparency in the processes in LFS, which has a significant impact on those getting ready for promotions, which committee work contributes to the matrix scores.

Shared Accommodations

[50] With respect to the shared female accommodations, Complainant SMITH stated:

- a) Around April of 2017 she was the preceptor of an Advanced Care Paramedic (ACP) Student (hereinafter referred to as "Student "A"), who was openly gay. At this time, she was stationed at Station #1, where females shared rooms.
- b) She was approached by the LFS practicum coordinator, [Redacted] who said, "I don't think it's a good idea that you and your student share a room because you're both lesbians." Additionally, he said, "If you're hanging out outside of work, you should probably discontinue that behavior."
- c) She found these comments very offensive, as she did not talk to the student outside of work at all, adding, "We weren't even friends on social media."
- d) She reported the incidents to DC MOORE as she thought they were very specific towards our sexual orientation and advised DC MOORE she wanted to submit a complaint to the City of Leduc Human Resources.
- e) DC MOORE asked me to meet for a coffee outside the Fire Hall, so she met him. He talked her out of filing a complaint and said he would take care of the situation. She was never informed of any follow-up regarding the situation when the student completed her practicum in May 2017.

Isolation/The patient care reports investigations of Adam Swendsen and Jamie Junod

[51] With respect to the isolation she endured, she alleges she was subjected to after completed the Patient Care Investigation into the actions of Adam Swendsen, the Complainant stated:

- a) In March 2018 Complainant SMITH was involved in a patient care reports investigation of Adam Swendsen.
- b) In March of 2018, she was initially contacted by Dr. Schierer, the Director of Emergency Services at Leduc Hospital. He complained to Complainant SMITH, who was the clinical educator Lead at the time, that he suspected Swendsen had falsified his Patient Care Report (patient care reports).

- c) Dr. Schierer came to Complainant SMITH first rather than complain to Alberta Health Services (AHS), asking her to look into the matter.
- d) She "took it up" to DC MOORE and the clinical educator Committee investigated internally.
- e) Following the investigation Swendsen was disciplined, and he was upset with the outcome as well as the rest of his colleagues on platoon 4. Complainant SMITH said that the whole platoon took it out on her personally and there was a lot of back-lash from the floor because guys that had been there for a lot longer than she had, and she got promoted over them and they thought she was "out to get" Swendsen.
- f) Platoon 4 members felt Complainant SMITH was "nitpicking", and that she was a "rat".
- g) She spoke to her then friend/colleague, KUHN, on multiple occasions about the position she was put in and how she did not know it was right. She said she was treated differently, and management did not support her, they did not have her back when there was all this backlash against her and people started picking on her and bullying her, it was like psychological bullying where they come in and just ignore her, saying hi to everyone around her, but ignored her.
- h) She described the bullying in this manner:
 - She was performing modified duties at station 1, and when they would come in for their shift, they would not speak to me, would not say good morning.
 - If she came into the room or area where they were they would ignore her and continue talking to each other.
 - When she was facilitating hydraulic stretcher training, they would ignore her training instructions, and talk over her, they would not listen to her request for them to pay attention.
 - Their Captain, Mike LABUTES was right there in his office, and he did not do anything.
 - When I tried to speak to one individual about patient care reports concerns, he immediately got extremely defensive with me.
 - One individual made a comment, "what are you going to get us in trouble for today."
 - They would call her "DC SMITH" in a sarcastic manner, knowing she was not a Deputy Chief.
- i) She believes Captain Labutes knew what was going on because he told her he had to "put out fires" with his platoon about her. She believes he was insinuating his platoon was blaming her for the decision about Adam Swendsen.
- j) With respect to the patient care reports investigation of Jamie Junod, the complainant stated:
 - She along with Doug Britton, WIERENGA, and Steve Hyde, reviewed about 20 patient care reports from Jamie Junod, who in her opinion revealed was providing negligent patient care.
 - She reported it to DC MOORE which resulted in Captain Labutes giving Junod a verbal warning, but his poor documentation continued. After Complainant SMITH reported it, she documented it and when nothing came out of it, she got frustrated.
 - When asked how management ensured that personnel know that there is a new policy and how did they know that their members have read the policy? Complainant SMITH replied, "We don't, this is the problem. So, this is when they are being discriminated against because you have processes in place and they refuse, no matter how many times I've added back to them, talked to them and my concerns. And they could just repeat it. And it is not me betraying them or something, not being loyal to them. Every concern I was bringing up, had to do with lack of privacy, lack of processes, lack of follow through, lack of accountability, lack in your due diligence. So, I was very aware of occupational health and safety standards. And I was a supervisor there at AHS, I was aware that's the reason I think I was put in that position. I was constantly bringing these issues up and they just seem to not want to do anything about it."
- k) She stated that it was not uncommon for LFS members to make comments like:

- “Who are you going to tell on us about today?” or
- “What other crap are you telling us?”
- “What other crap are you writing a policy about?”

Damage to the Complainant’s Vehicle

[52] The Complainant report her vehicle was damaged. She stated:

- a) During this time, in addition to the intentional isolation, her truck window was smashed out while she was parked at the Fire Hall. This occurred approximately one week after the discipline came out about the decision made on the investigation she performed about a colleague.
- b) KUHN, Steve Hyde, and WIERENGA, all told her it was no coincidence that the window was smashed, and someone suggested she get the city to pay for the window, but when she asked DC MOORE, he said, no. The three of them had heard things being said about Mindy behind her back at shift changes, about how “pissed” they were at her.
- c) Management did not step in, and she spoke to DC MOORE about the rude remarks and the exclusion. He said he would take care of it but never did. Complainant SMITH stated, “It’s a hard position to be in because you don’t want to be that person that kind of runs behind other officers’ backs either.”

Behaviors of the Officer Corps

[53] **The Complainant’s Performance Evaluation**

- a) Complainant SMITH stated she never received a performance evaluation while she was in the program, from Complainant SMITH received her certification for completing the LDP but she never received a performance evaluation over the two years she was in the LDP program.

Refusing the Complainant Time-Off

- b) The LDP courses are held at the LFS fire halls and also at other locations. While Complainant SMITH was in LDP she had no issues, but while she was off and she was taking training courses she started bringing up issues, DC MOORE started refusing her time off for her officer program.

The “Princess Boss”

- c) Upon graduating from the LDP she was presented with a cake with pink icing and said, “Princess Boss.” Chief CLANCY presented the cake in front of an engine truck with just Complainant SMITH, no other graduates from her LDP were included. The Chief wanted her picture to celebrate the moment. She felt bad for the four guys that graduated with her but only she was receiving a cake and getting her photo with the Chief. Complainant SMITH felt it was going to put her in a bad spot because she felt they would think she is receiving preferential treatment.
- d) Complainant SMITH said, “The picture was just awkward because I saw some of the guys that were there and in one picture you can actually see the reflection in the side of the engine and you will see there are about 10 guys and their expressions can be seen in the truck reflection and she thought, “Oh God, I could see from the faces knew what they were going to say.”
- e) Complainant SMITH had this to say about being the first female in the LDP: “I got into the program, but you know, it feels like now they just wanted to have a female on this pedestal to like, this is a role model. So, we want to have the female and the officer rank, but they didn’t really want to support me when push came to shove. When I started to save space, I was backlash from the floor, you know? And then when I recorded it, they did nothing about

it. It was just like, they downplayed it, or they didn't take me seriously. That's what it felt like. They felt like they thought I was overreacting to things."

Mentorship of the Complainant

- [54] Complainant SMITH stated she was not given mentorship like other members of her LDP cadre. She stated:
- a) She asked DC MOORE for a mentor many times and eventually Captain MICHELSEN was assigned as her mentor; however, she felt he was annoyed that he had to mentor her.
 - b) During the mentorship with Captain MICHELSEN, she cited an example where Captain MICHELSEN is showing her how to fill in the Station Journal-Fire Dept. Management (FDM). Captain MICHELSEN told her, "Don't document so thoroughly that it makes us look bad."
 - c) No documentation related to her performance was received during the LDP or after.

The Annual Medical Conference

- [55] The Complainant stated she enquired about one of the other fire fighters attending an annual medical conference for the past five consecutive years when she had been previously told that she was not allowed to attend the same medical conference two years in a row because it would be "unfair to others"
- a) DC MOORE told her because WIERENGA had worked hard, so he was selected to attend the conference.
 - b) Complainant SMITH said that "I guess I haven't worked hard enough for the last five years."

The New Orleans Medical Conference

- [56] SMITH learned from MOORE that he and his wife, WIERENGA's wife, and KUHN all went to New Orleans together, which was the first ever medical conference DC MOORE has attended.
- a) "Everyone" at LFS talked about the picture KUHN posted on her social media account, they never went to any of the conferences instead, they just drank and partied the whole time.
 - b) The Complainant brought this issue up because when she goes to the conferences, she learns from the seminars she participated in and then she brought that information back to LFS and shared it with her colleagues.
 - c) She felt taking a vacation on city taxpayers' dollars was unethical.
 - d) She confronted KUHN about it and KUHN confirmed they "basically went to none of the courses."
 - e) The Complainant stated that KUHN was mad at the Complainant for bringing this issue up.

Controlled Substance Storage at LFS

- [57] The Complainant SMITH started sending emails about the lack of control over the controlled substances at LFS. She reported that she had observed controlled substances such as Versed, morphine, fentanyl and ketamine being stored contrary to the legislation controlling their storage.
- f) Complainant SMITH stated that in an email to DC MOORE, regarding serious legislative breaches with respect to storage of controlled substances, namely:
 - Six expired Versed, a controlled substance, in a non-controlled substance expiry box, which was taken out of the box on October 2, 2020
 - The cardboard box labelled "Controlled Substance" which contained morphine, fentanyl, Versed and Ketamine
 - The door of the drug storage room was left open and potentially accessible to the public from the ambulance bay area.

- Redacted also reported this date (November 5, 2020) there were six Versed in the medication safe at House #1, which was the same Versed from October 2, 2020.
 - Redacted reported that while doing the apparatus check all four of the Ativan were expired on unit FE4.
- g) November 5th, 2020, Complainant Smith sent an email to Captain MICHELSEN, Captain MURPHY, and DC MOORE expressing my concerns over staff not following LFS policy in regard to handling Controlled Substances. She sent the email because two staff members Redacted and Tamara Osmak) sent complaints to me. She did not receive a response to her email from any of the three officers. She advised there was no memo sent out to staff, and it was not looked into further. She photographed the open door to the Medication Supply room and the photo of the box with locks for the expired meds, which is accessible by the public.
- h) Complainant SMITH said she was worried about the public because there was no documentation. Despite advising management these were policy breaches nothing was done.

The Pump Operator's Course

- [58] Complainant SMITH brought to DC MOORE's attention that her female colleagues were excluded from the pump operator course. Complainant SMITH asked DC MOORE about why a certain female fire fighter was excluded from the course and he advised it was because "she was not around."
- a) Complainant SMITH explained that the female fire fighter Jaclyn was in paramedic school, and she works another full-time job.
 - b) Complainant SMITH pressed DC MOORE on the possibility that the female fire fighter could allege she was discriminated against based on her gender because she was the only candidate who was not approved for the pump operator course.
 - c) When the Complainant asked DC MOORE what a female has to do to be approved for the course, DC MOORE would not show her. Complainant SMITH suggested that MOORE took it personally and he basically told her to mind her own business, as she was spending so much energy on things that "do not affect her".

Targeting Others

- [59] Complainant SMITH stated that ever since she has started to attend LFS Officer meetings, she got an insider's view of what was actually going on at the Officer level.
- a) On several occasion she has heard Chief CLANCY and DC MOORE saying that they want to try and terminate Christa STEELE for using too much sick time. They have specifically referenced her by name in these conversations.
 - b) Complainant SMITH did not understand why they seem to be targeting STEELE, but later heard that she had an affair with Captain MICHELSEN. Complainant SMITH and Christa STEELE have started to have discussions about what experiences they have had.
 - c) Complainant SMITH said that Christa STEELE asked if she could come over and talk to her and this was in April of this past year – 2021. Christa STEELE read to her everything that had happened to her, that she had been pushed up against the wall during a staff function and Chief CLANCY tried to kiss Christa STEELE.
 - d) Complainant SMITH described the incident with the chief: "Christa STEELE basically said that you had an affair with [MICHELSEN] so why won't she have an affair with me?"
 - e) The Complainant stated Christa STEELE told her about firefighter Allan DIGNARD exposing his penis and showed it to her in the back of the ambulance.

The Motorcycle Rally

- [60] Complainant SMITH said what really pushed her was the motorcycle rally that occurred on August 9, 2020, where former LFS firefighter Vince BRAUN, who had been terminated for sexual misconduct, showed up at station number 2 for the rally/fundraiser.
- a) She stated the reaction, or more specifically: the lack of reaction from all the male staff and officers that were there was concerning.
 - b) Complainant SMITH stated she was appalled at how they were just okay with him being there and in fact, they invited him.
 - c) Complainant SMITH looked around and she noticed that Christa STEELE and Tamara Osmak were no longer present.
 - d) Complainant SMITH found Christa STEELE in the bathroom crying. She went out to talk to Captain MICHELSEN, ex-LFS firefighter former LFS firefighter BRAUN was participating in a photo op like he was a LFS employee in front of the engine.
 - e) Complainant SMITH observed all the other male officers were just letting it happen and no one was saying anything. Complainant SMITH told Captain MICHELSEN that two female employees were crying in the bathroom right now and former LFS firefighter BRAUN needs to be removed from the premises. He was terminated for sexual misconduct; however, Captain MICHELSEN did not want to do anything about it.
 - f) It took Complainant SMITH twenty minutes to convince him how this was so wrong that he was on the premises. Finally, Complainant SMITH convinced Captain MICHELSEN to call DC MOORE. DC MOORE said we do not really know the terms of the termination were, whether he could be allowed to be on premises.
 - g) Complainant SMITH conveyed that whether former LFS firefighter BRAUN could be on the premises did not matter because two female staff that are working are crying in the bathroom and he needs to be removed.
 - h) Complainant SMITH told DC MOORE that it was LFS' job is to take care of our staff that is working right now, but they did not seem to want to do anything about it. As a result of the lack of reaction from anyone, Complainant SMITH said, they made her feel like she was blowing this out of proportion. She stated, "I was being emotionally unstable" and, in her view, they were gaslighting her and others.
 - i) Complainant SMITH stated, she asked why females BRAUN sexually assaulted, would feel safe coming forward? That same day [Redacted] Complainant SMITH was working with [Redacted] and he said to her, 'just so you know all the guys here think that BRAUN was "witch-hunted," none of them believe you guys, that anything happened. He's like, it's very common that as a guy, "I think you were trying to witch hunt" former LFS firefighter BRAUN.'
 - j) Complainant SMITH stated it does not say it has to be criminal and charge it just at the employee. If that employee is terminated by the employer or anything that is sexual misconduct in nature or the employment deems sexual misconduct, they have to report it to the college paramedic. DC MOORE knew about mandatory reporting because he reported Adam Swendsen to the College of Paramedics for his fraudulent documentation. So, he knew about the mandatory reporting.
 - k) Complainant SMITH stated that she sent the letter of complaint about the motorcycle rally on August 9, 2020, to HR and asked them to keep her anonymous because she knew she would be retaliated against.
 - l) SMITH was not confident that LFS would do anything about the behaviours of the members who supported BRAUN and intimidated the complainants of that investigation and who were working at the station on that date.
 - m) Complainant SMITH told DC MOORE that she too, was a victim of the inappropriate touching by BRAUN in 2016.

- n) SMITH did not report her own experience, similar to the other complainants, during the investigation. SMITH stated that in 2016 BRAUN cornered her in that stock room and coerced her into putting the sash on for him to measure her, touching her chest area.
- o) SMITH told MOORE she knew how the women felt when everyone else did not believe them because it happened to her too, but she had not reported it at the time of the investigation.
- p) Complainant SMITH said, she and DC MOORE talked about this, and she reprinted that letter so they could discuss it. She said, how do you think the women in this department feel when there's no repercussions to this behavior? Complainant SMITH herself felt let down after all she has done for management. She felt he was looking at her like she was emotionally unstable and that is how she has been "chalked up because she has PTSD."

The Response from LFS (DC MOORE)

- q) Complainant SMITH alleged that HR did not keep her name confidential because DC MOORE stated in their meeting on December 17th, that he knew Complainant SMITH sent that letter to HR, which she believed he felt undermined by her
- r) Complainant SMITH stated that she sent the letter to HR and asked HR to keep her anonymous because she knew she would be retaliated against.
- s) Complainant SMITH admits to DC MOORE that back in 2016 former LFS firefighter BRAUN cornered her in that stock room, so she explained she knew how the women felt when everyone else did not believe them, it happened to her too, but she had not reported it at the time of the investigation.
- t) Complainant SMITH said they did not investigate that, and he should have been reported to the Alberta College of Paramedics because employers mandated to report sexual misconduct. If an employee is terminated for it, he is still practicing, he still has his license.
- u) Complainant SMITH recalled a conversation she had with DC MOORE about how management did not support her in this incident and DC MOORE told her we supported you when you submitted that complaint to HR and Complainant SMITH realized HR had not maintained her anonymity. Complainant SMITH was surprised that he said it because I asked to remain anonymous. She said, how did you support me? No one has been suspended, none of them, DC former Deputy Chief CHRISTENSEN, who we think is the one that invited him at that point in time, was not terminated.
- v) Complainant SMITH said, she and DC MOORE talked about this, and she reprinted that letter so they could discuss it. She said, how do you think the women in this department feel when there are no repercussions to this behavior? Complainant SMITH herself felt let down after all she has done for management and hey look at her like she was emotionally unstable and that is how she has been chalked up because she has PTSD.

The Choking Call

[61] On October 14, 2020, Complainant SMITH attended a choking call that really shook her up.

- a) The Complainant stated she had contacted her psychologist on October 14, and it was he who told her to take the rest of the day off.
- b) She discussed the call with her platoon and Captain MURPHY and went home early from her shift. It was reported to DC MOORE and Captain MICHELSEN.

The COVID-19 Exposure - Lack of patient care reports

- [62] Complainant SMITH stated on November 25, 2020, she received notification from AHS about a positive COVID exposure to one of the engine crews at LFS. However, she could not associate a patient care report (patient care reports) to the incident.
- a) She sent emails to DC MOORE about the absence of a patient care reports and not knowing what PPE equipment the crew was using and she got no response from DC MOORE regarding her concern.
 - b) Two days later DC MOORE sent out an email to four of the five committees the Complainant led (Fire Training Committee was the exception) suggesting a change to the leadership, of which Complainant SMITH was the Clinical Education Lead.
 - c) Complainant SMITH stated she was extremely upset about this and resigned as the clinical educator Lead and subsequently resigned from the whole committee. Chief CLANCY apologized to Complainant SMITH for how he handled that. Complainant SMITH had no communication with LFS because she was isolated at home with COVID symptoms at that time.

Nepotism at LFS

- [63] Complainant SMITH stated that she raised the matter of the hiring of Chief CLANCY's daughter and son to the LFS. SMITH believes that the Leduc taxpayers paid around \$25,000.00 to train the Chief's son and daughter as firefighters.
- a) Complainant SMITH stated that there were plenty of fully trained applicants who should have been hired, avoiding the extensive training costs to the taxpayers.
 - b) She believes it to be a "massive conflict of interest" when the Chief has the City of Leduc pay for his kids' education.

December 17 Meeting with DC MOORE

- [64] Complainant SMITH stated her first shift back into the firehouse was December 17, 2020, and she was acting Captain for that shift. DC MOORE asked to meet with her. Complainant SMITH assumed it was about him removing her from the clinical education committee. Instead, he blindsided her with many allegations and she had no chance to get union representation according to Complainant SMITH.
- a) Complainant SMITH explained how the meeting with DC MOORE went from her perspective, "the first thing he said to me in that meeting was that Chief CLANCY ripped him a new one because of how he removed me from the clinical education lead, but he never really apologized for how he handled it. He seemed madder at me because the chief was mad at him".
 - b) DC MOORE went on to say that people were talking about how I was impaired at work. She asked him to provide any sort of incident or documentation to substantiate the impairment allegation.
 - c) DC MOORE told her it was because she went home after experiencing psychological trauma at the October 14 choking call.
 - d) The Complainant stated she had contacted her psychologist on October 14, and it was he who told to take the rest of the day off.
 - e) DC MOORE then told the Complainant that she was "too emotionally unstable to be at work." When she asked him how he came to this conclusion, DC MOORE told her it was because of response to the October 14th choking call.

- f) Complainant SMITH was taken aback by DC MOORE's comments, and he went on to tell her that she reminded him of his brother when he was using drugs, his brother died from a drug overdose. This meeting was a three-hour meeting, and she did not know half the things he was saying to her or where he was getting his information from.
- g) DC MOORE told her that he had heard she was liquidating her assets, her wedding had been called off.
- h) When she asked where he got this information from DC MOORE insinuated that it was WIERENGA and KUHN telling him this stuff, but he would not come out and tell her who the source of information was.
- i) DC MOORE also proceeded to ask the Complainant if she was "drinking again." She stated she felt obligated to tell him she had relapsed a couple times, "but it wasn't really any of his business" as she was not doing anything illegal or that compromised her position. The Complainant stated that she felt like DC MOORE was violating her privacy.
- j) Complainant SMITH was so upset by that time, she was crying, she was embarrassed and humiliated; she felt blindsided, so she asked DC MOORE to find coverage for her shift and left the station. Complainant SMITH said, "there's no way I can be a captain tonight and potentially lead this crew into a dangerous situation. So, she asked to go home."
- k) Complainant SMITH stated she was taken off the schedule for the rest of the shift on the 17th as "other".
- l) Complainant SMITH stated she slept on it, but the more she thought about it the next day, she was just in disbelief. She thought about the stuff DC MOORE brought up in this meeting and the fact he brought it up in the middle of her shift (meeting was 1600 hrs).
- m) Despite DC MOORE stating he was concerned about her she felt his decision to speak to her without union representation made his claims about his concern for her questionable. She felt he could have spoken to her the next morning when she was going off shift.
- n) Complainant SMITH stated that DC MOORE said he was confronting her because he "cares about me, yet he hasn't called, emailed or texted one time since this meeting."
- o) After about a week Complainant SMITH asked some of her colleagues if they heard she was "liquidating assets and my wedding had been called off?" They responded, "no, not at all."
- p) Complainant SMITH stated that she felt so undermined, humiliated, and falsely accused from what was said in this meeting. "I felt like I had no opportunity to defend myself or even comprehend what was being said to me and what I was being accused of."

December 18 Relapse

[65] The Complainant stated

- a) that on December 18th, 2020, she was so upset about the meeting with DC MOORE the day before, she started mixing her medications with the alcohol. A friend from BC who was in Rehab with her was on the phone with her, so he called the ambulance (which was a City of Leduc Ambulance). She was transported to the Grey Nuns Hospital where she spent the night and had a consult with the Psychiatrist from the Emergency Department the next day.
- b) The physician she spoke with discharged her home and back to her regular routine as he felt it was an impulsive, isolated decision because Complainant SMITH was upset, and she had a plan in place to see her psychologist as soon as possible and to attend Narcotics Anonymous meetings.

The Complainant's Removal from Duty

- [66] Complainant SMITH stated that following the December 17th meeting with DC MOORE she asked to go home early from her shift. She left crying and out the back door to avoid being seen by colleagues. She stated she started thinking about the meeting and all the things DC MOORE had said to her in the meeting, and she was so upset and humiliated because she left the hall crying in front of all her colleagues on December 17.
- a) Complainant SMITH stated she relapsed in her efforts to remain sober on December 18. She stated:
 - b) She was talking to a friend on the phone from BC, who was in rehab with her as another paramedic, who knew she had not consumed alcohol in a long time. She informed the friend that she was mixing her prescription medication with alcohol.
 - c) The friend was worried about the Complainant, so he called 9-1-1 and an ambulance came, took her to the hospital.
 - d) Complainant SMITH saw her psychiatrist at the hospital, who told her he thought it was an impulsive, isolated decision because she was upset about the meeting at work with DC MOORE and he discharged her home that day.
 - e) The morning of December 18, 2020, SMITH reached out to DC MOORE via text, thanking him for the meeting. She stated she advised DC MOORE that she would take into consideration what he told her, and she would make a better effort moving forward.
 - f) The afternoon of December 18, 2020, Complainant SMITH received automated text messages from LFS saying she had been put off work for three months. At this point, she had not informed anyone at LFS that she had been discharged from hospital.
 - g) In her view, somehow DC MOORE found out she had been admitted to hospital, which she felt was a confidentiality breach.
 - h) In her view, DC MOORE should have never known Complainant SMITH was discharged the next day.
 - i) As well, she believed she had been improperly placed off work because she had not requested it, she had not provided a doctor's note recommending she take time off, nor had LFS contacted her doctor or her psychologist to determine her fitness for duty.

Denying the Complainant WCB Benefits After Suspending Her from Duty

- [67] Complainant SMITH was expected back to work on the 23rd of December. SMITH received an automatic email on December 22, 2020, at 1345 hrs that told her she was scheduled off as 'other' from January 11, 2021, to February 1, 2021, and she received another notification on December 22, 2020, at 1345 hrs informing her was scheduled off as 'other' from December 18, 2020 to January 11, 2021. The emails were sent by Annette Rutherglen approved by DC MOORE.
- a) SMITH was prepared to go back to work but once she received the email notifications, she knew that MOORE had gotten replacements for her shifts already. Complainant SMITH was conflicted because she knew DC MOORE arranged coverage of her shifts, but her shifts included being in the acting captain position for the rest of the month.
 - b) Complainant SMITH decided she really did not want to return to work and further difficulty occurred because she could not get in contact with her psychologist, who was away for the holidays.
 - c) There was no communication between MOORE and SMITH after December 18.

- d) Complainant SMITH decided to take the opportunity as time off, but it bothered her that when they could have given her some paid time off and they did not, so she remained off the schedule, which cost her over \$3000 in temporary acting pay.
- e) The decision by LFS to unilaterally put Complainant SMITH off work until April, and the mishandling of her WCB compensation claim left the Complainant without WCB compensation.
- f) Instead, LFS used her sick time, which in the Complainant's view was an improper and unauthorized use of her sick time.
- g) Jeri Wolfe was not aware that the Complainant had gone home early after the October 14 choking call, because LFS failed to enter this information into their system.
- h) This caused her WCB claim to sit in limbo, while depleting her sick leave, which she was not aware was happening until almost four months later.
- i) Complainant SMITH said that all of a sudden, she got a text from Jeri Wolfe, who reviewed her sick time. Complainant SMITH stated that LFS does not have short term disability, therefore employees have to use sick time. This was confirmed by Gail MERRICK, in HR. Complainant SMITH's argument was that she did not call in sick, she sustained a workplace injury.
- j) Complainant SMITH stated she was unaware LFS used her sick time, until March when LFS informed her sick time had run out.

Denial of Promotional Opportunity

- [68] Complainant SMITH stated she was suspicious of the timing of her removal from duty because this happened when the deputy chief promotions came out.
- a) She believes that at the December 17th meeting that there was going to be consequences for the former LFS firefighter BRAUN/motorcycle rally situation and DC MOORE insinuated that DC Christenson was going to be terminated or forced to resign.
 - b) She believes DC MOORE knew that the deputy chief position was going to be posted, and she stated further that DC MOORE informed her of the likelihood there would be promotion opportunities in the near future. Complainant SMITH believes that is the reason for DC MOORE placing her off work for three months, to deny her the opportunity to compete.
 - c) The Complainant stated that because she was off work, she did not have access to her LFS email. She was not aware of the promotional opportunity until the day the competition closed as a result.
 - d) Complainant SMITH emailed Chris Tobin from HR and Chief CLANCY and asked to be included in the process since she had not had access to her work email. They said yes and let her apply for the competition.
 - e) Complainant SMITH said she had not heard from WIERENGA for weeks before that and then following WIERENGA's interview he sent her a text which said, "Hey, you know I meant to tell you something albeit a bit late, but they posted the deputy chief position. You'd be great for it." Complainant SMITH asked how do you know that? WIERENGA said, "cause I just interviewed for it." He was not even qualified to apply for the position, he had not sat a day in the seat (as Acting Captain), according to SMITH.
 - f) Complainant SMITH did get an interview and prepared a PowerPoint presentation with her qualifications and vision as to what LFS could expect if she were successful in the competition.

- g) DC MOORE has told her on numerous occasions she is one of the best people who he has ever interviewed.
- h) After her interview, the chief texted Complainant SMITH the next day and said, he is impressed with her interview.
- i) Complainant SMITH has text messages from WIERENGA, and he did not think he had ICS 300 and you were required to have ICS 400 as one of the qualifications.
- j) Complainant SMITH emailed Chief CLANCY because he had called her and told her she did not get the Deputy Chief's job, and he said he would be more than happy to meet with her and discuss it in person.
- k) Complainant SMITH believed she had the qualifications for the position and WIERENGA had none of them.
- l) Complainant SMITH was skeptical, about meeting Chief CLANCY in person as she was concerned, he would not put anything in writing. She started putting things in writing. Complainant SMITH choose not to meet, and the chief's response back was, "I respect your decision not to meet in person. If you change your mind, my door's open"
- m) Complainant SMITH said it was a "slap in the face" for her after he was announced as the successful candidate. According to SMITH, this is when LFS personnel started talking, "blown away" that he actually was in because he had no qualifications.
- n) Complainant SMITH said she received comments from everyone saying she did not get the deputy chief position because of her mental health. So, she approached DC MOORE to discuss the matter.
- o) DC MOORE told her that LFS "could not give it to you because your mental health,"
- p) She asked him to clarify what he meant. DC MOORE told the Complainant that she was "not doing well."
- q) She asked DC MOORE how he knew about her mental health as he had not talked to her in the past four months since placing her off duty.
- r) The Complainant stated that Chad Bugnet, who is Christa STEELE's partner said DC MOORE would go out of his way to villainize the Complainant while she was off work for her mental health⁶.

Violating the *Health Information Act* – Privacy Breaches by LFS

- [69] The Complainant alleged that DC MOORE and Captain MICHELSEN tried to access her personal health information through a LFS employee by the name of Jeri Wolfe, OHS Advisor in HR.
- a) On December 8, 2021, Complainant SMITH informed Investigators of the results of the AHS investigation into the breach of the *Health Information Act* from Complainant SMITH's August 12, 2021.
 - b) This was after receiving notice from the Alberta College of Paramedics that they dismissed the complaint.
 - c) AHS came to the following findings:
 1. Improper disclosure of health information by EMS practitioner (KUHN) on January 29, 2020
 2. Improper access to your (Complainant SMITH's) health information Siren Electronic Health Record on December 24, 2020, June 29, 2021, July 21, 2021

⁶ Chad BUGNET stated he has never heard or observed any discrimination towards Complainant SMITH, nor has he ever heard DC MOORE villainize the Complainant.

3. Two allegations of improper disclosure:
 1. By DCO on/around December 19, 2020
 2. By the Chief in an email dated February 12, 2021
- d) Furthermore, AHS conducted a risk assessment to determine risk factors to include embarrassment and misuse of information.

The Impact on the Complainant

[70] Complainant SMITH stated:

- a) She as a result of the stress from the LDP class, the way she was treated at work and the internal pressures she became addicted to Ativan and alcohol in March of 2018. She tried to kill herself rather than tell them what she was experiencing. She stated she did not want to do anything, because "I was scared it would affect my ability to graduate from the [LDP] officer program."
- b) In October 2019 she was diagnosed with PTSD/Concurrent Substance Abuse and filed WCB claims about bullying and harassment while employed with LFS.
- c) When she returned from rehab, when she would enter the LFS bay area LFS members would be standing in the bay talking and then stop.
- d) She added, "you think they are supposed to be your brothers and sister that will protect you, you really when people do that, it's horrible because you are told it's your brothers and sisters, that you're protecting each other, and I've had to worry about these guys pulling me out of the fire. Right." "Okay. When they won't even have a conversation with me and blaming me for witch hunting other people. And then I have to worry about potentially pulling me out of fire? There's nothing like being terrified all the time."
- e) After DC MOORE sent her the email about removing herself from the committee, she relapsed on her efforts to manage her substance abuse. She added that because, he's never talked to me like that before I was devastated by his tone in that email."
- f) As noted above, Complainant SMITH stated that following the December 17th meeting with DC MOORE she left the hall crying in front of all her colleagues.
- g) Complainant SMITH stated that when she went on modified duties to help with the financial stress because they had refused to continue to pay her, she was told to apply for Employment Insurance Benefits from the Federal Government. Complainant SMITH said that management just ignored her the whole time she was off, which exacerbated her depression.
- h) Complainant SMITH said the privacy breaches into her personal medical information and lack of confidentiality within LFS made her feel like she could not access health care in her own community because LFS personnel seem to think they can discuss her confidential medical information.
- i) When Complainant SMITH had an infection in her hand, she had to go to the hospital multiple times because of the infection. Complainant SMITH said the experience was mortifying because she was scared of who she would see at the hospital. On one occasion Complainant SMITH fainted due to low blood pressure, but she refused to call an ambulance because she did not want to chance having an LFS ambulance show up at her house, breach confidentiality, and use it against her.

Credibility Assessment of Complainant SMITH

- [1] My assessment of Complainant SMITH's credibility is guided by twelve hallmarks of workplace investigations as a guide to evaluate the credibility of all interviewees. The twelve factors relate to first impressions, motive to deceive, personal interest, memory, comprehension/directness, specificity and detail, corroboration, stability of testimony, affect, omissions, nuanced analysis,

and coherence or collusion. To come to a finding on the balance of probabilities, it is necessary to assess the credibility of the persons interviewed with respect to honesty and reliability. This is particularly important where there is no independent or corroborative evidence available when there is a discrepancy between parties.

- [2] Complainant SMITH's evidence reveals that:
 - a) She admitted she was "blindly loyal" to DC MOORE and Chief CLANCY and would do anything they asked her to do until September of 2019.
 - b) She stated that the impetus for her complaints came about after she joined the LFS psychological health and safety impact group in September of 2019. Prior to joining this group, she had unreported grievances about how LFS managed her participation in the LDP.
 - c) Prior to joining the impact group, she stated that she did not totally agree with, and internally questioned, some of the decisions being made by the Chief and LFS officers but did not report or question anything because she was scared it would affect her ability to get a promotion to an officer ranked position.
- [3] In my view, the problem with blind loyalty is that it often causes a person to ignore abuses of power and corrupt management practices, further empowering unaccountable leaders, something SMITH appeared to be okay with as long as she was in the favoured group.
- [4] SMITH has told people she aspired to the deputy chief rank so she could make some change for women and for mental health issues. Her decision to report her concerns anonymously to Leduc HR could be viewed as an attempt to make changes without falling out of favour with the chiefs.
- [5] However, being blindly loyal to your superiors while accumulating grievances, can lead to unintended and negative consequences, for an individual when their benefactors stop acknowledging the lengths the person has gone to curry favour with those benefactors.
- [6] Complainant SMITH went on to say that at the chief's meeting in September of 2019, where she informed the deputies and chief that females did not feel welcome at LFS, she realized by the look on DC MOORE's face that she had nothing to lose, because she had undermined the deputy.
- [7] Her evidence was that she, "knew right from that moment on, I came here and when I told fiancé, I'm sure from this point on, I have nothing to lose now. So, I started pushing September, October, November."
- [8] Various members of LFS have stated that Complainant SMITH became "aggressive" in her language. SMITH explained that she had learned through her treatment not to "bottle things up" and she tends to speak her "mind without a filter."
- [9] She took it upon herself, without consulting management to start making notes of policy gaps, non-compliance with policies, as well as instances of discrimination, bullying and harassment, and ethical lapses.
- [10] She believes this further caused her to lose the support of the officer corps. Eventually a combination of stressors from the calls she attended and the treatment she was experiencing led to her requiring treatment for PTSD and substance abuse.
- [11] It is from these experiences that Complainant SMITH now recalls the events of the past.

- [12] I am mindful that it is possible for individuals in the “in group” to overestimate the effects of their own perceived internal attributes – for example, intelligence – and underplay situational forces when evaluating their successes, and they will place more emphasis on external factors when explaining their failures or faults⁷.
- [13] I am mindful that recall of past events can be influenced by more recent experiences particularly where the events are accompanied by powerful emotions.
- [14] In my interactions with Complainant SMITH, I could not find any evidence to conclude that she was not being honest and forthright. Her responses were straightforward without rambling self-serving comments.
- [15] While I am not convinced, she intentionally embellished her evidence, I am mindful that her recall is more likely than not effected by her building frustration over the last few years.
- [16] I am also mindful that stockpiling complaints can create the impression that a complainant, when making his/her formal complaint, has employed the shotgun approach to their allegations and evidence, favouring quantity and breadth over a more discriminate approach to her allegations and evidence. I am also mindful of the possibility that the use of the shotgun approach may be caused by an incomplete understanding of the elements of discrimination and harassment as set out in the *Alberta Human Rights Act* and the OH&S Code 2020 for discrimination.
- [17] Her comment that at a certain point she no longer felt she had anything to lose so she started “pushing” issues she believed needed the attention of the most senior managers in the department, did not detract from her credibility in my view because of the serious nature of the issues she raised; they were neither petty nor transitory, some of which potentially could lead to life threatening situations such as drug overdoses.
- [18] Complainant SMITH has received legal advice on how to organize her thoughts about the events and subsequent allegations since 2016. Complainant SMITH has been capturing some emails and text messages that corroborate her information. In addition, Complainant SMITH has supplied names of many witnesses; some provide supporting evidence and others do not have recall of the alleged events.
- [19] The Complainant has a personal stake in relation to her WCB claim for compensation and benefits as a result of workplace injuries she has stated occurred at LFS and she is under financial pressure over health concerns in her family. However, I am more inclined to accept her stated motive of wanting to make changes for the better at LFS over any advantage she might accrue in her WCB claims.
- [20] With respect to her memory, there were times when she had some trouble recalling events during the interviews, however, she was often able to follow up with emails to clarify and elaborate on what she was describing. I did not identify any notable omissions in her evidence.
- [21] The investigator believes that Complainant SMITH has some well documented incidents, but there are emails that Complainant SMITH believes are indicative of management and/or HR being out to get her. It is possible that Complainant SMITH, is interpreting more than what exists in some instances.

⁷ <https://dictionary.apa.org/ultimate-attribution-error>

- [22] Complainant SMITH is experiencing what she refers to as a “paranoia” and the investigator believes that Complainant SMITH fully understands that it is affecting her recall of some of the events, but as others have alluded to, she probably does not fully appreciate how often she is reacting to comments by colleagues or management.
- [23] However, I point to the Complainant’s concerns that LFS personnel were improperly accessing her health information. Without evidence, one could easily conclude that the Complainant was being paranoid, however, it turns out she was correct. My concerns about the impact of her paranoia and its effects on her evidence were lessened when Alberta Health Services confirmed that privacy breaches had occurred as the Complainant suspected.
- [24] In my view, there are enough witnesses who provided corroborating evidence to much of what the Complainant has alleged and provided evidence on. As well, Complainant SMITH has produced documents that support many of her statements. I did not identify any evidence or information that suggested to me that there was collusion with this witness and other witnesses.
- [25] Overall, this witness’ accounts were consistent with the way other witnesses described the culture and environment at LFS, although she had a tendency to over interpret and state the intent of someone’s behavior in some circumstances, attributing discriminatory motives where more plausible explanations may exist, such as incompetence, cronyism, favoritism, and nepotism which are not automatically discriminating or harassing behaviours.
- [26] Overall, I found Complainant STEELE to be a credible witness. I have given her evidence considerable weight, particularly where it is corroborated by other witnesses with personal firsthand information.

Summary of Interview with Megan Wright-FARRER

[27] Megan Wright-FARRER stated:

- a) She is a casual paramedic with Leduc Fire Dept. since 2014/15 and she also works full-time with AHS.
- b) She initially met Complainant SMITH as a neighbour next door. The Fire Dept sticker on the window of Complainant SMITH’s vehicle prompted a discussion about the posting for jobs at the Leduc Fire Dept and Complainant SMITH suggested that she apply; they became friends over the next 7 years.
- c) She described Complainant SMITH as a really good firefighter and excellent paramedic. She was devoted to her job, her role as Clinical Educator Lead, she had a passion for teaching; she acquired a lot of equipment and the EMS training. Complainant SMITH is well respected by peers, doctors, and other paramedics.

Cancelling the Complainant’s Access Card

- d) She said that she was talking with Tamara Osmak and Tamara had heard the Complainant SMITH speak about the ease of which one could get drugs and commit suicide, although SMITH did not say she would do it, but she did make the statement.
- e) Tamara went to the Chief and told him about what SMITH had said and suggested that he deactivate her access card, which he did not.
- f) When KUHN called her, she was asking questions about Complainant SMITH. KUHN told WRIGHT not to believe anything the Complainant said because the Complainant was an “addict.”

Credibility Assessment of Megan Wright-FARRER

[28] The Investigator has no concerns about the credibility of this witness, however, I have not placed much weight on her evidence as there are better sources of evidence with firsthand knowledge or contemporaneous documents such as emails and texts which are date and time stamped.

Summary of Interview with [Redacted]

[29] [Redacted] stated:

- a) [Redacted] is a paramedic with LFS, and he has been employed with LFS for more than 17 years. Complainant SMITH is a co-worker.
- b) [Redacted] has known Complainant SMITH for about ten years. He considers her a friend, but they do not socialize outside of work. [Redacted] did say, however, that he attended her wedding.
- c) [Redacted] was the clinical educator Lead on the EMS side for about 10 years, and he was also the Practicum Coordinator similar to Complainant SMITH's background
- d) [Redacted] stated that Complainant SMITH is probably the best paramedic employed with LFS; she is a good paramedic, very responsible and she has done a ton of work in the area as a clinical educator Lead but there is different treatment by management for the clinical educator group for the EMS side.
- e) [Redacted] not aware of the allegations that Complainant SMITH has brought against the LFS; he has not heard anything, and Complainant SMITH has not informed him. He is aware that she is off work, and he sent his support.
- f) [Redacted] was told by Complainant SMITH she had a "run in" with DC MOORE regarding issues with the clinical educator position and DC MOORE wanted to move Complainant SMITH out of the position and move others in. They had a heated conversation about it and Complainant SMITH is now off work.
- g) [Redacted] was told by Complainant SMITH that she applied for the Deputy Chief position and did not get it. [Redacted] said It was a shock to everyone when WIERENGA was promoted to Deputy Chief because of the people with experience who did not get it.
- h) [Redacted] was diagnosed with PTSD in 2014 and when he informed his supervisors of symptoms, he was removed from the clinical educator role. [Redacted] believes that he was removed because of mental health issues. One month later he was asked to take over the role again. [Redacted] said what Complainant SMITH is going through now mirrors his own experience when he returned to work after he was diagnosed with PTSD.
- i) [Redacted] stated that what Complainant SMITH has told him about the environment at the LFS, citing nepotism, e.g., promotion of a less qualified member over more qualified members because he is friends with the Chief and DC MOORE, harassment, e.g., threats of losing his job, and discrimination based on mental health reasons. [Redacted] said that his experience was very similar to what Complainant SMITH is experiencing.
- j) [Redacted] also stated that DC MOORE would threaten his job because of how much sick time [Redacted] used, similar to Complainant SMITH being threatened with insubordination by DC MOORE.
- k) [Redacted] expressed that there is stress created by the calls they take as paramedics but because DC MOORE is not a paramedic, he shows a lack of support and empathy for the paramedic side of the house, and he provides more support and opportunity to the fire side of the LFS.
- l) [Redacted] said the lack of support stems from comments from both Chief CLANCY and DC MOORE, saying there is nothing special about paramedics. There is not a lot of emphasis on medical abilities but there is value placed on the firefighter skills. LFS favors training for the

firefighters. This is very hard for [Redacted] to accept because the training requirements for EMS vs. firefighter is 2 years at NAIT or SAIT vs 2 days of instruction for the role of a pump operator.

Credibility Assessment of [Redacted]

[30] The investigator finds [Redacted] to be a credible witness, he is detached from LFS while he is on medical leave, he has no motive to deceive the investigator. The relevance of [Redacted] testimony is that it has very similar characteristics to the issues Complainant SMITH talks about in her evidence with respect to how she is treated by DC MOORE in particular.

Summary of Interview with Doug Britton (BRITTON)

[31] Doug BRITTON stated

- a) BRITTON worked as firefighter/advanced care paramedic and was also a critical care trainer previously with Edmonton Fire for 25 years.
- b) Currently captain of firehouse 2 on engine and ambulance, supervisor of a crew of 5
- c) Got Leduc Fire to join "International Union of Firefighters" local 4739, in 2009.
- d) Has been president of union since then.
- e) Says Chief CLANCY has blamed the union for "starting this" (bringing complaints forward and subsequent investigation), and maybe Chris Tobin did too.
- f) Prior to March 31, 2021, talked to Complainant SMITH and sent a list of her concerns to union lawyer Sean McManus.
- g) Says that they were unable to take many of the concerns as a grievance as the requirement is that they "ought to be aware of an issue within 14 days".
- h) When off sick, former Deputy Chief CHRISTENSEN left verbally abusive messages to staff and WCB staff.

Communication with LFS Personnel

- i) BRITTON stated that when Complainant SMITH went on her last stress leave, Complainant SMITH just stopped talking to him and he did not know why. Stating, "I'd send her a text of how you doing? and I got nothing back. And maybe in June of this year, Complainant SMITH, all of a sudden text me and wants to talk to me on the phone."
- j) BRITTON stated he spoke to the Complainant who told him that DC MOORE, "comes up with this horse feather story that I made a complaint about her. So, she doesn't come talk to me as a union executive. She hasn't talked to anybody in the union executive for probably five or six months after her and DC MOORE have their last conversation. And I don't know if he intentionally drove a wedge, I can suspect that he intentionally drove a wedge, but he definitely put her on an island by herself. So that she wouldn't reach out to get any help from anybody."

The Motorcycle Rally

- k) BRITTON was at rally that former Deputy Chief CHRISTENSEN brought former LFS firefighter BRAUN to the motorcycle rally. Former Deputy Chief CHRISTENSEN was actually Acting Chief that day
- l) Complainant SMITH was acting Capt. that day. BRITTON was told by Evan Stratechuk that former LFS firefighter BRAUN was there in dress uniform (that he never gave back even though policy said he should have), BRITTON said 'he's not allowed inside.'
- m) Complainant SMITH called DC MOORE who said former LFS firefighter BRAUN not allowed in.

- n) They all left on the motorbike ride, while on it, BRITTON asked Cpt. Rod Ingram (who organized the rally) why former LFS firefighter BRAUN was invited, he said he did not invite him.
- o) We get back Ingram told former LFS firefighter BRAUN to leave, he heard former Deputy Chief CHRISTENSEN and a retired captain (Don Delancey) yelling "this is bullshit, that women lied, made it up, they screwed Vince over".
- p) Former Deputy Chief CHRISTENSEN left; Captain DC MOORE took over the shift.

The Fire Training Committee

- q) Chris Tobin of Leduc HR asked to meet BRITTON off site to ask about the incident.
- r) Tobin advised him that LFS told HR that KUHN put into acting officer training without the minimum qualifications, without the minimum level of firefighter training, without Haz Mat training.
- s) "National Fire Prevention or National Fire Protection Association and FPA 10 1001 which is your basic firefighter training qualifications and there's level one and level two. Our department gives you level one, to be an LDP acting officer, you have to have at least level two along with other things. So, they held a special level two course with her in it while she's already in the LDP program."
- t) "So, the basic firefighter course is what pretty much everybody in the department has. The department pays for level one, they don't pay for level two. So, some people just go Yeah, I don't want it. I don't need it. And it deals with some leadership things it deals with, you know, doing inspections, natural gas fires. So, the last time we did this training, it cost us \$5,000 for one day just in natural gas and propane. So, you know, it's quite expensive training. That's why not everybody does it."

Cronyism, Nepotism and Conflicts of Interest

- u) BRITTON was asked about the LDP and what is involved with it. BRITTON stated that
 - o The LDP is a two-year program where candidates are required to write papers on leadership;
 - o There is a command officer program. It's called Blue Card, it's through Phoenix Fire. A former chief and Chief CLANCY's son developed their own program called Blue Park, which is an expensive program, requiring 60 hours to finish the initial program and another one hundred hours to finish.
 - o KUHN was put in that program and other stuff that other people were not even notified was offered to them.
- v) BRITTON discussed the conflict-of-interest situation whereby LFS has the fire training cadre/instructors, who are members within our department. LFS refused to pay overtime to teach so two captains created their own company without the city putting out an RFP for anyone else.
- w) BRITTON stated that this company is contracted to do new training. The two Captains hire other members of the LFS, and all these guys are paid on the side as a different company. BRITTON said it is an absolute conflict of interest when you read the city's policy of conflict of interest yet continues and has for six or seven years.
- x) BRITTON stated that this fire cadre picks and chooses what they want. The chief's son is part of this group and the deputy chief's son is part of this group. The favoritism absolutely reeks.
- y) BRITTON said during a meeting a month ago, DC MOORE walks in and says, "Hey, KUHN is going to be part of the group. She's going to be a training officer." They were all like, What? She does not even have a level two. DC MOORE said "we're going to fix that we're going to

correct that. She'll be here in two minutes, looks at his watch and you guys are going to welcome her."

- z) Kriste KUHN only has 1001 (basic fire) and requires 1002 to be at level of instructor, but DC MOORE places her as a trainer (in a private company) and is placed in the LDP even though she did not have level 2, so they did a special level 2 course after she was already in it. Also, Department pays for level 1 but not level 2, they believe KUHN did not get it paid for but got paid wages while she was in program.

- aa) BRITTON discusses the Chief hiring his son and daughter and the perceived inequities:
 - o They had pump operator training but not advanced care training, pump operator is 4 days of training, Advanced care is 3000 hours, 14 or 15 months long and could take 6 months to be accepted into the program. Several candidates had the Advanced Care Paramedic but not pump operator, for example Evan Stratechuk, Emily Montgomery and Alec Dreichel only needed the 4-day course to be fully qualified. The Chief hires his two kids who have the 4-day course but not the Advanced Care and Shane is about a year before he becomes fully qualified.
 - o The Chief has convinced HR that "fit" is more important than qualifications but they all must "fit" because Evan Stratechuk, Emily Montgomery and Alec Dreichel were already employees of LFS.
 - o The Chief said Evan Stratechuk, Emily Montgomery and Alec Dreichel were screened out because they did not have the 4-day pump operator course. When Chief says "they're not a "fit" it's hard to grieve.
 - o Complainant SMITH had to do level one and two on her own time.
- bb) BRITTON spoke about the environment at LFS:
 - o BRITTON said that Roslyn Kripp was told "you shouldn't have gotten pregnant" when she sought reimbursement for training from DC MOORE.
 - o DC MOORE chooses who gets into leadership programs ODP, now called LDP and receives the training. The qualifications for LDP say you have to have at least level 2 firefighter training.
- cc) BRITTON said it was in a meeting from August 26, 2020, where himself, DC MOORE, BUGNET, [Redacted] and McDougal, who are all union executives, were present. The discussion was about captains would have a minimum of primary care paramedics.
- dd) DC MOORE talked about removing two or three candidates out of the LDP system. He has never told us who. But he basically told us that maybe they have the knowledge, skills, or abilities, however, DC MOORE wasn't comfortable that they were a fit. Necessitating they be removed from the program, and that he was probably going to take two or three out.
- ee) According to BRITTON, it was Complainant SMITH who stated she was told by DC MOORE that it was BRITTON who told him that Complainant SMITH was impaired while at work.

Regulatory/Ethics Issues

- ff) BRITTON believes neither former LFS firefighters BRAUN or Swendsen were reported to AHA as required by the Alberta Health Professions Act for the sexual misconduct and fraudulent documentation in a patient care reports, respectively or to the College of Paramedics.
- gg) BRITTON stated that every time a posting (opportunities) come out the qualifications change.
- hh) BRITTON said for those people on leave for mental health reasons they have no reintegration plan.

Credibility Assessment of Doug Britton

[32] The investigator spoke to BRITTON as a witness because Complainant SMITH suggested he had information about her allegations. BRITTON is the Union President of the LFS membership, and he is privy to information that supports Complainant SMITH's allegations and other witness' statements.

[33] The Investigator acknowledged the acrimonious relationship between BRITTON and Chief CLANCY; both have disclosed their mutual dislike for one another. BRITTON expressed right at the beginning of the interview he was going to talk about things he has never disclosed before. The most damaging to BRITTON's credibility is when he was asked by the Investigators to maintain confidentiality; instead, he sent a text message to a retired member about issues discussed in the investigation, breaching confidentiality, and breaching the Respectful Workplace Policy.

[34] I found BRITTON to be a credible witness, however, I am mindful of the friction between the union and LFS management, which could skew his objectivity and infer intentional mismanagement or actions, where they may not exist.

Summary of Interview with Shawn MURPHY (MURPHY)

[35] Shawn MURPHY stated:

- a) MURPHY has been with LFS (LFS) for 15 years; he was a Lieutenant for 3 years before becoming a Captain for the past 5 years in Station 2.
- b) MURPHY is also a Fire Trainer responsible for recruit training (since 2013/14), Blue Card training-speciality courses and job performance requirements. He also provides incident command to the chief officers and acting officers.
- c) To be qualified as a trainer one has to take a "Train-the-Trainer" course and some continuing education courses.
- d) MURPHY supervises 4 employees: Tamara OSMAK, Sinead CLANCY, Complainant SMITH and the fourth employee comes from the Paid-on-call (POC = casual) position, which remained an open position.

Direct Attack Fire Training Inc.

- e) About 9 years ago when there was no budget for full-time trainers at LFS. MURPHY and Captain MICHELSEN put in a bid or a letter of intent to the City of Leduc to provide LFS fire training. Together they created a company, 'Direct Attack Fire Training,' and they are now contracted by the LFS to do the fire training.
- f) MURPHY is unsure of the average number of courses he teaches per month, but the recruit training usually occurs from January to June, which includes evening lectures, and there are two days of fire-based training and two days of medical-based training.
- g) They work with clinical educators who are on the EMS side who do the medical training and firefighters do the fire training.
- h) MURPHY explained that his company does not want anyone to get hurt so he hires the same two guys to work with, actually three: Kiran Kelly, Shane CLANCY, Redacted
- i) When asked about the Training Committee/Cadre, MURPHY said no, they do not have one. That has been a term that has been floated for the past year.
- j) MURPHY was asked about KUHN, who is part of the cadre, he is not sure what she has taught, but she has taught one course.

- k) If DC MOORE says that KUHN is going to be part of the cadre then it puts MURPHY in a compromising position because it is his company.
- l) At the time we stopped hiring her we found out that she was not qualified. She is Level I and she needs to be a Level II.
- m) MURPHY thought that KUHN taught one job performance requirements course.
- n) We used one time for the Breathing Apparatus course, when the company came in to teach us, it was natural to use her for that. We have not experienced any repercussions from not hiring her. If DC MOORE wants to use KUHN as a trainer, DC MOORE would have to hire her as a Leduc Fire employee.

Supervision of the Complainant

- o) MURPHY has supervised Complainant SMITH for one year. He describes Complainant SMITH as a "lovely person to work with." MURPHY further stated that Complainant SMITH is detail-oriented, gets along with the crew, she is curious, driven, and nice to work with.

The Choking Call

- p) MURPHY was asking about a call that Complainant SMITH took on October 14, 2020, he said it was a choking call with an adult patient. Complainant SMITH was able to dislodge the blockage, so it was a positive outcome. Complainant SMITH returned to the station, spoke to MURPHY about the call, and said she was out of service for unknown reasons. MURPHY figured the call got to her and asked if she wanted Peer Support or Critical Incident Support Management (CISM), but she declined. Complainant SMITH talked to the crew about the call. MURPHY and Complainant SMITH talked further about it in his office. Complainant SMITH said it was stressful, so she wanted to go home.
- q) On October 14, 2020, at 2200 hrs MURPHY put Complainant SMITH out of service and brought in another medic. The code on the schedule was "other" from 2200-0700 hrs.
- r) MURPHY was asked about the conversation that DC MOORE had with Complainant SMITH on December 17, 2020, when she was the Acting Captain in Station 1. Complainant SMITH told him about it, but he did not know the details. He knew that Tamara OSMAK was texting with Complainant SMITH.
- s) MURPHY was asked about the use of "Other" on the schedule and he said it was used for a lot of miscellaneous situations.
- t) When asked about responding to a colleague's home for a medical emergency, what is protocol? MURPHY said it was typical to have an ambulance from another area take the call. AHS have a special team that can respond to calls like that. LFS do not have resources for a special team. He added that it is tricky about maintaining the confidentiality of patient care. He thinks that is something that says it is to be reported to management.
- u) In MURPHY's response to Complainant SMITH's concerns about bullying, harassment, he said he was "strait-laced" and a "by-the-book guy."
- v) He was not familiar with the "Princess Boss" cake because Complainant SMITH was working in Station 1, and he was in Station 2.
- w) MURPHY has seen Complainant SMITH teach and he has not seen any rude or disrespectful behavior and that is his role to curb that. For example, he has a junior member who teaches, and rank does not matter, you pay attention to what is being taught.

Credibility Assessment of Shawn MURPHY

- [36] The Investigator found MURPHY to be a witness willing to omit information for the sake of protecting his credibility. When MURPHY was asked about the concerns of harassment brought forth by Complainant SMITH, his subordinate and central to the entire investigation, he prefaces his response by describing himself as being, "strait-laced and a by-the-book guy" which detracts from his credibility in my view. In my view, MURPHY's interview revealed that as a LFS supervisor he claimed no knowledge of any issue brought up during the interview. In my view, this is simply implausible.
- [37] The Investigator did not put much weight on MURPHY's responses regarding the harassment issues.
- [38] On the other hand, MURPHY appeared to be forthcoming with respect to the contentious issue of being an owner of the company, Direct Attack Fire Training, contracted to do the recruit training and additional training when required.
- [39] **Summary of Interview with Michael LABUTES (LABUTES)**
- a) LABUTES was hired by the LFS as a paramedic in December 2003. He was promoted to Lieutenant in 2015 and became a supervisor strictly on the fire truck.
 - b) LABUTES was a Lieutenant at Station 2 and supervisor of the platoon and his commander, Captain Ray Senio, was located in Station 1.
 - c) He was promoted to Captain in 2020, which is his current rank, in charge of Platoon #4 at Station 2.
 - d) LABUTES was asked to focus on the events of October 2018 when one of his members, SWENDSEN, was investigated by Complainant SMITH for the intubation of a patient without proper consent of the physician and the suspicious documentation thereafter.
 - e) LABUTES recalls the event because he was directly involved.
 - f) The call involved a gentleman who was in respiratory distress and the fire truck backed up the ambulance.
 - g) Part of the problem for AHS was that there was not proper communication with the physician before performing the intubation. There was a change of protocol where you needed permission from the physician first.
 - h) LABUTES said that he was not kept in the loop about the SWENDSEN investigation but recalls that he was 3rd on the ambulance and his reports were audited.
 - i) SMITH did what she was asked to do by management and there are problems with that situation.
 - j) LABUTES said he did not remember what firehouse SWENDSEN was at when this all happened in terms of discipline. He did not believe that SWENDSEN was moved to a different firehouse because of the investigation. He would have to look at a schedule to know the answer.
 - k) When asked if it was just his platoon or other people making comments about SMITH, LABUTES said although he could not recall exactly, he was pretty sure that the comments were not confined to his platoon. He said other people had the impression too. LABUTES said that others had the impression that SMITH worked too hard against her co-workers to take them to task for different things and this stemmed from what happened to SWENDSEN. LABUTES is not sure how he formed that impression. He said people thought SMITH had gone above and beyond to go after people about medical calls.
 - l) When the Investigator suggested that SWENDSEN should count his blessing it was not AHS investigating the complaint and LABUTES said, I made that point before too, so Mindy at

least knows SWENDSEN, and I do not think she was trying to be unfair. It was an awkward position for Mindy to be in, investigating a peer. I had empathy for her. Furthermore, SWENDSEN did make mistakes that needed to be corrected. The people making comments did not have all the information.

- m) When LABUTES was asked who delivered the news to SWENDSEN, LABUTES paused for a long time, he could not remember clearly. He does not think he was in the room at the time. He does recall that DC MOORE told him to review the protocols, but he does not know how the conversation with SWENDSEN went or who was there.
- n) The broken window was broached with LABUTES and his response, "Really! I had no idea."
- o) When LABUTES said what he meant by "putting out fires" he said he told people that they did not know the ins and outs of the situation, and these are the conversations he had with people. He did not think he had to repeat himself.
- p) The investigator said that three people told SMITH it was no coincidence, and it is pretty serious, especially forming a part of the harassment. SMITH did report the matter to management. LABUTES said he was amazed he never heard of it.
- q) LABUTES if he knew about it, he would have dealt with it. He said he did not have a sense it was that serious or people were that upset about SWENDSEN's situation.
- r) LABUTES was informed that SMITH was informed about the window when she was teaching a class and there was a suggestion that it was the temperature change that broke the window but that typically happens in extreme cold weather. LABUTES did clarify that there is no restricted access to the LFS parking lot and the public cut through the lot regularly to get to the No Frills grocery store.
- s) The investigator suggested that if the broken window was true, it sets the tone for how upset SWENDSEN, and others were about the outcome of the investigation. So, by telling Mindy that you were "putting out fires" what does that mean? LABUTES sighed and paused for a long time before saying that people were saying that SWENDSEN got a raw deal, or he got way more punishment and Mindy was out to get people for mistakes they made. LABUTES was standing up for Mindy, she was in a tough position investigating her peer and it should have been done by management.
- t) When asked about the classroom situation when SMITH was teaching and the members were being rude, disrespectful, and excluding or icing her out: talking over her, being on their cell phones, not paying attention, LABUTES said that was not unusual, but he was not aware of his platoon doing that. LABUTES says he does not work directly with Mindy, and he has not seen anything.
- u) LABUTES stated that Mindy was on light duties, so she did not have shift change and that is where a lot of interaction occurs. "No one came to me about harassment, I would have dealt with it." LABUTES wanted to know if SMITH said she came to him.
- v) LABUTES said he had no memory of Complainant SMITH reporting her concerns of harassment to him.
- w) LABUTES has seen SMITH train with his platoon, but specifically around that time he is not sure. He paused a long time and said it is possible that the quarterly training is done around that time, but he is guessing.
- x) LABUTES was asked if he has ever seen SMITH teach, specifically the training regarding the Stryker stretcher, which SMITH says was the training she was doing when she was treated disrespectfully by platoon 4. LABUTES said it could have been, but he said that everyone experiences class participation interruptions and talking over someone, this is not exclusive to Mindy, and she may have been sensitive to it from what she experienced.
- y) LABUTES was asked if the supervisor was in the room when the training occurred, he said the supervisor is in the room and in this case, he thought they split into smaller groups

because he thought one of his platoon members taught his platoon. LABUTES said he did not recall his platoon being anymore rude to Mindy or any harder on her.

- z) When LABUTES was asked about making the comment, "What am I going to do about it?" LABUTES said it was hard to comment on without remembering it. He added, "I hope I was not dismissive; I hope I wasn't."
- aa) LABUTES said there was nothing specific from Mindy but maybe her recall is better because it was significant to her. LABUTES chuckled and said, there was more going on with her than I realized. It was either not brought to me or it was not properly communicated.
- bb) LABUTES said that Mindy has not worked on his platoon so to ask about how well she got on with platoon 4, he could only say that he had heard that Mindy was always quiet on shift changes, and she was particularly silent. He went to a conference in Baltimore with Mindy in 2016 but generally, relationships are built when you work on platoons together. You maintain relationships even when you move to different platoons.
- cc) LABUTES says that when you get promoted you do not hear as much about personal problems, people do not share as much.
- dd) LABUTES had nothing further to add, he wanted to know the relevance to his current platoon and nothing more.

[40] The Investigator included the testimony of Captain LABUTES because he was identified by Complainant SMITH as having direct evidence about the harassment of his platoon members. He was willing to admit that he was "putting out fires" and what he meant by "putting out fires" he said he told people that they did not know the ins and outs of the situation, and these are the conversations he had with people. He contradicts himself when he stated if he had known about the bullying, he would have dealt with it. Then he said it was his sense that the bullying was not that serious.

[41] For LABUTES to admit that he was aware of the harassing/bullying behavior would make his knowledge and inaction a breach of the Respectful Workplace Policy. LABUTES' office was in close proximity to the classroom where Complainant SMITH was teaching; it seems unlikely that he did not hear any comments in the classroom. The Investigator did not find his testimony reliable for these reasons.

[42] The Investigator does not place much weight on the evidence of LABUTES unless it is corroborated by a credible witness or physical evidence.

Summary of Interview with Emily MONTGOMERY (MONTGOMERY)

[43] MONTGOMERY was hired LFS as a paid-on-call medic initially in January 2014 and effective June 2017 she was a full-time employee.

- a) She works on Platoon #3 in Station 1 and Captain MICHELSEN is her supervisor. Other members on Platoon #3 include Tamara OSMAK, Sinead CLANCY, Paul Nichols (currently off), Brandon Novak, Redacted Redacted
- b) MONTGOMERY has worked with Complainant SMITH, and she views Complainant SMITH as a role model because her "work ethic is bar none," she has a strong work ethic, self-reliant, she holds herself to a high standard and she values high standards for patient care.
- c) MONTGOMERY describes Complainant SMITH as a strong clinical educator, and she has been in the role a long time. She will not hesitate to hold people accountable to the same standards when it comes to work ethic, patient care, proper reporting, and is very fluent in

her protocols; MONTGOMERY has not seen incompetence when it comes to Complainant SMITH's work.

- d) MONTGOMERY said that Complainant SMITH's standards are not accepted by everyone, and Complainant SMITH is not afraid to call people on their work if she believes it is a lower standard of patient care and the Patient Care Reports (patient care reports) and addressing areas of improvement.
- e) MONTGOMERY was on maternity leave when Complainant SMITH was away at rehab. Complainant SMITH told her that upon her return she felt that she was no longer on the "favored train" and had been "blacklisted."
- f) MONTGOMERY chose to do her return-to-work reintegration with Complainant SMITH because she is a very good teacher, and she aspires to be more like her.
- g) After the job performance requirements were done in November 2020, MONTGOMERY was aware of, and was shown an email, received by Complainant SMITH, sent by DC MOORE, informing Complainant SMITH that there was going to be a change of leadership in 3 of the 4 committees: Breathing Apparatus, EMS Equipment, clinical educator Group.
- h) The Fire Training Committee was not included. Complainant SMITH was very upset with the email, stating it was rude and thought DC MOORE could have spoken to her or written the email differently. Complainant SMITH was so upset she resigned from the clinical educator Lead position and then from the entire clinical educator group.
- i) In the week leading up to Christmas, MONTGOMERY had planned to do some Train-the-Trainer work with Complainant SMITH and suddenly Complainant SMITH was not on the schedule. MONTGOMERY would text Complainant SMITH to see how she was, and Complainant SMITH was off/on about when she would text, but eventually MONTGOMERY learned that Complainant SMITH was taken off the schedule after a conversation she had with DC MOORE. In that conversation DC MOORE compared his addict brother to Complainant SMITH and insinuated that Complainant SMITH was a failure and hopeless. DC MOORE pulled her from the schedule because she was not fit. Complainant SMITH said the conversation was very exhausting, she felt alone and belittled.
- j) MONTGOMERY observed Complainant SMITH have a rough year with calls, the stuff around the fire station and she is quicker to react to things. She said Complainant SMITH was very upset and easily frustrated when talking about LFS.
- k) According to MONTGOMERY, Complainant SMITH "no respect or acknowledgement" from management for the work she does. DC MOORE in particular because he has no knowledge of the EMS side of things.
- l) MONTGOMERY has not felt uncomfortable working at LFS; she has experienced discrimination, but she handled herself and there is nothing more to be done about done with that mountain.
- m) MONTGOMERY feels Chief CLANCY is a breath of fresh air, he is good in a political role, level-headed, calls out people who do not want to work both sides of the service-i.e., LFS is an integrated service with EMS and Fire and the employees are supposed to work both sides, but many people favor the fire side.
- n) MONTGOMERY has heard the Chief talk about Complainant SMITH getting what she needs, but he is not sure what she needs.
- o) MONTGOMERY does not know DC MOORE well; she states that he favors the fire side because that is his experience. He was never a paramedic and has no knowledge of EMS. MONTGOMERY says, because of DC MOORE's lack of EMS knowledge and experience he does not understand how hard Complainant SMITH worked to get things for the LFS.
- p) As an example, MONTGOMERY describes ISTAT, a means of testing blood in the field and currently Hobbema EMS and STARS have it and now LFS has it. Complainant SMITH was

instrumental in acquiring the qualifications to use the device in the field and she worked directly with the Medical Director at AHS, Dr. Alison Kaboroff. The caveat is that agencies receive yearly recertification, if not monthly training, and the person who was preparing that training is Complainant SMITH.

- q) MONTGOMERY said that in May 2020, while Complainant SMITH was on modified leave, she was collecting information from the patient care reports to create a recertification training program for LFS, which was approved by the Chief. In the process of collecting data from the patient care reports, it required that Complainant SMITH asked people for the reports, which she was not getting. Complainant SMITH asked MONTGOMERY to get them, which she did with the Chief's permission.
- r) The Chief had asked Complainant SMITH to come into the Station to get the information from the computers, but Complainant SMITH's psychologist approved the type of work but suggested that being in the Station was not good for her PTSD.
- s) MONTGOMERY feels there is a lack of support from management regarding this type of training. She said you realize that other Services, like AHS, do not let their medical skills slide and they train regularly, and it is hard to convince management of that.

Credibility Assessment of Emily MONTGOMERY

[44] The Investigator found MONTGOMERY to be a reliable witness but does note that much of her information originated from Complainant SMITH in conversations with MONTGOMERY. She considers herself a friend of the Complainant which may suggest a degree of loyalty to the Complainant. Her evidence is primarily for background purposes as it was largely hearsay evidence with limited probative value.

Summary of Interview with Tamara OSMAK (OSMAK)

- [45] OSMAK explains that she initially started at LFS as an EMT and became a POC firefighter in January 2011 and became a full-time member in 2014, also acquiring her ACP training.
- a) OSMAK currently works on Platoon #3 under the supervision of Captain MURPHY.
 - b) OSMAK has worked with Complainant SMITH when she was in Wetaskiwin. She describes Complainant SMITH as a good employee, and she was very good at what she did.
 - c) OSMAK states that there was definitely discrimination against Complainant SMITH for the DC position. Complainant SMITH is qualified, and the successful candidate (Wierenga) is not, but he is in "DC MOORE's club."
 - d) The deputy chief posting had job requirements/qualifications that WIERENGA did not have:
 - Other candidates include a person with a related degree;
 - One candidate was a full time Assistant Chief in Ft. Saskatchewan, where he is employed as a casual member.
 - Complainant SMITH and another candidate had all the courses and qualifications required for the job;
 - OSMAK heard that Complainant SMITH was not given the job because she was emotionally unstable. WIERENGA (Wierenga) is in DC MOORE's club, so he gets more opportunities in her view.
 - OSMAK had heard that people attending conferences in the US could not attend two years in a row, so the opportunity is spread around to people. Complainant SMITH was told this but when she brought up that WIERENGA and KUHN got to attend two years in a row, she was told by DC MOORE to mind her own business.
 - e) In 2018 or 2019, New Orleans was the conference destination that DC MOORE, WIERENGA, and KUHN all attended, and they partied. There were memory pics on social media.

OSMAK heard from others who had booths set up that they did not see the LFS group once during the conference.

- f) DC MOORE assists KUHN to increase her success, for example, when KUHN went into the LDP interview, she was coached to say the opposite of what others said.
- g) OSMAC heard from Complainant SMITH that she went home early after attending a choking call in October 2020 then she was later hauled into the office and told she was unstable.
- h) OSMAC was told by Complainant SMITH that when she was taking LDP courses she had to find her own replacements for some of the courses she attended, where LFS usually does it and she was not paid for her time or the course. Conversely, KUHN's LDP training courses were approved.
- i) OSMAC said there is no consistency with how LFS codes the schedules with respect to sick days, WCB, and personal days.
- j) OSMAC said that Complainant SMITH was responsible for patient care reports audits, the purpose being to identify practitioners who are not doing proper work and members were not happy about it. OSMAC said Complainant SMITH was trying to help ensure proper documentation; however, LFS members took it as a personal attack. Consequently, Complainant SMITH was iced out, ignored, ostracized.
- k) When Complainant SMITH's window was broken, she believed it was someone on that particular platoon.
- l) When Complainant SMITH relapsed a few months ago, Megan, who lives next door, was with Complainant SMITH when she was drinking, Christa STEELE was also there. Megan called KUHN and Tamara to come help as she was going to Form-10 Complainant SMITH and have her taken to hospital. Ambulance attended and the RCMP. The engine crew attended when they were not called and with COVID policy it states that the engine will not attend unless it is a serious call.
 - Engine crew "freelancing" just showed up and the members left the truck and walked around the area, came into the ambulance, where Complainant SMITH got more agitated with all the people there.
 - KUHN told Chris Riemann to leave as Complainant SMITH got more upset.
 - Captain Dale Wilson was the acting deputy chief, and he called the Chief and told him what occurred.
 - There were POC's that attended an alarm call and they all heard what happened with Complainant SMITH.
 - FOIP issue, there was no need to report because Complainant SMITH is a patient, and that information is to remain confidential.
- m) OSMAC stated that Complainant SMITH told her about the situation with Complainant SMITH requesting KUHN to attend to give her Ativan, all was proper procedure, but KUHN reported it back to DC MOORE.
- n) OSMAC spoke about her concerns about Chris Riemann when they worked together.
 - Around Christmas time, maybe December 25, 2020, Chris used a patient's EpiPen on them, which you don't do, you use the one from the ambulance. She told him to wait but he refused to. OSMAC informed a nurse about this at the hospital and the nurses said that they have complained about Riemann in the past. The written complaint went to the Chief and that one was forwarded to the LFS clinical educator who investigated the complaint.

Credibility Assessment of Tamara OSMAK

- [46] The Investigator found no issue with the evidence of OSMAK. She is a friend and a platoon mate of Complainant SMITH's, and she was a confidante witness to many incidents of harassment. I am cognizant of the loyalty that her friendship may have had over how she presented her evidence.
- [47] However, much of her evidence was hearsay evidence with limited probative value. Accordingly, I have not assigned much weight to her evidence. OSMAK had almost no personal knowledge of the events described in her evidence, nor did she hear DC MOORE, Chief CLANCY or any of the other respondents say things that could be viewed as discriminatory, bullying or harassing in nature.
- [48] With respect to OSMAK's statement that there was "definitely discrimination" against Complainant SMITH for the DC position, I am not satisfied the hearsay evidence and opinion of OSMAK is sufficient for me to make such a finding.
- [49] With respect to Complainant SMITH's broken window, I am not satisfied that her evidence and opinion is sufficient for me to make a finding that the window was broken by someone on that platoon.
- [50] With respect to her evidence on Chris Riemann, the Complainant was not functioning as the LFS clinical educator, so I have not considered this evidence relevant to the complaints. It is presented primarily for background information about LFS.

Summary of Interview with Gail MERRICK (MERRICK)

- [51] MERRICK has been with the City of Leduc HR for 13.5 years. She was initially hired in the Payroll/Finance department. She stated:
- a) MERRICK spoke about the process of getting training, wages while on training and she explained that the Collective Agreement outlines the wages.
 - b) MERRICK is not involved in the tracking of training or the contracts that are signed. The Accounts Payable department manages that, and Carol HOUNSELL is the manager there.
 - c) MERRICK said that there is no time sheet code for "OTHER."
 - d) An employee is paid a full wage for a whole shift, noted as REGU and sick time is taken for a partial shift.
 - e) MERRICK said that time sheets are completed by employees, and they get approved by their supervisor. The employee submits the paper and the electronic copy.
 - f) WHEN specifically asked about Complainant SMITH being put off shift as OTHER, was confirmed and MERRICK said that would mean that Complainant SMITH is on paid sick leave. Paid on Call members are on "unpaid sick leave." MERRICK did mention that there are inconsistencies between departments.
 - g) When asked if an employee asked for specific time off the manager will generally approve it. The relevant policies are "Abilities Management" and "Sick Leave" Policies.
 - h) MERRICK said that Complainant SMITH submitted her LFS Medical Ability form, and the family physician will submit forms for Desjardin Insurance for Long Term Disability, which includes both the psychological and physical aspects.
 - i) MERRICK was asked if she noticed a change dealing with Complainant SMITH and she said she treats her "with kid gloves" because it is known how she will react. The change from her return from a back injury to her current dealings with Complainant SMITH is best explained that Complainant SMITH feels people are out to get her.

- j) MERRICK stated that Complainant SMITH's WCB claim was approved, and she currently collects her full wage and benefits. Complainant SMITH's long-term disability was approved and there is a two-year window on whether she stays or is retrained for something else.
- k) MERRICK explained that a permanent disability pays until the age of 65.
- l) MERRICK said that all of Complainant SMITH's sick time was returned to her time bank.
- m) When asked about the EI (Employment Insurance) Chief CLANCY informed Complainant SMITH about is accurate; once a person's sick time runs out Leduc would provide proof of employment for Complainant SMITH or anyone else to apply for EI.
- n) In the case of missing documentation, WCB will reach out to an employer if they are missing documentation and it is Jeri Wolfe, who is the OHS Advisor in Leduc HR.

Credibility Assessment of Gail MERRICK

[52] The Investigator has no issues with reliability of MERRICK, who admits that she treated Complainant SMITH with "kid gloves" because she was never sure how Complainant SMITH was going to react. MERRICK's evidence relates to procedural information and is similar to evidence given by others on these procedures.

Summary of Interview with [Redacted]

- [53] [Redacted] is a PCP and firefighter for LFS and has been for 10-15 years; he has been full-time for 10 yrs. He stated:
- a) He is in the LDP, working toward becoming a captain.
 - b) He is also a member of the Labour Management Committee for the past 11/2-2 years but says that not much has been done; they have 3-4 meetings. The purpose of the committee is to look at concerns that are not union related.
 - c) [Redacted] understood that there was going to be a cultural review of LFS, and he was not sure who was going to do that. He did believe that the focus would be on Occupational Health and Safety (OH&S) or things outside the Collective Agreement, for example concerns that people have from the floor that are not coming to management.
 - d) [Redacted] spoke about the process of getting into the LDP and those candidates take courses that are contained in three blocks and once those are completed, members can start taking shifts as an Acting Captain.
 - e) [Redacted] has taken many of the courses throughout his career, but more junior members will take about 1-2 years to complete. The selection panel consists of DC MOORE, Chris Tobin and an administration person taking notes.
 - f) [Redacted] said the Chief said he would do this, but he does know when that was announced, but knows that no cultural review has been done yet.
 - g) [Redacted] says that he sticks his neck out and he ruffles feathers meaning that as a middle manager he has to be careful that he does not do or say things that will put a spotlight on him. In an acting position you do not want to be the first person to speak up at meetings, you walk a fine line.
 - h) When asked about the concerns women are bringing up, he was unsure if he could talk about them. He was aware of a female colleague who was sexually assaulted by a Deputy Chief in the workplace, but she wanted to discuss the matter herself. It occurred 1-2 years ago. She is fearful that coming forward would be career limiting. [Redacted] describes LFS as having a "culture of fear."
 - i) [Redacted] has not witnessed "sexual abuse," but he has seen people talk and people receive unwanted words, innuendos. He described an environment like the 1940's where women are treated a certain way, sexism is ok. The atmosphere is of acceptance to that type of behavior, and he says it is not just the older men, but the younger ones are accepting of that attitude as well.

- j) Redacted and Complainant SMITH have been partners for a long time, he described the relationship like that of a sister. He recalls that Complainant SMITH was shown a lot of potential for LFS and in their industry it demonstrates progressiveness. Complainant SMITH felt a lot of pressure, "there was that excitement about the potential of her being our next Lieutenant or next captain, and what that would mean prospectively for the fire department."
- k) Redacted described Complainant SMITH as a go-getter, she was head down, and leading the clinical educators and doing continuing education, she showed good leadership in terms of making things better for LFS. Complainant SMITH never said no to anything, perhaps to look good but everything became too much, she worked on policy development, inventory, sourcing; her plate was always full. Complainant SMITH put a lot of pressure on herself, and management put a lot of pressure on her too, she had personal issues at home that were stressful and overwhelming.
- l) Redacted said the dynamics between Complainant SMITH and DC MOORE were such that Complainant SMITH expressed incidents like two stressed people who could not communicate, and they did not understand each other. He further stated that management recognized the productivity in Complainant SMITH, and they used that resource too much. There are not many like Complainant SMITH in the department.
- m) Redacted said that people would say that Complainant SMITH was the "teacher's pet" or "management's new child" and it was true. If management needed a perspective from the floor, it was typically Complainant SMITH they went to. Some of the staff viewed that with jealousy because they did not get the same attention or opportunities.
- n) Redacted had not heard that Complainant SMITH's vehicle window was damaged, but he does recall that one platoon hated her for the investigation she did on one of the members. There was uneasiness and tension because of the investigation.
- o) Before Complainant SMITH's first mental health break, Redacted and Complainant SMITH talked about how much she was doing, and he advised her to say no. They talked about the difficulties she was having with DC MOORE and Chief CLANCY, the expectation about being a female Lieutenant firefighter versus just a firefighter.
- p) Redacted saw a change in Complainant SMITH when she came back from her treatment. He said between Complainant SMITH, management, and WCB or the therapy group, between those three parties, there was miscommunication of what was supposed to happen, no one had the answers. Management said it was not up to them to make the reintegration happen and this frustrated Complainant SMITH over time. In Redacted opinion the reintegration was poorly done in terms of expectations and duration.
- q) Redacted talked about "stigma talk" which is focused on people returning from mental health leave and in Complainant SMITH's case, they wondered if she was "put back together." He thought the behaviour stemmed from jealousy and expressed pettiness by gossiping. Redacted says there is a lack of understanding that causes the pettiness and a lack of communication by management, there was no impression that management was being informed what to expect. No questions were being answered and no information was given.
- r) When asked if there was concern about Complainant SMITH's mental capacity, he said that his platoon wanted a meeting with DC MOORE and Chief CLANCY to understand more. They requested one or two times for the meeting. There was never any expressed welcoming back to the LFS
- s) Redacted said there is mental health training online and seminars with the City of Leduc, but that is another thing altogether. Mental health training is not mandatory.
- t) Redacted said when he was off for a back injury, there were no steps for reintegration, so he created some processes working with his WCB doctor.

- u) Regarding nepotism, Redacted said LFS is a small department, and it was definitely like that when he started. Then management went through a phase of building a matrix for everything and created values for all the work. Favoritism is creeping back in terms of who gets opportunities for career advancement, going to conventions, information about what courses are scheduled, people getting on committees, privileges at work, time off for leave, how it is compensated. "It all comes down to what circle you are in, who you know, who are related to."
- v) Redacted provided an example of KUHN being put on the Fitness Committee and she was asked by management to redevelop the program without consultation with the committee, which Redacted is on.
- w) KUHN was a clinical educator and all of sudden she is on the Fire Training Committee without having the qualifications.
- x) Two or three years ago there was a hiring of 3-4 people for full time positions at the same time as the bargaining for the Collective Agreement. A new clause was being pushed by management to include hours of the Paid-on Call (POC) members. The result of the new clause meant that the POC members jumped over more senior members--ex. the CLANCY kids jumped over WIERENGA, Redacted Shane Kirkland, and they did not have the qualifications, they were not paramedics or firefighters yet. The signature on the acceptance letter came after the ratification date of the Collective Agreement.
- y) There is a procedure in place for the reimbursement for PCP or ACP training but unsure if there is a policy. It comes down to "which circle you are in" whether you get time paid for school.
- z) Practicums were historically done with external agencies and now there is a change to having the students mentored in your agency. It is a tough ethical position to put the preceptor in because in the case of the upcoming practices of the Chief's kids, who is going to fail them? Loss of money, time to do the course again. The mentor has to discipline and possibly fail a student, whom you have to work with the next day – a very difficult situation.
- aa) Practicum students are required to work their school uniform and the CLANCY kids and Brandon Cuomo are wearing LFS uniforms.

Credibility Assessment of Redacted

- [54] The Investigator found Redacted to be reliable but cautious witness. I attribute some of his caution to his desire to rise through the ranks. He was concerned about how his statement would be used and who would see it, but he was willing to provide information regardless. I found him to be a credible witness who has witnessed the culture and environment at LFS for almost 15 years.
- [55] In particular, despite knowing that "ruffling feathers" is not good for your career at LFS, he did state that the culture at LFS was a "culture of fear." In my view, this corroborates much of what Complainant SMITH has stated she experienced. His comment about "which circle" one is in also was corroborative of the evidence of Complainant SMITH. Because his opinions are based on what he has seen and heard over the last 15 years, I have given them considerable weight, even though they might not be detailed accounts.

Summary of Interview with J. WOLFE

[56] J. WOLFE stated:

The WCB Claim

Investigator Note: The initial WCB claim was submitted by Complainant SMITH on October 9, 2018.

- a) On April 14, 2021, SMITH contacted J. WOLFE and referenced a bad call that she experienced on October 14, 2020. J. WOLFE confirmed with WCB the incident occurred on October 14, 2020, when SMITH left home part way through her shift but there was no paperwork submitted.
- b) On April 28, 2021, J. WOLFE reached out to Captain Murphy for the paperwork.
- c) There was nothing unusual about the fact there was no paperwork filed.
- d) In May or June 2021, J. WOLFE was contacted by WCB, and a new claim was opened.
- e) J. WOLFE stated that this was never reported in the past because it was hard to know if the incident would be part of a WCB claim.
- f) It was up to the individual to submit the claim and it remains the individual's responsibility to fill out the form. Furthermore, it is not mandatory to report incidents.
- g) WOLFE's stated that after this incident with Complainant SMITH she contacted HR to discuss the process of re-evaluation and determining if these "bad calls," such as those experienced by the Complainant, should be reported to WCB as a matter of practice
- h) WOLFE stated that she was notified by MOORE by a phone call that Complainant SMITH had relapsed and had been taken to hospital. WOLFE then notified WCB to advise them and WCB began to gather information from the hospital.
- i) WOLFE told Captain MURPHY she needed a medical for fitness for duty then an offer letter for modified duty would follow.
- j) The last communication in 2020 WOLFE had with Complainant SMITH was December 2nd, 2020, when she contacted Complainant SMITH about the training compensation.
- k) WOLFE stated she communicated with Complainant SMITH on January 2, 2021, to check in with her after her relapse. The Complainant told WOLFE she was feeling overwhelmed, so a comprehensive psychological evaluation was ordered after Complainant SMITH's psychologist returned January 9, 2021.
- l) Complainant SMITH said she was sober and doing okay, the trauma therapy was good until COVID hit.

Communication with LFS

- m) WOLFE continued to do weekly check-ins with Complainant SMITH to ensure she was seeing her psychologist.
- n) WOLFE stated that Dr. Gothjelsen, who was making decisions with WCB. Complainant SMITH said that taking time off work was not the right thing for her, but WOLFE advised that Complainant SMITH had to say no to work because she returned to work and took on too much.
- o) WOLFE stated that normally the check-ins are done by LFS weekly or at least every two weeks, but in a meeting with Complainant SMITH she stated that she preferred that WOLFE do the check-ins. It is normally a Captain that does the check-ins because they have the relationship with the members.

Investigator Note: J. WOLFE corrected herself when she initially thought the contact from WCB was in May or June.

- p) J. WOLFE initially sent an email to MOORE, and he referred her to SMITH's Captain, Shawn MURPHY.

- q) This request went through Captain MURPHY; however, he was off work, so it took two weeks to receive the report.
- r) J. WOLFE responded back to WCB confirming the incident. Captain MURPHY submitted the email to confirm the incident.
- s) J. WOLFE reached out to MURPHY again on April 28, 2021, and another email on May 7, 2021.
- t) J. WOLFE said that once the paperwork is submitted to WCB they adjudicate the claim and Complainant SMITH's claim was approved for PTSD.
- u) J. WOLFE admits the psychological injury is new to her and she does not know how a person relapses, but it is not her job to make decisions, therefore she just calls WCB and asks for direction on how to proceed.
- v) WOLFE stated that a treating physician, own family physician or Sheila Gothjepsen (for Complainant SMITH) could fill out the form. WCB is an option, but WOLFE is not clear on the scheduling in Complainant SMITH's case (that she was booked off till April).
- w) J. WOLFE stated that Leduc partnered with other groups for a two-year study into psychological health and safety and SMITH joined that group.

Denial of Compensation for Training

- x) On November 27, 2020, SMITH shared a text with WOLFE regarding compensation for a training course she was approved to take. SMITH shared a text conversation she had with her captain, Captain MICHELSEN, who denied her training. J. WOLFE sent MICHELSEN a message informing him that this training course was an agreed upon with MOORE and CLANCY as a part of her return-to-work plan.
- y) J. WOLFE stated that the approach MICHELSEN took was inappropriate and if he was not sure he should have asked first. Messaging was completed between SMITH, J. WOLFE and MOORE and the compensation was paid as had been previously approved by the chiefs.

Return-to-Work Plans

- z) The return-to-work plans are developed through her, the supervisor and the LFS employee's physician, on an individual basis.
- aa) For occupational injury/illness, when an employee receives medical treatment, it results in reporting to WCB. Therefore, for an employee to return to work, they must have medical supporting that they are able to return to work. Once medical is received, LFS write offers for modified work/hours or offers to return to regular duties.
- bb) SMITH was returning to work not in uniform, and it was a gradual return meaning she was the 3rd on the ambulance and the 4th on the engine.
- cc) J. WOLFE recalls that the case worker said it would be a "yo-yo return;" SMITH had modified hours and modified duties and she could take a step back if necessary.
- dd) J. WOLFE said that the department psychologist works with first responders but a lot of them are not comfortable with him; SMITH sees the psychologist that was recommended by WCB after returning from Edgewood.
- ee) J. WOLFE stated that if the return-to-work plan included administrative duties a Captain will not be aware of that because the members report to MOORE, and he supervises all the employees returning to work.
- ff) J. WOLFE stated it is a shared responsibility between employees and the supervisor; for example, SMITH does not respond to certain calls.
- gg) J. WOLFE does not recall discussing the committee work at the March 13, 2020, meeting.
- hh) J. WOLFE stated that Dr. Gothjepsen, who was making decisions with WCB. Complainant SMITH said that taking time off work was not the right thing for her, but WOLFE advised that Complainant SMITH had to say no to work because she returned to work and took on too much.

Credibility Assessment of J. WOLFE

[57] I had no concerns about this witness. I found her to be forthright and credible. I have given her evidence considerable weight in this matter.

Summary of Interview with Megan Wright-FARRER

[58] On May 6, 2021, Complainant SMITH experienced her third relapse at her neighbour and colleague, Megan FARRER's house. FARRER describes the night of May 6, 2021, when she called AHS for an ambulance to attend to Complainant SMITH at FARRER's home. The RCMP, LFS ambulance and an engine truck attended the call.

[59] FARRER said that everyone back at the station heard about the call. FARRER asked the engine crew to leave, and they did not; rather, they sat in the truck and watched.

[60] Chief CLANCY texted her later asking for information and then asked KUHN to get information about what happened. The LFS does not have the right to seek out the information.

[61] If Complainant SMITH chooses to tell them the specifics she can, but it is common knowledge that members share everything about everyone with disregard to Complainant SMITH as a patient and her right to confidentiality.

Credibility Assessment of FARRER

[62] I had no concerns about this witness. I found her to be forthright and credible. I have given her evidence considerable weight in this matter.

Summary of Interview with Jaclyn LAPOINTE (LAPOINTE)

LAPOINTE stated:

- a) She is no longer an employee at the City of Leduc; she is currently working as a paramedic and firefighter at St. Albert Fire Services and has been for the past 1 ½ yrs.
- b) LAPOINTE was hired as a Paid-on-Call employee in January 2015, where she was a primary care paramedic and Firefighter (PCP/FF).
- c) LAPOINTE resigned in November 2020 as a POC employee.
- d) LAPOINTE knows Complainant SMITH and worked with her on EMS and fire.
- e) As far as LFS, LAPOINTE says that DC MOORE is the reason she left the organization. "If you don't have the CLANCY name or are in the DC MOORE circle you won't get anywhere or get opportunities. "DC MOORE rolls out the carpet for those he likes."
- f) LAPOINTE shared three incidents that occurred to her while with LFS:
 - o She was denied reimbursement for Paramedic school by DC MOORE on the basis of not being around for 2 years. LAPOINTE informed him that she was on leave to be in school for 16 mos.
 - LAPOINTE was one of a few who did not get their school paid for, including Roslyn Kripp.
 - The Fire Manager is where the schedule is located; she attended the Professional Medical Association condensed paramedic course, 16 months rather than 2 years. She was on leave from July 2018-September 2019.
 - o DC MOORE pulled her from an interview for the full-time position because she was missing the pump operator course. She was in the same competition as Shane and Sinead CLANCY and Justin (Last Name Unknown), who was a paramedic.

- LAPOINTE was called by HR about her interview and when DC MOORE found out he told her that she was missing the four-day pump operator course, which she was never offered.
 - They also offered the Level II firefighter course while she was in paramedic school.
 - LAPOINTE feels that DC MOORE is not fair or equal in how he supports people.
- Lastly, when LAPOINTE prepared her resignation letter she purposely sent it to the Chief. She received nothing from the Chief, but he forwarded her email to DC MOORE and his reply was, "It's bittersweet to see you go."

Credibility Assessment of Jaclyn LAPOINTE

[63] The Investigator has no issue with the reliability of LAPOINTE's evidence or her credibility as a witness. She does not have a high opinion of DC MOORE that stems from her own interactions with the Deputy Chief. She is no longer an employee of LFS, and she was included as a name put forward by Complainant SMITH to have information, however, the Investigator determined that she has no direct evidence or confidante evidence regarding the allegations Complainant SMITH presents. Her evidence was given little weight as it had no probative value.

Summary of Interview with Kristie Kuhn

[64] KUHN stated:

- a) She came from Calgary where she had been paramedic for 5 years, got hired full time during recruit training, conflict because no one else had opportunity to apply, says so they did post it, and no one qualified but her.
- b) Current ACP has completed Level one and level 2 fire, officer level 1 (so can now act as a captain, completed LDP/ ODP.
- c) Was clinical educator for 5 years, asked to join fire training Cadre, told she could not do both.
- d) KUHN says she is now in the Fire Training Cadre, invited by Shane CLANCY to do this (who is only a p/t trainer).
- e) KUHN stated that LFS is "a great place because you get whatever you want if you work hard" and "those that don't get anything are lazy".
- f) KUHN was asked about harassment & discrimination and initially KUHN said she had not experienced anything, investigator asked about the time when she was new and she was expected to carry all the new equipment into the gym as a "test," she admitted that did happen.
- g) KUHN stated, Complainant SMITH "had been struggling with her mental health for over 2 years and it was well known to the department and especially to the chief and deputy chief. In 2018 [Complainant SMITH] went to in-patient treatment for PTSD and substance abuse, the department (driven by the chief and DC) were able to send her on short notice and had been extremely involved in helping her with her struggles."

Credibility Assessment of KUHN

[65] In my view, KUHN did not have any relevant evidence related to the allegations, so a credibility assessment was not conducted on her.

Summary of Interview with Steven HYDE (HYDE)

[66] HYDE stated:

- a) HYDE is a casual ACP and POC FF; he has been with LFS since October 2015.
- b) HYDE met Complainant SMITH in 2007 when she was an instructor in EMS and met her again in 2015 when he joined LFS.
- c) HYDE and Complainant SMITH were both clinical educators at the same time, she was the lead of the clinical educator Group.
- d) HYDE discussed their responsibilities as clinical educators (CE), patient care reports audits is one of them. Audits are done on a regular basis. The CE Group will review audits and check for deficiencies, which are brought to the attention of Captain Michael LABUTES, who is in a supervisory role then it goes to Captain Doug Britton, who will take the issues to management.
- e) When asked specifically about the Adam Swendsen audit, HYDE said that both Swendsen and his partner, Jamie Junod, had some serious issues with the quality of their reports. In the case of Swendsen, management disciplined him for the substandard reports.
- f) HYDE said he had not witnessed any harassment by this particular platoon towards Complainant SMITH, nor did he know anything about her broken window.
- g) HYDE says that no one likes to be audited and no one wants to offend their colleagues, but some stuff is just missed, and it is still reported to management.
- h) HYDE states that Swendsen's deficiencies are the level for management to deal with. Captains do not do enough performance evaluations and it is in policy to do evaluations annually or biannually.
- i) HYDE said that he has never seen any overt that would be considered harassment or bullying. He did say that how management took Complainant SMITH out of the leadership role was poor handling. Management did not consult with the CE Group and the ball was completely dropped.
- j) HYDE said he is not surprised it is how LFS handles things
- k) HYDE said that Complainant SMITH had just returned from her leave, and it was disrespectful how they swept her feet out from under her. Complainant SMITH does a great job championing for the CE Group, she did a lot for the CE Group, and she was not recognized for her efforts.
- l) When asked about if the Respectful Workplace Policy is posted in an overt place, HYDE said he believed so, but he is not sure exactly where it is.
- m) When asked about working with Connie Dupris and WIERENGA, HYDE said that they all worked together at the Edmonton Airport. He was asked for his recall of sexual misconduct between Connie and WIERENGA, and he provided the following:
 - o In 2016, WIERENGA made a comment to Connie, some sort of exchange that made Connie very upset. HYDE said WIERENGA may have slapped her bum, but he was not sure.
 - o Connie came to HYDE, and he told her to confront WIERENGA and he believed she was going to.
 - o HYDE gave Connie direction on how to handle the situation and that included going to management.
 - o HYDE is unsure if Connie followed through with his advice.
- n) When asked about anything HYDE thought was important, he wanted to add:
 - o As a CE he thought that management had dropped the ball on performance evaluations.
 - o Believes there is "huge toxicity" in LFS.
 - o HYDE suggests that most guys on the floor have been treated poorly.
 - o HYDE provides an example where he attended a meeting with HR, Chief, former Deputy Chief Christensen, and they were berated by the Chief for being unprofessional, but he thought the meeting was unprofessional, so he asked for a union representative.

- The Chief admitted outside of the meeting that everything HYDE said was true, but the Chief could not say anything. HYDE voiced his displeasure about how the meeting was so unprofessional. He said the younger members feel intimidated.
- HYDE applied for a full-time position in 2018 and he was unsuccessful because he was told he was not “passionate enough”.
- HYDE was not surprised to hear that an investigation was initiated, he figured someone would complain.
- HYDE says that if you look at the emails that come out weekly, there is a lot of negativity and management attacks people openly in the emails and that is not how you handle issues. HYDE suggests that investigators look back to 2018 and see how the Chief addresses the personnel.
- HYDE said that LFS does not train to the Leduc City policies. For example, Jeri Wolfe was teaching the Respect in the Workplace Policy in 2017 and it was not done in a professional manner-i.e., Wolfe said, “We have to watch these videos.”
- HR has never outlined the importance of the policies, the orientation for new members is lacking, there is no mentorship program, there is no Leduc Corporate Policy for Job Performance Reviews, and you can review policy on the LFS website and click on the button to say it was reviewed.
- HYDE is not part of the clique; he is not drinking the “Kool Aid,” so he does not feel that welcome.
- In September 2019 HYDE was returning to work from a back injury (WCB) and he had to fight for modified duties. HYDE had to get Union representation to advocate for appropriate duties for him. He believes there is a lack of understanding about the basis of the job functions like lifting and one’s moral sense of duty to jump in if the need exists.
- o) HYDE spoke about the Performance Assessment Matrix and how it changes before the full-time interviews (postings).
- p) HYDE said that nepotism exists, there are good people without experience getting opportunities.
- q) HYDE suggests that DC MOORE has too much on his plate.
- r) HYDE stated that LFS “can’t get out of its way” they are growing but they need to be professional.
- s) HYDE said there was a letter sent to Leduc Council and the response received was that it was from a disgruntled employee.
- t) HYDE said the Chief sent out an email about participating in an online survey and the participation results were poor, including the finding that employees do not feel safe. The Chief may act surprised, but he should not be. He is aware that members are reporting to the Chief about issues raised at the Union meetings.

Credibility Assessment of Steven HYDE

[67] The Investigator has no concerns with the reliability of HYDE’s evidence. I found him to be a credible witness who has experienced the culture and environment at LFS for almost 6 years. However, he had limited personal firsthand knowledge of the allegations under investigation. This lack of probative value reduced the weight I have assigned his evidence.

[68] Most of his information relates to the history of the LFS and how it got to where it is today. His opinion that there is “huge toxicity” in LFS adds credence to the claims of the Complainant. He cites the nepotism and Leduc Council’s reaction as contributing to the toxicity at LFS. His comments that the “negativity and personal attacks in the emails from management as also contributing to the toxicity. His comment that the “Chief may act surprised, but he shouldn’t

be," is noted. This is significant because HYDE bases this opinion based on his knowledge that he is aware that LFS members are reporting similar concerns as the Complainant to the Chief at the Union meetings.

Summary of Interview with Christa STEELE (STEELE)

[69] STEELE stated on May 28, 2021, after co-worker Complainant SMITH had made formal complaints against members of the LFS, Chief CLANCY asked STEELE to meet with him, when she was not on shift. She declined, he persisted, she relented. In the meeting, CLANCY told her he heard she was going through a hard time and told her to focus on taking care of herself, and to "stay out of the Mindy shit." STEELE feels this was a not very subtle way of suggesting she should not support or provide information that corroborated Complainant SMITH'S complaints.

Credibility Assessment of Christa STEELE

[70] The Investigator is aware that Christa STEELE has complaints of a similar nature as Complainant SMITH's allegations. The Investigator has no concerns regarding STEELE's reliability. STEELE and Complainant SMITH may not have been close as colleagues during their careers, but they have allegedly shared similar experiences in the last several months.

Summary of Interview with Respondent 1: [Redacted]

[71] [Redacted] stated:

- a) [Redacted] began working for LFS in 2007 as a POC member w/o medical training until he got his EMR, EMT and hired full time inn 2009 as a firefighter and EMTA.
- b) [Redacted] has worked on the Fitness Committee, PR Committee, and the practicum Coordinator, SCBA.
- c) [Redacted] said he stepped back from the Practicum Coordinator position because he was doing the LDP and wanting to become an officer.
- d) He has been off work with a serious knee injury since June 2020.
- e) [Redacted] recalls the conversation with Complainant SMITH and making the comments about lesbians not sharing the same dorm. He admits to saying the comments. He claimed that he felt it was safe talking with Complainant SMITH because she is open about her sexuality and makes jokes.
- f) [Redacted] explains that although his recall is not great because it was a few years ago, he was the Practicum Coordinator in March to May 2018; Complainant SMITH was mentoring Student "A".
- g) [Redacted] recalled the conversation in the mess hall and there were other people present, people from platoon 3.
- h) [Redacted] was discussing the idea about where same sex people sleep since the arrangements are to split on males and females in separate dorms. He was thinking about how we would arrange this. [Redacted] stated that he did not know about Student "A" 's sexual orientation, but when presented to him that he must have known or he would not have had the discussion, which he agreed made sense.
- i) He did not intend for his comments to be malicious; he said he was more inquisitive in nature to come up with consistent guidelines for mentees.
- j) [Redacted] said that LFS has no orientation for new students, and they "fly by the seat of their pants" and as Practicum Coordinator he is responsible for sleeping arrangements.
- k) [Redacted] described Station 1 as having four rooms with two beds in each room and there is a separate room for the captain; and the student sleeps in the mess hall on a cot; Station 2 has eight rooms with a single bed in each room.

- l) [Redacted] said that the comments were said to only Complainant SMITH, he would not say them with Student "A" present. Asked why, [Redacted] said that he valued peers' opinions, he did not think that Complainant SMITH would be offended since she joked about her sexual orientation.
- m) He was shocked and saddened to hear that she was offended, [Redacted] was concerned that Complainant SMITH would think of him as a bigot.
- n) Complainant SMITH had not said a word to him during the conversation to him that it was offensive, or it was not okay to talk about that. [Redacted] did not know Complainant SMITH complained about it to DC MOORE. DC MOORE did not say anything to [Redacted] about it.
- o) On the second issue that Complainant SMITH brought up, [Redacted] also admitted that he brought Student "A" into a board room to discuss complaints that he had heard about the student being too comfortable in the station.
- p) [Redacted] described the concerns as the following:
 - Student "A" bringing her dog into the station;
 - Student "A" was out with Complainant SMITH and Jeff Fox at an Oilers game, drinking;
 - Student "A" fell asleep in the back of an ambulance, and someone took a photograph because they thought it was funny.
- q) [Redacted] advised Student "A" about the concerns brought to his attention and he cautioned her about optics, being professional and getting through her practicum without any issues.
- r) [Redacted] said Student "A" denied being out drinking and she fell asleep because she was tired.

Credibility Assessment of [Redacted]

- [72] [Redacted] said he was really nervous about being interviewed. [Redacted] initially came across as forthright, sincere, and candid. He appeared to understand the questions and answered them directly. His admission about the comments he made to Complainant SMITH about the sleeping arrangements is noted.
- [73] Initially he stated he recalled the conversation in the mess hall, claiming there were other people present, people from platoon 3. He then goes into details about that conversation.
- [74] [Redacted] recall of the events is different than the Complainant as he believes the conversation took place in the mess hall and he even believed that other people were present.
- [75] [Redacted] could not recall who was present during the conversation when asked.
- [76] However, shortly into the interview he also claimed that he was not aware of Student "A" s sexual orientation. It would seem he contradicted himself in a matter of a few minutes.
- [77] When presented to him that he must have known or he would not have had the discussion with Complainant SMITH about Student "A," their sleeping arrangements, and their sexual orientation, he changed his story and agreed that would make more sense. This detracted from his credibility.
- [78] [Redacted] also stated that although his recall is not great because it was a few years ago. This detracted from the reliability of his evidence in my view.
- [79] I am also concerned that [Redacted] has a personal interest in the outcome of this investigation because he may be disciplined for his comments.

- [80] For these reasons, I was unable to find [Redacted] a credible witness. I have given his evidence very little weight.
- [81] While [Redacted] agrees with the subject matter of the conversation, [Redacted] differs in the context in which he spoke to Complainant SMITH.
- [82] Where [Redacted] recall of the conversations differs from those of Complainant SMITH, I prefer the evidence of Complainant SMITH.

Summary of Interview with Respondent 2: George CLANCY (CLANCY)

- [83] Chief CLANCY stated
- a) He joined LFS as a volunteer in 1990 and became a Deputy Chief (DC) in 2003; He has more than 31 years of service.
 - b) He brought EMS as a full-time entity to LFS CLANCY split his time between the ambulance and the office.
 - c) CLANCY was instrumental in the transition from part time to "quasi full time," policies and processes. EMS was contracted to Leduc at the time, and he integrated the LFS with EMS and Fire.
 - d) CLANCY became the Chief 7 years ago. He promotes transparency and he wants all his staff to be accountable in their roles because the previous Chief ruled with an iron fist, and he was narcissistic.
 - e) He believes he is trying to create a good environment for the people on the floor.
 - f) CLANCY says that 'A.C.T' is the acronym they use, and it stands for Accountability; Consistency; and Transparency.
 - g) He has had to learn how to manage the "buddy and boss" relationships over the past years. He is not a sociable individual.
 - h) When asked about his relationship with HR, CLANCY was very complimentary of Chris Tobin (TOBIN) in particular and said that HR is the SME that he relies on regarding the policies and process in LFS.
 - i) CLANCY said that TOBIN brings the "Human" part of Human Resources, Tobin is a "breath of fresh air" and says that HR is "a blessing."
 - j) CLANCY said that the Deputy Chief of Operations (DCO), DC MOORE, and TOBIN do the hiring and they generally do it from within because they have 60 people to draw from.
 - k) CLANCY initially stated that as the Chief, the buck stops with him, but then said it does not. If anything goes wrong within the organization there are other people to go to like the General Manager, the City Manager and HR. He says that it is pretty egotistical to say the buck stops with him. "There is no way I would look at it from that perspective."
 - l) CLANCY stated he was surprised by this investigation, stating, "Suddenly, then this investigation comes out of nowhere." CLANCY stated he feels "betrayed" by the complaints and allegations.

Concerns Sent to Chief CLANCY

- m) CLANCY stated he has difficulty understanding how women cannot come to him and talk about these issues. As previously noted, CLANCY stated that "people shut down" when he walks into the room.
- n) CLANCY did state that he was aware that [Redacted] had put up posts on social media saying the management at LFS was toxic.

- o) CLANCY also stated that he has "disengaged with some people on this department, in reference to those Facebook's. I've had people that were friends with me for years, and basically, I switched them off."
- p) CLANCY added, "if they feel that I'm doing something that's wrong here. Then I just don't want any part of it. So, we tried to get away the drama and disconnect with that group."
- q) CLANCY said he will continue to work on the fear of retribution that complainants are; however, in his view, "complainants will always have a negative view."
- r) The interviewer asked CLANCY how concerns/complaints were captured but it was not clear in his response how complaints were managed at LFS.
- s) CLANCY stated that, "if a Complainant does not write it on paper, they are not serious about the complaint.
- t) CLANCY stated that 10% of the staff will not be happy, and he has to lead those 10% and spend the most time on their issues and be inclusive. There are passive-aggressive people out there who, "I can't do much with."
- u) CLANCY stated his statement "If you're not happy, there's the door", was taken out of context by some. He stated it was geared towards those that did not want to work in an integrated fire/ambulance service adding, "I have some disgruntled people in the organization who don't want to work here."
- v) CLANCY stated that after former LFS firefighter BRAUN was fired for sexual misconduct, he was aware of the poor decision making by Deputy Chief Christenson in his unwavering support of BRAUN. However, he felt that Deputy Chief Christenson had turned the corner and was suitable to put into the acting chief's job while CLANCY was away.
- w) He was surprised by Deputy Chief Christenson's poor decision making around the incident at the motorcycle rally.
- x) CLANCY said that he spoke to all the women post event and told them it was not acceptable, and he apologized to them. He told Complainant SMITH that she did a great job, she did the job she was supposed to.
- y) Chief CLANCY felt the impact of this incident was it divided LFS into two camps: those who supported former LFS firefighter BRAUN and those who did not.
- z) Chief CLANCY could not recall if he sent out an LFS wide email condemning the behaviour that occurred at the motorcycle rally.

The Allegations of Sexual Misconduct Against Chief CLANCY in 2004

[84] The investigators asked Chief CLANCY about Complainant SMITH's claim that Christa STEELE had claimed Chief CLANCY sexually assaulted her. CLANCY was a Deputy Chief when this is alleged to have occurred. Chief CLANCY stated:

- a) He said he is really getting really disappointed with this allegation.
- b) He had a friendly relationship with Christa STEELE.
- c) During an LFS Christmas party, he went into dispatch, where he was alone with Christa STEELE. Dispatch was quiet, they had a conversation, he was there for a few hours.
- d) He got up and hugged Christa, he said he hugs all females, which is who he is.
- e) I hugged her and I didn't her hug her inappropriately. He said then they kissed it was mutual; it was not a forced issue.
- f) If from Christa STEELE's perspective, she felt that he did anything that was inappropriate at that time, there was nothing brought to his attention, nothing happened afterwards.
- g) He admits that he regretted it and he continued to be friendly with her all the way through, even to the point where they have done things together, ex. CPR instructors, he wanted to take his CPR instructor and she wanted to attend so they drove to NAIT together. Christa also asked him to be a secondary instructor on courses that are delicate, so from a harassment perspective, that did not make sense to him.

- h) He said they joked with each other all the time after that event. There was nothing that came out of it. "...whether it was a drunken stupid move on my behalf it's something I've regretted, and I have no issue and I told my wife about it, no issue with it, but it shouldn't have happened. I don't condone that, but it was stupid for me to do it"
- i) (Investigator's note) CLANCY deflected attention away from the sexual misconduct and turn the attention to Christa's issues with excessive sick time and everything else, stating, "nothing has ever been brought up."
- j) CLANCY said that he discussed the possibility of discipline for the occasion when Christa was supposed to be isolating and she was observed shopping.
- k) CLANCY said he is beginning to doubt her statement even in the former LFS firefighter BRAUN case, where she states, she does not feel harassed by anybody in this organization.
- l) CLANCY said, "you have identified some scenarios, which it's new to me, when you say that, well these individuals it's compounded, and they get to that point where they sort of don't have trust with anybody from that the individual with Christa STEELE herself."
- m) CLANCY talked about Christa bringing her daughter in to see George and if felt that if she felt he harassed her why would she be bringing her daughter in to see him.
- n) CLANCY stated, "if I'm that type of person that is not my character that never was my character, you know what the way hug people yes I do. Do I get too close to them maybe I do it that's a hugging scenario, but I don't do anything that's inappropriate."
- o) When the investigators brought up Christa STEELE's allegation that CLANCY had came up behind her and started touching her neck, head, and hair, CLANCY said it was a complete fabrication.
- p) CLANCY added, "And I just say because this is recorded and this is going to be pushed on either issue as zero issue in going down the legal framework on "this-zero-issue" with it, because that is incorrect. And I will call her out on that no issue. We sat in that room. We went into that room, we sat down, and we chatted for a few hours. And I basically got up, I didn't come behind her. I mean, to me it's totally fabricated."
- q) When the investigator advised CLANCY that there was more, that according to Christa STEELE, there was a 911 call and so she took that and CLANCY left, and then a half hour later CLANCY returned.
- r) The investigator advised CLANCY that Christa STEELE had stated that at that point she stood up, and then she said, CLANCY had pinned her against a wall slash window, and tried to kiss her.
- s) CLANCY responded, "No, no, I don't when I actually, the kiss actually happened. It wasn't up against the window. Okay, we were beside the console. I still have the visual aspects of it. No problem and challenge in this zero problem, even to the point of a court, I have zero issue with this. And all because that is completely fabricated from that perspective, she can say whatever she wants to say."
- t) "And you know I, when I read just these small details, even from that perspective. Her story of what evolved, to me is the opposite of what actually happened, and now I have concern."
- u) CLANCY added, "now I have concern. And I'll be honest with you, is when she made an accusation against Vince BRAUN and I'll be honest with you, I started to second guess or did that really happen. So that's where I'm coming from right now, and that's what's really disappointing with this."
- v) CLANCY went on to tell the interviewer, "Now, if you want to, you know, even if we checked into the permits that are supposed to register for their PCP for this year, she hasn't even registered for them. There is a bit of a game plan here and I can see it, and it's time to rise up, that we have people in here that are being vindictive and are actually causing issues for individuals that are working in this department that are doing a good job. And unfortunately, now the vocal minority are being listened to, and I expect you guys to go through with your,

your investigation, bring your facts in and everything else. But I can tell you, if you go through the specific individuals that you have talked about today, you're not getting the full picture. I will guarantee you that you need to talk to other people in the organization of who they are, what they are."

- w) "We worked in a very toxic environment for the last chief that was here. And I've tried to reverse that, and I get the feeling right now that I have been just too nice. In regard to some of this, and I've tolerated. Some of the negativity that's come forward from some of these individuals. We've allowed it to happen, we've been allowed and try to believe that this is the way it should be. And we haven't been very upfront with the 90th percentile instead of, we're focused on the ten percent all the time. And that's where things may have gone wrong for us."

Nepotism

[85] With regard to nepotism, Chief CLANCY stated:

- a) CLANCY said the issue of nepotism "always comes up."
- b) When asked about the hiring of his kids, CLANCY said that initially HR stepped in and stopped his daughter, Sinead, from being hired. CLANCY even told his daughter not to apply.
- c) CLANCY said the Employment of Relatives Policy was created because Sinead CLANCY said that it was discrimination that she was not being hired because of the relationship with the Fire Chief.
- d) CLANCY said the motto listed on the side of the fire engine is: "Our family protecting your family" and he further stated that firefighters have a long tradition of hiring family members.
- e) CLANCY said that during the hiring of his daughter Sinead, Brandon Novak, Justin Arcan, and Shane CLANCY were also selected for the three full time positions and his daughter Sinead was ranked fourth and got the position when a vacancy occurred. Therefore, CLANCY said he had no influence over the process.
- f) CLANCY informed the captains that they have to do what they have to do in terms of supervision.
- g) CLANCY said that HR will write up the posting and get SME advice from DC MOORE. Those with qualifications that include primary care paramedic (PCP), and pump operator will get an interview.
- h) The issues regarding favoritism are being passed on by the Union. The hiring panel includes DC MOORE, TOBIN, one full time member and one part time member. The hiring of the DC position includes the Chief, General Manager Melvie, and TOBIN.
- i) Chief CLANCY also added that, "I got to be pretty blunt about this. Don't ever bring your kids into your own place, I can tell you that if you want to see it harassment at the biggest, you can watch it right from their eyes. It is actually terrible how they are treated sometimes."

Denial of Promotion

[86] CLANCY said that candidates who participated for the DC position received feedback-Jeff Fox, Mike Skinner and Complainant SMITH did not show up for her feedback.

- a) CLANCY said that the screening of the candidates was done by Tobin and his direct report, Lori Hiller, who researched the external candidates. The fire and EMS communities are small so it is surprising what you know so if there were allegations of sexual misconduct it would come out.
- b) There was one individual with allegations of sexual misconduct, and it was learned from the news outlets.
- c) CLANCY said you have to be careful when you define "equal" because of the Union. The Union President believes that equality includes those within +/- 10%. And CLANCY said you are either first past the post or second.

Discipline

- [87] When asked about discipline, CLANCY said that coaching and counselling are not discipline. Members know the expectations. The serious issues are managed with discipline and HR is involved with that. CLANCY provided an example of demoting an individual, there was not an investigation, but Chris was in the room to discuss the options. When there is an investigation HR decides the next steps and what the precedent is for serious allegations.
- a) CLANCY said that Chris Tobin brought in the Respect in the Workplace Policy and HR makes the recommendations. CLANCY said they are not the experts therefore his management relies on HR.
 - b) CLANCY said that if there are technical violations related to OHS; AHS will address the patient care issues and OH&S matters, which are actual or near-miss accidents, are dealt with by DC MOORE, which could be resolved by remediation.
 - c) CLANCY said there is less firefighting and more patient care for both the ambulances and engine trucks and the clinical educators deal with the patient care issues by reviewing PCR and the Quality Assurance officer will redact the names and ensure that the care meets the guidelines. CLANCY adds that the clinical educators have no authority in the investigation of matters, they are SME/s and have no control over discipline.

Baseline requirements are for the Deputy Chief position

- [88] CLANCY said that responsibilities require administration is 25% and operations is 25%, the DC acts as the Duty Chief Officer. The posting for the DC is a standard posting and they only recently added the Blue Card Command requirement. The recent deputy chief posting was closely aligned with the qualifications that DC MOORE faced in his hiring.
- a) CLANCY would like to implement a Duty Chief Officer position, but it would be a cost of \$60,000.00 to taxpayers.
 - b) CLANCY was asked about a scoring matrix, and he said he relies on the General Manager and the HR Director. He is not aware of anyone close in scoring, within one mark. HR maintains the records.

Managing Employees

- [89] CLANCY said prior to his Chief role he had no HR training. Firefighters are trained to fight fires.
- a) He suggests that people need proper HR training to address issues in the fire hall. Captains are not trained to manage issues.
 - b) CLANCY said that people come into the LDP, and they chat and there are people you need to reach to deal with mental health issues. CLANCY said "wet stuff on the red stuff" is but the HR stuff is different. Courses taken include Conflict Resolution and Mental Health.
 - c) CLANCY said he was instrumental in bringing in a psychologist. CLANCY has spoken to the captains to tell them that they need to reach out to people but they have difficulty with that. Some of the captains do not want to be exposed to hearing the stories. "We are really testing the waters in this area".

PTSD/Reintegration

- [90] CLANCY stated there is a disabilities management policy and as a return-to-work standards, but occupational health and safety use, so they follow that process. We are developing a new policy with a reintegration program but there is a process that has to go into place.
- a) CLANCY believes that the stigma is in the reference to 'mental' health, and he prefers it be called "psychological health." Six years ago, he brought Jeff (Sych) in to offer psychological services, so all members initially go to Jeff, who understands PTSD, and he gets involved with the reintegration'

- b) Some Captains do not like conflict and if not able to manage it they can go to the DCs for coaching and counselling. How to get rid of the stigma of mental health? CLANCY said there is a difference between physical injury and mental health and the older Captains have a hard time with it.
- c) CLANCY said they are waiting for the Edmonton Police Service to teach them about their program. It was set for November but cancelled due to COVID.
- d) CLANCY said with the reintegration process members are not to be exposed to certain areas. For example, when people are brought back to the station there are noises and alarms that trigger PTSD. CLANCY wants EMS trained members to have people exposed gradually. Members are put on the truck for the first 4 hours. With the Edmonton EMS, the paramedic attends calls but the third person on call so as not to jeopardize patient care. Firefighters are exposed to MVA/s where there are burned victims in vehicles and after the Fort McMurray fires a doctor from the University of Alberta Hospital was looking not only at respiratory issues but also PTSD concerns.
- e) CLANCY said he keeps contact with staff. For example, a member was on the verge of suicide, and he spent 12 hours at the hospital to ensure they got the treatment they needed. The UofA staff contacted CLANCY and informed him of a program that is not accepted by WCB, and it cost \$45,000.00, which the City of Leduc paid for. There are currently three people on long-term disability, but he is not sure if the support is there or not. CLANCY did not name the members.
- f) CLANCY said there is policy in place for captains to stay connected with members and CLANCY also reaches out by email typically over text so that it is traceable. He sends out emails to see if anything is required. He sends out a second email to the individual and then the captain has the responsibility of staying connected.
- g) CLANCY said there are organizations who pressure staff to return to work because of the cost.
- h) Accommodations are not available in LFS, but the City of Leduc will accommodate where they can. The policy and process work but there are not a lot of options.
- i) CLANCY said core training includes a new program called "Resilient Minds." CLANCY said they have normally been reactive and not proactive so Mike Skinner and Justin Arcan are the instructors who will teach the course and it will be added to the job performance requirements.

Critical Incident Stress Management (CISM)

[91] CLANCY stated that they did not reach out to Complainant SMITH after the KTC incident out of concern that she was suffering mental health issues that could retraumatize her.

Communication

- [92] When asked about how he messages out to his staff, CLANCY said that he has a weekly email called the "Chief's Update" that keeps people informed about issues. For example, the mandatory vaccines, he knows he needs to start communicating with staff and he advises that it is coming.
- a) Hard copy documents are not posted anywhere; CLANCY said electronic copies are distributed because information is sent out and members can see messages when not at the station. Everything is done electronically.
 - b) When asked about his reasons for why WRIGHT-FARRER, STEELE and SMITH were removed from the LFS group email, CLANCY said they are all very close and he did not want his Chief's Update going out with information about self-medicating, shooting up Ibuprofen (on steroids). He particularly did not want SMITH to see that.

Assessments

- [93] CLANCY said that assessments are done annually, and they are done on paper copies, and everyone is evaluated. 'PES' is the acronym that is used but CLANCY was unsure what it stood for. The copies are not sent to HR. HR asked for the assessments to be captured on an Excel spreadsheet, but CLANCY does not believe in those because they can be manipulated.
- a) CLANCY said the evaluations are formal and informal and they are done once a year. The evaluations include the expectation and coaching, and counselling is used to correct behaviors.

Common Supervisor Issues

- [94] CLANCY said the passive-aggressive people are two-faced, will say one thing to your face while stabbing you in the back. Those people are disruptors, and they are problems for the captains, who are expected to identify the issues and address them.
- a) CLANCY works with the Union, and he sends policies for review by the Union and the captains. The policy used to be open to full time and part time members.
 - b) CLANCY said the Paid-on Call members are not paid overtime; scheduling is done based on hours per month. The scheduling is the responsibility of DC Wierenga and Annette Rutherglen, the Administration Assistant. There are two LDP members on shift for both the ambulance and the engine. CLANCY said that members are brought onto the schedule with less hours to avoid the cost of overtime.

Relationship with the Union

- [95] CLANCY said the relationship between him, and the Union is a working agreement. The Union Exec is the most collaborative relationship, sometimes there is a grievance, or we can talk about it. A couple of the members are not as collaborative. If there is a problem CLANCY said, we are the first to address the issue.
- a) CLANCY said that policy creation involves sending it to the captains. Article 4 of the CBA says that management has the right to manage. When dealing with the Union they have different objectives, for example the union wants all full-time people. The Union cannot be seen as steering the ship.
 - b) CLANCY states that the Union members are James McDougall, Adam Swendsen, Chad Bugnet, Redacted and Doug Britton.

Leave

- [96] CLANCY says that when people are on mental health leave they are totally under the control of the psychologist. The members can be involved in the committee or training and that can be considered light duties or a way to accommodate.
- a) CLANCY said they currently have a person with a knee injury, but CLANCY sees mental health as a concern, and he is involved with the training.
 - b) CLANCY says that connectivity is not good for mental health. When a person is on mental health leave, they can be offered light duties, which could involve City training like the Narcan training, which OH&S oversees or the extinguisher training in the city.
 - c) CLANCY says that accommodation is a goal to get you back in the seat, but it is difficult because of the 42-hour work week. They typically offer 0830-1630 hr shifts, but one person wanted to work with his own platoon and that is not possible.
 - d) CLANCY would love to have a Training Officer position but that requires funds. He currently takes people off the floor to do the training.
 - e) CLANCY said that accommodation is twofold: what can you give back to the organization and what can the organization do for the individual.

Strategy for Attendance Policy

[97] CLANCY said

- a) the LFS attendance strategy was shut down due to COVID.
- b) The policy addresses culpable and non-culpable absenteeism. Mandatory sick notes are expected, and some people are accountable for the notes but not everyone
- c) He would like to make people accountable for their attendance, in fact, some people have nicknames and LFS needs to be seen as doing something about it. The nickname for the particular individual is "6-8 weeks."
- d) CLANCY provided the example of someone who is on sick leave and was observed out shopping when they were supposed to be in isolation. CLANCY said if you are having problems that require sick time it can be discussed.
- e) CLANCY said that they follow the AHS policy, and it is considered the best practice. They will be reviewing the policy once COVID is over and then every year.
- f) Some members can access doctors' notes easily and those issues we discuss with HR. Those types of situations are cancerous. We need to find a process that is black and white because members take sick time as a right.

Complaint Process

[98] Prior to Chris Tobin, there were problems with HR. CLANCY spoke of an example of misconduct at an afterhours event and the complaint was brought to him and the VP of the Union. It was the first complaint that CLANCY dealt with HR.

- a) A written complaint was obtained although the Complainant feared retribution or retaliation and HR said it must be in writing so a witness, who was a part time firefighter submitted the statement.
- b) CLANCY said that at the end of his Interim Chief role he went on vacation. The Union VP called CLANCY and HR and said the event involving a group of people from LFS, Members' Night, was deemed a work event.
- c) CLANCY said he asked for an external investigation as it was biased by HR and the Union. CLANCY approached the Union guy and asked if it was handled appropriately and those with friendships are biased. HR was not a good company to deal with at that time.
- d) CLANCY, as the supervisor, was to do the investigation, he was new to the role, so he was involved in the complaint. The second complaint was similar to the first and an external investigator was brought in because CLANCY went to the lawyer this time.
- e) Recommendations, if any, are followed and HR has the final decision. The HR Director and the General Manager make the final decision with the assistance of the Fire Chief.
- f) CLANCY said that coaching and counselling are done by LFS.
- g) As for paperwork, when CLANCY became the Chief, he was involved in the 2nd investigation and the outcome was with the Chaplain. He was 100% worried about the outcome and the perception but there was nothing he could do about it because he was not the Chief, and the matter was dealt with.
- h) CLANCY said he went to Brian Long, lawyer and not HR. Sue Armstrong came in at the back end. CLANCY does not have notes from the first one, but he thinks with the second one CLANCY said the Discipline Policy is the reference for handling complaints. AHS addresses issues with patient complaints and the City of Leduc addresses complaints and there is a reporting process to the Alberta College of Paramedics that is confidential, CLANCY will send that.

Written Complaints a Must

- [99] Complaints must be written; Complainants have to put pen to paper. Written complaints are a requirement so there is no misinterpretation of anything said. CLANCY said that if a person were too afraid of writing out a complaint, he would leave it to the DC/s to manage.
- a) CLANCY said that if a person were too afraid of writing out a complaint, he would leave it to the DC/s to manage.
 - b) CLANCY said that anything brought to him he requests a written complaint and if there is fear of retribution, he has to put it out there and people have to believe it.
 - c) CLANCY said if there are unwritten complaints submitted, he would refer them to Sue Armstrong and some people have gone straight to HR in the past.
 - d) If there is a peer-to-peer complaint CLANCY said they will facilitate a meeting between the two, but he does not investigate any complaints. DC MOORE takes them seriously.
 - e) CLANCY said that DC MOORE came in after him and he will send the notes to Chief CLANCY.
 - f) He feels DC MOORE was unbiased, so he has lots of faith in DC MOORE. DC MOORE would update CLANCY and the coaching and counselling DC MOORE would do.
 - g) CLANCY said he was brought in if the matter was serious and if there was termination. HR handled the documents, which he also signed. CLANCY reiterated that he stayed at arm's length of an investigation and the lead up is done by the DCO.
 - h) With respect to the investigation, he was involved with and the lawyer, CLANCY spoke to every female about it.
 - i) CLANCY said they are trying to become more diversified and inclusive, and the DC/s do the same.
 - j) CLANCY has suggested to Captains to go to Chris Tobin about concerns regarding the DC/s. Chris has brought both parties in to discuss it. If a DC is complained about, he is notified because of the Union.
 - k) CLANCY is not sure why a person who is afraid of retribution would not go to the Union or to HR, there should be no gap in the system. And he understands some do not trust the Union and he has his own opinion about who to trust in the Union. HR is good with confidentiality.
 - l) CLANCY says that people shut down when the Chief walks into the room.
 - m) CLANCY said there are two perspectives, the Complainants, and the others.
 - n) CLANCY is doing a paper on diversity and inclusion, specifically the female firefighters. There are internal and external views on whether females can be firefighters. CLANCY has a bias because his daughter works here.
 - o) He feels that female firefighters bring empathy in, and they do less with fire and more with people so female firefighters have a role and CLANCY feels they should celebrate females in LFS. He was told by a female firefighter that they did not want to be in a photo about the female engine crew because it separates the females from the other members.

The Respect in the Workplace Policy

- [100] was introduced with Former Chief Polsom and CLANCY said he would like a black and white definition because it is one's perception of bullying and harassment. They do not have much understanding and very little training on that CLANCY stated. We have three females who are lesbians.
- a) The investigator brought up from her teaching of harassment classes that some are sensitive, and it can be simpler when you tell people that they cannot say that or do that.
 - b) CLANCY responded by saying "you can continue to educate yourself, but some members do not read books, everything is from the Internet".
 - c) CLANCY says they have officers who have grown up in the old school and you hear it is often hard to change their ways. "So, you either bring them in, define programs that are we going

to work with them to make them inclusive in the organization or you continue to go down this same path, as you say, 200 years of tradition unimpeded by progression and in two more years you'll be back at the table doing another investigation."

The Breach of Privacy

[101] When asked about the breach of privacy determined by AHS in relation to Complainant SMITH, Chief CLANCY stated:

- a) He admits that he accessed SMITH's patient care record related to January 29, 2020, when KUHN attended at SMITH's house due to a medication reaction. KUHN and SMITH were very good friends until this incident and their friendship is beyond repair at this point.
- b) He stated that because there was a complaint filed with the Alberta College of Paramedics, he wanted to be sure the patient care reports were done correctly. CLANCY stated he only accessed the patient care reports one time.
- c) CLANCY stated he has been with this "girl" since her first attempt at suicide by hanging herself, and he has been with her every step of the way on her mental health issues.
- d) CLANCY understands that if AHS said it is a privacy breach, then he will take his lumps for doing what he did, but he did it out of concern for SMITH.

It's a Union Problem

[102] CLANCY believes union president Doug Britton is behind some of these issues, stating, "I've done my best to work with that individual. But he's very narcissistic."

- a) CLANCY stated that BRITTON is not a "guy that I trust" as BRITTON has "made our life a little bit miserable."
- b) CLANCY suggested that the Union needs to do some messaging because Local 4739 needs to address local issues. CLANCY has seen biases from Union member executives.
- c) CLANCY cited another example of a POC member who beat out two or three full time members for a fire inspector/investigator position and the Union is supposed to look after all three members not just the two who are "pissed off." Where is that entitlement coming from?
- d) CLANCY said that since Tobin came in, they started working on it probably would say four years that the processes are in place. CLANCY what is new about it is that it is defined on the CBA, which is the minimum qualifications that an individual need for the position and it is inclusive for all staff.

Women Not Feeling Welcome in LFS

[103] CLANCY stated that when Complainant SMITH brought up the issue of women not feeling welcome in LFS you are going find a "bit of a culture issue." My officers are aware of what is expected, and we now have the Respect in the Workplace policy, which is pretty defining of what is expected within your organization. If female staff members feel bullied, they have the right to bring it forward and I have my door open as well, normally they would go up the chain of command.

- a) CLANCY stated, "If women have a concern about retribution, we will make sure the allegation is looked at and what path we will go down." The expectations were being set on their officers because culture does not start at the top, the culture starts within the organization. Many people will not speak in front of the Chief, but they may have concerns about Captains then they should go to the DC/s and from the DCs to the Chief.
- b) CLANCY talked about a SWOT analysis in terms of the low representation of women.
- c) CLANCY said he mandated that if any female needed to speak with him about concerns his door was always open.

LFS Attending the Complainant's Residence

[104] CLANCY stated that when one calls for an ambulance you do not know what service will attend to the call. So, he says that if any of my staff are seeking assistance, we will make sure we are there for them, no matter what is going on with their lives.

- a) However, CLANCY was clear that we will follow the process, i.e., a patient care reports is written, and the patient care reports is in place and the call is identified under AHS. We are contracted to the AHS system so we cannot ignore it.
- b) CLANCY stated that LFS had spent the whole evening, into the early morning hours sitting by her bedside when the Complainant tried to commit suicide.
- c) CLANCY mentioned that the situation of calling a friend to come to your house does put them in a compromising position, but Complainant SMITH and KUHN were close friends, "She probably had no issue going over.
- d) CLANCY stated that this situation has not occurred with any other members, but it was the second time with Complainant SMITH.

Inconsistent Hiring Practices

[105] CLANCY stated that it is difficult to find people who are willing to be on committees. When people actually do show up and apply themselves to write then something those people are named as favorites. From his perspective the process is in place, t's are crossed, and i's are dotted specifically in hiring practices in full time positions and it is overseen by HR, what else can he do.

- a) CLANCY was asked specifically about WIERENGA, since that promotion shocked most of the LFS.
- b) CLANCY said on that panel, they had a couple of DC/s DC MOORE and Kelly, Chris Tobin from HR, Darrell Melvie, General Manager, Community and Protective Services and himself.
- c) The individuals come in and present whatever they want and there is a scoring matrix, put together by HR, and that is how the scoring is done. The information is turned over to Chris Hogan and he tallies the scores.
- d) CLANCY's feeling is that the right person came out on top. And people who say he is not qualified should show him where WIERENGA is not qualified.
- e) CLANCY did not know about the retention period for the documents, he said it is an HR practice.
- f) CLANCY did add that they offer a "post" (feedback) for candidates who were unsuccessful, and he did meet with two of them (Skinner and Fox) and Complainant SMITH never came. It was pointed out that Complainant SMITH declined to attend in an email. CLANCY did admit he received an email from Complainant SMITH saying she will decline, that is all.
- g) When asked why an exception for Complainant SMITH to apply after the deadline for applications, CLANCY said that it was HR who made that decision because of the individual. He has never heard of that happen before, never experienced it before.

Princess Boss

[106] CLANCY was asked about the presentation of the cake with the pink icing and "Princess Boss" on top. CLANCY said that was from the crew, they (management) do not do that. It was to celebrate Complainant SMITH graduating from the LDP course.

- a) CLANCY stated that he is very open about celebrating and promoting that success in reference to putting the female in an officer seat.
- b) CLANCY said they put on Facebook when they had an all-female crew on the engine, I have zero issue with that. He said if you look at the media in fire services in North America this is

the type of scenario, they are promoting to make sure people get the message that the fire service is open to females.

- c) CLANCY said it was from her crew and her crew were so happy for her stepping into that role in the right seat.
- d) CLANCY said all the graduates are presented with their new rank marker and we put the picture on Facebook. The females were pushed out in a different fashion in regard to the historical event. This was our first female officer.
- e) CLANCY spoke of the event where they had three or four women on the engine and that was put up on Facebook. He stated he was not taken down, there are trolls in everything you do. The City of Leduc specifically will watch for those trolls and take them down.
- f) CLANCY also stated that he was "shocked" when he was told by the females in LFS that they did not want to be called out as "female firefighters," they just want to be "firefighters."

Change of Committee Leads

[107] CLANCY stated 'there was an email put out by DC MOORE which identified his request to see if there was anybody else out in the department that was interested in leading some of these committees. I approached him after that to say that was the wrong move to be able to put that out there. What we should have been doing was to contact the leads of those committees and see if there is a willingness for a change. And if there's a willing for a change, then it is sent back to the committee for information. I spoke to DC MOORE after that to explain my perspective on that. That shouldn't happen. However, I met with the clinical educators that were doing job performance requirements on that weekend, which included, Amber Gall and Emily Montgomery. In regard to is the real leadership problem on the clinical education, and they were the ones that informed me that no there's no problem with it, we're actually pretty happy with it. DC MOORE sort of encompassed everybody in that email, which I told him was wrong, we shouldn't have done that.'

The New Orleans Medical Conference/Favoritism

[108] CLANCY stated that he wants to be able to ensure clinical educators and fire instructors to be current within the best practices, so they attend medical conferences.

- a) With regard to the rule that no one individual goes to the conference two years in a row, CLANCY stated that this was identified in the past.
- b) The expectation is you go away, you find out what the best practices are you come back and teach it, right, so that is what you are expected to do when you come back. If we have a clinical educator that has gone twice in a row. The only assumption I can make on that is that it was based on that was the only individual available to go.
- c) So that is something that DC MOORE looks after from because he oversees all the training in regard to the service and he looks after the clinical educators, and the fire instructors.

Regulatory/Ethics Issues

[109] With respect to the claim by BRITTON that he believes that neither former LFS firefighter BRAUN or nor Swendsen were reported to AHA as required by the Alberta Health Professions Act for the sexual misconduct and fraudulent documentation in a patient care reports, respectively or to the College of Paramedics CLANCY stated:

- a) We have to be very careful with rumor and innuendo, when it comes out people will make assumptions in this organization, it's built on rumor, big rumor mill that goes on here. Chief CLANCY then added, "Dignard, we haven't heard anything with regard to any misconduct? I have never been brought up to speed, anything that has happened with that individual."
- b) CLANCY also stated, "this is my personal reflection with regard to Mr. Dignard from a staffing perspective, do I hold them in high regard No, as an individual. No, but has he progressed,

where he was and where he is today, I've seen him become better. He's definitely had his issues here but with regard to his attitude, negative attitude, and I cannot stand it because you're a paramedic, you're meant to do the job as a paramedic and he's very vocal about hating his job."

- c) He did not answer whether BRITTON's beliefs were correct or incorrect.

Credibility Assessment of George CLANCY

[110] Chief CLANCY was interviewed three times for this and the related investigations identified as reports 2, 3 and 5. The first and second interviews were conducted by both investigators and the third by a single investigator

[111] CLANCY stated in his first interview that he was concerned that investigators were only hearing the side of the complainants and the investigators should be talking to the females out there on the floor, who are not speaking negatively about LFS.

[112] He stated that he felt, "very betrayed by the complainants."

[113] He does not believe there are obstacles preventing female firefighters from coming forward with concerns.

[114] He went on to say that there were passive-aggressive individuals here and they "talk out of both sides of their mouths."

[115] Additionally, the evidence of STEELE is informative of Chief CLANCY's perspective before this investigation was called for.

[116] According to STEELE, Chief CLANCY told STEELE to "stay out of Mindy's [Complainant SMITH's] shit."

[117] In my view, the comments made by Chief CLANCY give the impression that he views those who raise issues and concerns about LFS are caused by internal attributes (e.g., complainers are passive-aggressive).

Personal Interest

[118] The complaint in this matter contains serious allegations; therefore, he has a strong personal interest in the outcome as the leader of LFS. He appeared to be extremely concerned about his appearance as a strong, competent, and ethical leader throughout the interviews. In my view he delivered his evidence with this objective in mind, which often muddled his evidence, resulting in statements that were confusing. This raised the possibility in my mind that he may be trying to absolve himself of any responsibility in these matters.

[119] Unfortunately, this resulted in the opposite of what he was trying to achieve in my view. He came across as bewildered and overwhelmed by the current situation at LFS. At times, his responses were difficult to discern. For example, when Chief CLANCY stated they have, "200 years of tradition unimpeded by progression and in two more years you'll be back at the table doing another investigation", it was difficult to understand the relevancy of his statements.

[120] The reasonable person would have an expectation that a leader with the greater good of the organization in mind, would assist and facilitate the investigation in any way he could by

providing clear and concise answers, instead of trying to demonstrate he was a competent leader.

[121] For this reason, I found his evidence to be more likely than not unreliable, unless it is corroborated by a more credible witness or other physical evidence or record/document.

Confused Responses

[122] At times, Chief CLANCY appeared to not understand the questions that were put to him. His responses were disordered, convoluted, and confusing at times. He would often respond to a question with a lengthy account of the changes he had successfully implemented since becoming Chief, which did not touch upon the area of inquiry or the subject matter at hand. He had a tendency to become verbose, often repeating the same statement multiple times, resulting in lengthy rambling responses that often did not address the issue or question put to him.

[123] In my view, Chief CLANCY's evidence lacked clarity and was less than convincing.

[124] In my view, his lack of forthrightness and candor reduced the reliability of his evidence.

Lack of Preparation

[125] At other times he appeared to be unprepared for the interview and/or surprised by the issues raised during the interview (e.g., "suddenly this investigation comes out of nowhere").

[126] For example, when the way the LFS handled the DIGNARD complaints was brought up in the interview, Chief CLANCY stated, "I have never been brought up to speed (on) anything that has happened with that individual", despite the very serious allegations leveled at DIGNARD and the LFS.

Lack of Notes/Records

[127] Compounding the problems with his evidence, Chief CLANCY did not appear to have any notes or records to aid his memory in these matters. At times he would guess what his actions, or the LFS actions were in the past or state he simply did not know. For example:

- When he was asked about how the attendees of the New Orleans Medical Conference were selected, he stated "If we have a clinical educator that's gone (to the conference) twice in a row. The only assumption I can make on that is that it was based on that was the only individual available to go."
- When he was asked about long-term disability at LFS, he stated that he was not sure if the necessary support was there or not for the LFS employees.
- He seemed unaware that LFS had contracted Direct Attack Fire Training for LFS training when he stated LFS had to take firefighters "off the floor" to conduct fire training.

[128] These types of responses reduced the reliability of his evidence in my view.

Internally Inconsistent Statements

[129] At times, his statements were internally inconsistent. For example:

- At one point Clancy stated that as Chief the "buck stops" with him, but he then immediately reversed himself stating it was pretty egotistical for him to say the buck stops with him because there are people above him like the City Manager and HR. "There's no way I would look at it from that perspective" stated Clancy.

- He was not involved in the hiring of his son and daughter at LFS, then later saying he was the driving force behind the policy change that allowed nepotism at LFS.
- Hiring his daughter and son was good for LFS (e.g., “Our family protecting your family”, and then later stated, “Don’t ever bring your kids into your own place, I can tell you that if you want to see it harassment at the biggest, you can watch it right from their eyes. It is actually terrible how they are treated sometimes.”
- He initially stated that he improperly accessed Complainant SMITH’s health information because he wanted to be sure the patient care reports were done correctly. CLANCY stated he only accessed the patient care reports one time. A few minutes later he stated he accessed her health information out of concern for SMITH.

[130] Chief CLANCY’s evidence suggests that he is unaware of his own biases and his personal style and how the impact they have on leadership at the LFS. For example, CLANCY stated he has difficulty understanding how women cannot come to him and talk about these issues, and how LFS personnel “shut down” when he walks into the room.

[131] The statements he provided seemed to suggest that he was unaware how the opinions he vocalizes at LFS affected the LFS workplace. For example, Chief CLANCY believes:

- If a Complainant does not write it on paper, they are not serious about the Complainant.
- Mental health injuries are not the same as physical injuries;
- People who have a complaint have a right to bring it forward, however, those with complaints at LFS are “disruptors,” people who are “two-faced” saying “one thing to your face while stabbing you in the back;”
- “There are two perspectives, the Complainants, and the others.”
- “Female firefighters bring empathy in, and they do less with fire and more with people so female firefighters have a role.”
- How shocked he was when he was told females in LFS that they did not want to be called out as “female firefighters,” they just want to be “firefighters,” yet he continues to refer to them as “female firefighters” to this day.

[132] With respect to the requirement that complaint regarding harassment and discrimination must be “on paper” before he takes them seriously, the City of Leduc Respectful Workplace Complaint Resolution Procedure⁸ sets out that:

“An employee may inquire about the Respectful Workplace Policy at any time and for any reason in confidence and without prejudice and does not require that a subsequent complaint be filed. Supervisors, Managers, and Human Resources will answer questions and can advise on the interpretation of the [resolution procedure] and associated policy, the steps to file an internal formal complaint, and/or the individual’s right to file an external formal complaint under the *Alberta Human Rights Act*. The status and direction of a potential complaint and the decision to file a formal complaint (internal and/or external) remain at the discretion of the employee.”

[133] Additionally, the City of Leduc Respectful Workplace Complaint Resolution Procedure sets out an informal resolution process that does not require the complainant to submit their complaint in writing. The complainant may also communicate with the respondent in writing if they wish however, it is not mandatory⁹.

⁸ Respectful Workplace Complaint Resolution Procedure, Revised August 12, 2014.

⁹ Part 1 – Informal Process, Respectful Workplace Complaint Resolution Procedure, Revised August 12, 2014.

[134] Chief CLANCY's refusal to consider a complainant unless it is in writing undermines the goals of the Respectful Workplace Policy in my view, to resolve the issue as quickly as possible and to the satisfaction of both parties. It likely also contributes to some of the beliefs that the LFS is a toxic place to work.

[135] In my view, these opinions and biases skewed his evidence and they manner in which he presented it. This further reduced the reliability of his evidence.

Editing

[136] Further informing my assessment of his credibility was his tendency to edit potentially unflattering or embarrassing information from his answers. For example:

- a) During the interview, Chief CLANCY was asked to explain his reasoning to appoint former Deputy Chief CHRISTENSEN Acting Chief less than 3 months after he violated policy and display questionable ethics in relation to former LFS firefighter BRAUN attendance at the motorcycle rally.
- b) In his lengthy response he repeatedly recited details of the event that led to former Deputy Chief CHRISTENSEN's retaliatory behaviour towards those that had previously complained while they were at the Rally.
- c) In these recitations, he was very specific as to who had invited former LFS firefighter BRAUN, that they were going on a motorcycle ride, that there was a BBQ after, that upon learning this was occurring DC MOORE ordered BRAUN off the property, that captain INGRAM told him to leave, etc..
- d) However, when Chief CLANCY was redirected (multiple times) by the investigators to describe actions taken to prevent former Deputy Chief CHRISTENSEN from repeating the unethical behaviour or what sanctions were imposed, Chief CLANCY could not recall if CHRISTENSEN was disciplined, or what "coaching and counselling" occurred.
- e) Despite his lack of knowledge in this regard, Chief CLANCY stated that former Deputy Chief CHRISTENSEN made "significant positive behavioural changes" which led to his decision to appoint him Acting Chief. He is equally vague when asked what positive behavioural changes were made, stating that one Captain remarked to him that he had improved, and that CHRISTENSEN had "found religion."

[137] CLANCY also failed to mention that DC MOORE had tried to tender his resignation because of the way LFS/Leduc were handling the matter related to former Deputy Chief CHRISTENSON and his actions at the motorcycle rally.

[138] For the reasons set out above, in my view, it is more likely than not that the Chief is editing his information in this regard to make himself appear more competent. For this reason, I found his evidence to likely be unreliable unless it is corroborated by a more credible witness or other physical evidence.

Notable Omissions

[139] On several topics, CLANCY denied knowing about historical issues and what his DC's were doing. I found this implausible. For example:

- In 2011, when CLANCY was a DC, RIEMANN had reports of harassment and bullying by three Complainants.
- Then DC Kelly met with RIEMANN, 'coached and counselled' him and put a letter on his file.
- Since then, RIEMANN has had several reports of harassment and inappropriate behaviour on calls, his lack of basic skills as a paramedic, as well as a well-known 'rumour' that RIEMANN left AHS Edmonton because of inappropriate behaviour there.

- CLANCY claims to have not known anything about the multiple complaints in 2011, the subsequent concerns by his peers and the story from AHS Edmonton, in spite of what he describes as “reliable contacts” with most other Paramedic/ Fire organizations.
- I find this implausible, that he has not been aware of that many concerns, valid or not.

[140] As well, CLANCY claims he was very disappointed in the way DC Kelly handled the sexual assault allegations by SKINNER toward OSMAK, that he knew OSMAK was still very unhappy with what she called a ‘forced’ mediation but has been unaware of her repeated efforts to bring it to the attention of those in authority (such as her bringing the issue to Chris TOBIN when he first arrived as HR Director, as well as when MOORE arrived).

[141] In the latter complaint, MOORE states that he forwarded the complaint to TOBIN, who asked CLANCY about it, and CLANCY told MOORE not to “go around him” again.

[142] I did not believe Chief CLANCY’s version of these events, preferring the evidence of MOORE on this issue.

Denials, Attacks, and Reversing Victim and Offender

[143] When the investigators intensified their questioning about allegations made against him, CLANCY would deride others’ accounts, using words such as “total fabrication” when his own admissions suggested otherwise.

[144] For example, when he was being questioned about the statements Christa STEELE had made, he admits being drunk and kissing her, and then immediately regretting his actions, stating, “it was stupid for me to do.” When the investigators informed CLANCY that Christa STEELE did not agree that the kiss was consensual, he attacked her, stating it was a “total fabrication,” in an attempt to discredit her.

[145] As well, he became indignant and offended when it was suggested that he and LFS were generally non-responsive to complaints made by females, despite previously admitting this could have been handled differently in the past.

[146] He showed resentment toward Complainants, and eventually made discrediting remarks about the Complainants, for example, he complained that STEELE was found to be shopping when she was off work on a COVID close-contact quarantine, and angrily stating he no longer believed her testimony regarding the previous investigation against BRAUN, now that she stated the kiss was non-consensual. In my view, this statement reveals that it is more likely than not that CLANCY did not consider Christa STEELE’s complaint to be legitimate when she initially made her complaint; he likely sharing the same sentiments as former Deputy Chief CHRISTENSON. I do not believe he has been forthright on this issue.

[147] When Chief CLANCY was interviewed a third time to clarify issues, he presented as very angry. He stated he felt like he was “being harassed.” I find this to be unusual for a person in his position. Report #5 outlines CLANCY’s response to posted memes reasonably interpreted to be directed at the complainants in the three key allegations.

[148] Chief CLANCY was asked about accessing the personal health information of Complainant SMITH. His evidence was that he did because he wanted to make sure the patient care report was done correctly. He then later stated he breached her privacy out of concern for Complainant SMITH.

[149] For the reasons set out above, I did not find the Chief of the LFS to be a credible witness. Where his testimony differed from the testimony of others, I am more inclined to accept their testimony over the Chief's, unless it is corroborated by a credible witness or credible physical evidence or records. His denials, counterattacks, and absence of recall on issues where he would be reasonably culpable for action/inaction, were problematic and has greatly reduced any credibility related to the individual and systemic issue complaints (See Report #4)

Summary of Interview with Respondent 3: DC MOORE (MOORE)

[150] DC MOORE stated:

- a) He is currently the Deputy Chief Operations at LFS.
- b) He was a volunteer firefighter from 2000 to 2005;
- c) He was hired by Calgary Fire Department and worked there between 2005-2015; and he was hired by LFS in 2015.
- d) With respect to Complainant SMITH in his view she feels like she is the victim in "every circumstance, in every situation"
- e) And that was the biggest issue that I saw, she also victimization is, is maybe that's not the right word, but she felt like she was the victim in every circumstance, in every situation. Reference Appendices # 101 (text b/w MS and DC MOORE)
- f) Returned to Leduc because both he and wife grew up in Leduc and have family there

Hiring Process

- g) Internal: interview all applicants that qualify
- h) DC MOORE and Tobin work on questions passing back and forth
- i) Look at training, education, work history interview (suitability)
- j) Couple years ago, we created matrix
- k) Suitability, also looks at personnel file, committees, and accommodation

Interviews

- l) "Me, Tobin or Sue Armstrong and Captains"
- m) After interview HR double checks everything
- n) former Deputy Chief CHRISTENSEN had done this before, had some files but they disappeared when he left.
- o) They do not have electronic copies of scoring
- p) Re: CLANCY kids comp and how first time do not require paramedic, they did not need that at that time so looked at FF ACP
- q) They pay 70% of cheapest paramedic school – they choose what one they want to go to, condition that they finish in 2 years and also commit to service.
- r) At times have sent posting to union
- s) Everyone scores interview, we discuss after, if difference of opinion discuss why we gave them a 4 etc.

Supervision

- t) Annual performance appraisal done by captains, used to be about 60-70% were completed, since COVID only 40-60% done.
- u) Leadership Development Program - they do an appraisal on them to update info in application.

Discipline

- v) Progressive discipline as per collective agreement

- w) Re: former Deputy Chief CHRISTENSEN being disciplined for giving former LFS firefighter BRAUN info on complaints – has no idea if or what discipline he got – he is a peer.

Complaints

- x) Verbal complaints, he would try and get it confirmed by the individual and then share it with Chief CLANCY, then a decision would be made, and Chief CLANCY would take it to HR to decide what next.
- y) Asked “ultimately the discipline is decided by fire team?” No, Chief CLANCY and HR decide, Kelly and I do not learn what happened until after the discipline has been imposed.

The Motorcycle Rally

[151] With regard to the incidents involve former firefighter BRAUN at the motorcycle rally, DC MOORE stated:

- a) He was off at home, former Deputy Chief CHRISTENSEN (acting Chief that day) asked him if he would cover ‘duty’ for a couple of hours since he would not be available for call while riding motor bike on rally
- b) He received a call from duty Captain from one house who had received call from two house acting Captain (Complainant) SMITH.
- c) The next day when CLANCY had returned from vacation, CLANCY already had emails and Tobin from HR showed up to discuss, all before MOORE had a chance to talk to CLANCY.
- d) CLANCY asked me a couple of days later to an investigation into the incident; CLANCY got statement from former Deputy Chief CHRISTENSEN.
- e) When asked, DC MOORE stated that he was not surprised by former Deputy Chief CHRISTENSEN’s behaviour that day, stating he and former Deputy Chief CHRISTENSEN had “very different” views on leadership, the fire services and life. They had conflict over the BRAUN situation.
- f) MOORE stated that former Deputy Chief CHRISTENSEN took steps to undermine the process, which is what MOORE did not agree with.
- g) At one point, MOORE tried to tender his resignation to Chief CLANCY over the whole situation. Former Deputy Chief CHRISTENSEN was involved as a member of the leadership team, and was given an update and took it to former LFS firefighter BRAUN and shared names of the Complainants with former LFS firefighter BRAUN
- h) DC MOORE stated he was “super upset” that he went in on a Monday morning and tried to tender my resignation that chief CLANCY stating he could not be part of an organization that treated complainants like that there was no way that I wanted my reputation in the fire service to be aligned with that.”
- i) MOORE stated that Chief CLANCY appeared to be shocked at MOORE’s stance.
- j) When Chief CLANCY then made former Deputy Chief CHRISTENSEN acting chief in CLANCY’s absence four months later, he felt disappointed by the appointment.
- k) MOORE stated, “that was the final straw in our civil working relationship. And things went downhill much further, much faster than they were previously.”

Written Complaints A Must

[152] With regard to the Chief's insistence that all complaints be in writing, DC MOORE stated:

- a) He disagreed with Chief CLANCY's position that all complaints must be in writing. He stated that he believes some sort of inquiry to be undertaken (need to chase something).
- b) He stated that he has bypassed the Chief and gone directly to HR without a written complaint, and it did not go well for him with Chief CLANCY when he found out, adding, "once bitten twice shy."
- c) The situation began when Tamera Osmak brought a concern forward about Mike Skinner.
- d) He reached out to Chris Tobin in HR, because he was not aware of concerns about SKINNER.
- e) He told Tobin that Tamara was concerned LFS was about to promote somebody into a leadership role who may not be suited.
- f) He also told Tobin Tamara was not satisfied how her complaint against SKINNER had been handled in the past.
- g) TOBIN said he would reach out to her, and Chris reached out to her and gave her some advice that I wasn't privy to or a part of.
- h) A short time later Chief CLANCY stated to MOORE, "Hey, don't undercut me don't go around me? If they're not willing to put it to you on paper, then why are we chasing these things?"

Regulatory/Ethics Issues

[153] MOORE stated that eventually Chris TOBIN reported former LFS firefighter BRAUN to the Alberta College of Paramedics.

New Orleans Medical Conference

[154] When asked about how candidates are selected for conferences, particularly the New Orleans Medical Conference, DC MOORE stated:

- a) There is no rule that a LFS employ cannot go to conferences two years in a row.
- b) Conferences are used as a reward for people that go above. Also required to give presentation when they return to pass on learning.
- c) LFS always puts out the opportunities in an email to see who wants what, then they look at budget considerations.

Shared Accommodations

[155] With respect to Complainant SMITH's allegations around comments made to her about sharing a dorm with her student, MOORE stated:

- d) Complainant SMITH was upset about it because she took it as an attack on her as a person and on her sexual orientation.
- e) So, I went to [Redacted] to say, hey, what really happened here, and he said, I brought up some and he said, if you look at their social media accounts, it looks like they're dating. They're the two of them are out there out going to dinners and to hockey games together. He goes it's the perception is flawed. "And I totally get what you're saying. And in a perfect world. We wouldn't have anybody in in doubled up dorms, but with a student. We don't have the space and I think the suggestion was made by [Redacted] to have Student A switch dorms. And Complainant SMITH took it as an attack on her person."

Isolation/The patient care reports investigations of Adam Swendsen and Jamie Junod

[156] The investigators asked DC MOORE if he was aware of the Complainant being isolated after the investigation she conducted in relation to Adam Swendsen. DC MOORE stated the following on this issue:

- a) He was not aware of this issue until he was notified of this complaint.
- b) On March 13, 2019, he attended a meeting with regard to the return to work of Complainant SMITH.
- c) Jeri Wolfe was there, and the president of the Union, Britton.
- d) Complainant SMITH brought up a couple of concerns that MOORE had not heard before.
- e) One of them was crews making the females carry the weights into to the fire house to see if they were strong enough to do it.
- f) The second one was her broken window. And in that meeting in that room full of people she believed it was Mike Belley, who had broken her window who Complainant SMITH had completed a patient care reports investigation on in 2018. When Complainant SMITH brought up Belley's name, he had already resigned his position in September of 2018. And I was shocked that Complainant SMITH brought up that she believed she knew who it was that broke her window and she said like Belley. There was never any discussion of four platoon at that time. She talked about four platoon members making the girls carry the weights, but never about the Adam Swendsen investigation.

Integration of those returning from mental health leave

[157] DC MOORE related a situation with the Complainant over a course that was offered by the LFS. DC MOORE stated that:

- a) LFS sent out an email advising the staff that the South Capital Region fire training Association, as an extracurricular course, over and above their job requirements.
- b) The opportunity was presented to all of the those who completed the LDP and captains, but they were told that we would pay for the course and not for coverage.
- c) Everyone was given the dates in August of that year, told that they were to find their own coverage or use vacation for that time.
- d) LFS did not want somebody working a 24-hour going to course go into course and work in the night shift.
- e) DC MOORE stated that the Complainant should not have taken that last day off. On Sunday night, she should have got coverage.
- f) DC MOORE further stated that the Complainant should not have worked the Friday night either because that exceeds the 24-hour working rule at LFS.
- g) DC MOORE denied her training coverage request.
- h) The Complainant called MOORE to enquire why she was not getting coverage for her shift.
- i) DC MOORE explained to her that in the email that everyone received it was clear that LFS would pay for the course but would not pay for coverage of shifts for those that were scheduled to work. He suggested she withdraw from the course when she informed him that she could not find anyone to cover her night shift.
- j) The other members from her platoon had either taken vacation or did shift trades to attend the course.

COVID – 19 Incident – November 25, 2020

[158] DC MOORE's evidence was that the Complainant's email raised two additional concerns for him.

- a) The first was the nature and tone of the email as it appeared the Complainant was "lashing out". The second was that there was a history between the Complainant and the captain of the engine crew.
- b) The Complainant had previously complained that Jeff BLACK was, "getting all of the shifts that she thought she was entitled to." "So, this was a little bit of retribution or revenge kinda thing" in DC MOORE's view.

[159] DC MOORE stated:

- a) This exchange occurred via text messaging which he retained.
- b) In response to her text reporting her concerns he texted back that they were looking into the matter.
- c) The Complainant then "lashed out" "Okay, thanks, everybody got it. We're looking at it. And then so she lashed back stating that the fire crew had also not completed a patient care reports which was contrary to policy.
- d) He contacted the quality assurance coordinator, who received the same email from the Complainant.
- e) The quality assurance coordinator (Rick KAMLAH) contacted BLACK who advised the crew was wearing PPE.
- f) DC MOORE sent her a screen shot of the message he had received confirming that the engine crew was wearing PPE.
- g) The Complainant texted back questioning what type of PPE was used.
- h) She then suggested that Jeff BLACK would not know what type of N95 mask he had been fitted for if he were asked.
- i) When the Complainant directed her comments to Jeff BLACK personally, he felt she was lashing out at BLACK.
- j) DC MOORE went to the quality assurance coordinator who told DC MOORE that he had followed up with BLACK who told him they had not completed the patient care report yet, however, BLACK was not concerned about the exposure because they were in proper PPE.

Removal of Complainant from Duties/Committees

[160] DC MOORE stated that he first had a conversation with the Complainant when she was returning to her duties in March of 2019. He stated:

- a) He recalled her asking to be part of the fire training cadre. She said when she returned to work.
- b) She said she wanted to get more involved in fire and he said that was fine with him, except she would have to give up the clinical education group as he could not have her doing both.
- c) Complainant SMITH told DC MOORE she did not want to give up the clinical education group. He advised she would have to pick which one she wanted to do.

[161] DC MOORE stated that he removed the Complainant from her committee duties after:

- a) He had conversations about the Complainant's duties with Jeri Wolfe, the psychologist, and the case manager.
- b) They wanted to keep the Complainant involved, but not overburdened.

- c) They needed an instructor for an opioid course in June.
- d) Complainant SMITH expressed her interest in instructing the course.
- e) He scheduled SMITH in December to do the training the next June.
- f) Unfortunately, Complainant SMITH was off work when the training date came in June.
- g) On March 10, 2020, he sent the Complainant a draft of an annual medical LFS was planning to implement. He requested she review the annual medicals and comment accordingly.
- h) On November 20, 2020, he sent an email asking the Complainant and WIERENGA to review and audit the patient care records.
- i) DC MOORE states that she was still getting assignments, just not all the assignments.
- j) DC MOORE explained that the Complainant was a member of the clinical educator team and that is who investigates the patient care reports complaints is the clinical educators.
- k) Complainant SMITH had been doing them all previously.
- l) MOORE's plan was to give her some of them so that she was involved, but not so many that she would be overburdened.
- m) The reason he did this was because when she came back from rehab, she said that she would never say no to more work. DC MOORE felt he had given her too much work in the past.
- n) After discussions with WCB case manager and Jeri Wolfe, DC MOORE tried to limit but I also tried to make sure that she was involved in something of everything, but not everything.

[162] With regard to allegations that Krista KUHN had discussed Complainant SMITH's situation with DC MOORE, DC MOORE stated he does not recall the conversation.

[163] With regard to moving the Complainant from clinical educator to firefighting training cadre, DC MOORE stated:

- a) LFS personnel are not allowed to do both so told her she would have to quit clinical educator
- b) He told KUHN the same thing.
- c) He is aware that KUHN does not qualify to be an instructor, however, he would never have allowed her to be the lead instructor. She was only to instruct recruit classes.

Complainant SMITH's Aggressive Behaviour

[164] With regard to the behaviour at work of the Complainant, DC MOORE stated:

- a) He spoke to the Complainant about her aggressive behaviour.
- b) The Complainant stated that she lost her filter so "things didn't get bottled up".
- c) DC MOORE told her understood, however, she could not treat people the way she was treating them.
- d) DC MOORE stated the Complainant was upset over a decision he made to give acting time to another firefighter, Jeff BLACK, instead of giving it to the Complainant who needed it because her life partner had been laid off.

December 17 Meeting with DC MOORE

[165] DC MOORE stated that he had received some emails from Complainant which he was not impressed with, nor was he impressed that she had resigned from the clinical education team. He knew something was wrong, so he arranged a meeting on December 17 with the Complainant. DC MOORE stated:

- a) He asked her about some of the things he had recently heard about her.
- b) This included a rumour that she was selling off her belongings which he knew to be one of the warning signs of an impending suicide. Given her history, he was concerned.

- c) He had also heard from FOX, whom he believed to be a good friend of the Complainant that the Complainant had been using alcohol again.
- d) He started off by showing the Complainant the email she had sent directly to MOORE regarding Captain Senio.
- e) He stated that he said that it was not her job to hold captains accountable.
- f) He told her that if she had a problem, she should bring it to him and not lash out at a captain.
- g) The Complainant told DC MOORE that she was told by Chief CLANCY that it was her job to hold captains accountable.
- h) DC MOORE stated he told her that the deputy chiefs would hold the captains accountable, however, there is a right way and a wrong way of hold them accountable.
- i) He stated he told her that her emails were inappropriate.
- j) He then stated that he had heard some rumours and he wanted to discuss them with her.
- k) He brought up that he had heard that she was selling offer her possessions and cancelling her wedding.
- l) DC MOORE stated that he heard these rumour from MURPHY and KAMLAH and others.
- m) He was concerned her behaviour might be "red flags" for suicide.
- n) The Complainant told DC MOORE that it was not his concern.
- o) The Complainant then explained that she was trying to fund treatment for her fiancée.
- p) DC MOORE said the conversation came easier at this point.
- q) He talked to her about her emotional outbursts, not only the email but in person as well, and the next day you apologize. He told her was concerned because that was not her normal self.
- r) He told the Complainant that it reminded him of his brother when he was addicted to drugs.
- s) DC MOORE stated that the Complainant told him she did not have a "filter" and that she has been told "not to bottle things up."
- t) DC MOORE then asked the Complainant if her partner was going through health issues, enquiring if it was cancer. DC MOORE stated that the Complainant told him they were looking at overseas treatments which were not covered by health insurance.
- u) He asked the Complainant if she was drinking, and she admitted she was.
- v) He asked her if he had to be concerned.
- w) When he was pressed on the appropriateness of the reference to his brother, DC MOORE stated:
 - Contrary to the email the Complainant had sent, his brother did not die of an overdose.
 - He was attempting to use his "lived experience of 30 years with a substance abuser" in this situation.
 - His intent was to let her know that he felt her pattern of behaviour concerned him based on things he had seen in the past, the suicide of his brother.
- x) She told DC MOORE that she was not going to finish her shift and she was going home.
- y) He did not think the Complainant was impaired or unfit for duty.
- z) The next morning, he got a text message from her, that stated she was okay after their conversation, and she is glad they had talked.
 - aa) The text went on to read that she had taken all of it to heart and she was going to make sure she did everything she needed to do on a daily basis to be a better and stronger person, closing off by thanking him for his concern and she appreciated his efforts.
 - bb) DC MOORE responded back that he was glad to hear she was well and to let him know if there was anything he or the department could do to assist her.

- cc) The Complainant texted DC MOORE back that she would let him know if she needed anything.
- dd) About 12 hours later, he got a call from one of his fire crews informing him that they were at an overdose suicide attempt with the Complainant.
- ee) DC MOORE explained it was a week before Christmas, her next shift was supposed to be the 24th of December, however, from the information he received he knew she would not be back for her next rotation.
- ff) DC MOORE explained he entered "other" as a placeholder because he did not want it to show up as "sick time off" or SICK.
- gg) He was not even thinking about WCB at that point.
- hh) He was concerned that he may have been the trigger for her behaviour, so he decided to "stay out of it." He did advise the Chief of what had transpired.
- ii) He next heard from the Complainant in the new year.
- jj) She said she was coming back to work, so we asked for a doctor's note. She responded by say that a doctor never took her off, so she did not need a doctor's note to come back to work.
- kk) DC MOORE stated he could not let her come back to work until he knew "where she was at, physically and mentally."
- ll) So, she lashed out that he did not have a right to keep her off the schedule because a doctor never took her off the schedule, so it started a "vicious cycle" according to MOORE.

Removing the Complainant from the Shift Schedule

[166] DC MOORE stated:

- a) On December 18th, 2020, the same day he had received the above texts from Complainant SMITH I was called by the on-shift Captain SENIO letting me know that we were responding to Complainant SMITH's home address for OVERDOSE/MENTAL HEALTH call.
- b) As on call DCO he attended the scene to provide support for both On-duty and Off-duty members.
- c) Due to the nature of the incident and in an effort to not make the situation worse, I did not enter the residence and instead remained in my vehicle outside.
- d) As the crew members exited the house, I met with them to ensure they were ok. It can be very difficult to treat one of your own, one of your co-workers.
- e) After the ambulance left, he met the crews back at Firehouse #1 to check-in and ensure everyone was ok. He asked if anyone needed or wanted to go home but all members agreed to finish their shift.
- f) He made a plan with our CISM/PEER SUPPORT Team to follow up with all members over the next coming days.
- g) Due to the nature of the event and the close proximity to the Christmas Holidays I removed Complainant SMITH from the schedule and put it out for coverage.
- h) It was marked as "other" for two reasons, 1.) the sensitive nature of the event and 2.) my not knowing if this would be classified as WCB or SICK time. The standard practice is when someone is off, and it may be covered by WCB we list it as "other" until we know which direction the time-off will take.

Credibility Assessment of DC MOORE

[167] DC MOORE initially came across as a credible witness. He was clear and frank. He would pause and then answer "yes" or "no", and then would elaborate or explain his response in a well-spoken manner. He appeared to be well prepared for the interview with emails and text messages in hand. His memory appeared good for the most part, but some gaps in memory were noted on important points. DC MOORE said that he finished his preparations 5 minutes before the interview started.

[168] He was able to provide relevant and appropriate details, using emails and other documents to demonstrate the source of his information. He was able to respond in an appropriate manner to all of the matters put to him.

[169] His affect was appropriate. He was calm and steady (albeit somewhat nervous) throughout. Near the end he became agitated and fervent in finishing.

[170] The investigators are mindful that as one of the respondents in this matter he has a personal interest in the outcome of this matter which could potentially skew his perspective.

[171] As the statements of others were compared to his, there were a number of notable differences.

[172] For example, [Redacted] stated he does not recall DC MOORE ever having a conversation with him regarding the female dorm.

[173] [Redacted] was emphatic that he was entirely unaware of the Complainant's social media.

[174] DC MOORE on the other hand, stated that after he received the Complainant's allegation, he went to [Redacted] and questioned [Redacted] about what had transpired.

[175] According to DC MOORE, it was [Redacted] who brought up the Complainant's social media accounts, by stating, "if you look at their social media accounts, it looks like they're dating. They're the two of them are out there out going to dinners and two hockey games together."

[176] DC MOORE had no recall of the January 29, 2020, call that KUHN attended SMITH's house and she reported back to CLANCY and DC MOORE;

[177] DC MOORE did not recall the Respectful Workplace segment of the Officers' meeting on September 23, 2019, and the Complainants comments about women feeling unwelcome at LFS;

[178] DC MOORE said that SMITH reacted to his email about changing the leadership of the committees with yelling, screaming and accusations, which he himself later corrects acknowledging that they were not face to face, but were corresponding by email.

[179] DC MOORE left out any reference to accessing the Complainant's personal health information contrary to the Health Information Act, for the purpose of determining the Complainant's fitness for duty in December of 2020. This omission did not bolster his credibility, as it suggested he was less than forthright.

[180] DC MOORE has a motive to deceive due to the number of allegations involving him.

[181] For these reasons, the investigator does not put much weight in DC MOORE's testimony where it could reasonably be assessed that he mismanaged or took actions that support the complainant's concerns, unless it is supported with documentation or corroborated by other credible witnesses.

Summary of Interview with Chris Tobin (TOBIN)

[182] TOBIN stated:

- a) He has been with the City of Leduc in HR for the last 6 years.
- b) When he came to Leduc HR, he had to remedy some of the poor practice that had been in place with respect to things like complaints that had come forward, which, prior to his time, had simply been dismissed, and sent back to LFS, characterized as performance management issues were in fact, in some cases, they might have been tantamount to a sexual assault. He stated, this is how poor he thought the practices were at LFS.
- c) Currently he believes that the lack of grievances is a positive sign that problems are curtailed early.
- d) With respect to complaints of discrimination and harassment, TOBIN stated,
 - i. If it is informal, they will try to have mediation.
 - ii. A formal investigation would occur if the complainant completed a form.
 - iii. Once he weighted the merits of the complaint, he would decide whether an internal or external formal investigation was necessary.

Credibility Assessment of Chris TOBIN

[183] I had no concerns about this witness.

Part II - ANALYSIS AND FINDINGS

Introduction

Weight

- [1] Having collected the available evidence, I must now decide what evidence is relevant to the decision to be made (e.g.: did harassment or discrimination occur? Was LFS policy followed?). My analysis in this regard will consider which specific issues are potentially determinative of the complaints and allegations.
- [2] Not all evidence is equally helpful in assisting a decision-maker to make findings; each piece of evidence must be weighed. For the purposes of this report, to "weigh" a piece of evidence means to assess its credibility and probative value.
- [3] A simple illustration of this process appears below¹⁰:

$$\text{Weight} = (\text{credibility}) \times (\text{probative value})$$

Probative Value

- [4] Much like credibility, the probative value of evidence (i.e.: what does the evidence prove or disprove?), may not be entirely clear early in the investigation or analysis. Furthermore, evidence

¹⁰ *Magonza v Canada (Citizenship and Immigration)*, 2019 FC 14 at para 29.

which at first appears not to be relevant may turn out to be relevant in the context of the entire evidence presented. Determining this will be part of my analysis.

- [5] Unlike a court of law, most evidence provided by the individuals involved is admitted, and any deficiencies in the evidence will go towards the weight I assign to it. Evidence that is considered but later found to lack any relevance or probative value will be given little if no weight.

Making Findings of Fact

- [6] Once weight has been assigned to the evidence, I will make findings as to what facts have been proven. Findings of fact may include reasonable inferences drawn from the evidence. Unless specifically stated to be otherwise, in this matter, findings regarding alleged or disputed facts are made on a balance of probabilities.

Intent

- [7] On the issue of intent, in my view the Alberta law does not require proof that the respondents had an intent to discriminate. It is the discriminatory result which is prohibited by law. There is no requirement to prove a "guilty mind" in order to establish discrimination. It is the discriminatory result which is prohibited by law¹¹.

Evidentiary Standard

- [8] The standard of proof the evidence must meet in matters such as this is a "balance of probabilities", sometimes described as being "more probable than not", or "more likely than not."
- [9] Others have described a balance of probabilities as the chance the allegation being true is more than 50%. The evidence must be sufficiently clear, convincing, and cogent to satisfy the balance of probabilities test. Proof beyond a reasonable doubt is not required in these matters.

Definitions

- [10] The following terms are defined as follows in this report:
- a. **Mental Disability** - any mental disorder, developmental disorder, or learning disorder, regardless of the cause or duration of the disorder¹².
 - b. **Discrimination:** means differential treatment, whether intentional or not, of an individual or group of individuals which is based, in whole or in part, on one or more than one of the protected grounds identified in the Alberta Human Rights (AHR) Act; and which has an adverse impact on an individual or group of individuals. Protected grounds as outlined in the AHR Act include race, colour, ancestry, place of origin, religious beliefs, gender, age, physical disability, mental disability, marital status, family status, source of income and sexual orientation¹³.
 - c. **Discriminatory action:** means any action or threat of action by a person that does or would adversely affect a worker with respect to any terms or conditions of employment or opportunity for promotion, and includes termination, layoff, suspension, demotion or transfer of a worker, discontinuation, or elimination of a job, change of a job location,

¹¹ Christie v. Central Alberta Dairy Pool, 1984 CanLII 5063 (AB HRC), <<https://canlii.ca/t/gbx11>>, retrieved on 2021-12-24

¹² <https://albertahumanrights.ab.ca/Documents/MentalPhysicalDisab.pdf>

¹³ Source: *Respectful Workplace Policy-City of Leduc*

reduction in wages, changes in hours of work, reprimand coercion, intimidation or the imposition of any discipline or other penalty¹⁴.

- d. **Disrespectful Workplace Behaviour(s):** can be intentional or unintentional and is offensive and/or unwelcome. Disrespectful behaviour(s) are reflected in employee conduct, attitudes, comments, actions, threats, or violence, and contribute to an uncomfortable and/or hostile work environment.
- e. **Harassment:** is defined as the abusive, unwelcome, unfair, or demeaning behaviour, including actions or gestures, towards a person or group that has the purpose or effect of interfering with a person's or group's dignity, well-being, status, or performance, or creating a hostile or intimidating working environment. Incidents of harassment may involve bullying, the abuse of power one individual has over another, or unwelcome conduct including threats of and/or acts of physical violence.
- f. **Sexual Orientation:** a person's actual or presumed sexual orientation or his or her association with a person who is gay, lesbian, heterosexual, or bisexual¹⁵.

BACKGROUND

- [11] The LFS is an integrated/composite department whereby the thirty-two full time members are trained at the minimum of a primary care paramedic (PCP) and a Level I Firefighter. The preference is to hire advanced care paramedics, who have already acquired and paid for their highest level of paramedic schooling and their Level II Firefighter.
- [12] LFS's firefighters and paramedics are exposed to trauma on a regular basis as they carry out their duties.
- [13] Despite acknowledging the LFS is managed via a paramilitary approach, the senior officers socialize and associate with firefighters off-duty. The fraternization appears to be condoned by the Chief. A number of sexual liaisons were reported between firefighters and members of the officer corps.
- [14] The environment is also characterized by a "family" approach to management according the LFS Chief, versus a purely professional firefighting/paramedic. This culture seems to be a holdover from the days when the LFS was primarily a volunteer organization without ambulance/paramedic responsibilities. The emphasis on family has fostered many positives, including a genuine concern for peers and subordinates.
- [15] However, they sponsored a number of social events where alcohol was present which has resulted in allegations of improper behaviour and sexual misconduct, which has spilled over into the workplace.
- [16] Complainant SMITH was hired by LFS as a full time Advanced Care Paramedic/Firefighter in 2013. She was the third female out of the thirty-two full time positions in the LFS. Complainant SMITH had previous experience as a paramedic prior to being hired by the LFS. Complainant SMITH is the first openly gay employee with LFS which is a male dominated workplace.

¹⁴ Source: *Respectful Workplace Policy-City of Leduc*

¹⁵

https://albertahumanrights.ab.ca/publications/bulletins_sheets_booklets/sheets/protected_grounds/Pages/sexual_orientation.aspx

- [17] Complainant SMITH could be described as a rising star in the ranks of the LFS. By her own admission she was "blindly loyal" to DC MOORE and Chief CLANCY and would do anything they asked her to do.
- [18] Complainant SMITH stated that she did not totally agree with, and internally questioned, some of the decisions being made by the Chief and LFS officers but did not report or question anything because she was scared it would affect her ability to get a promotion to an officer ranked position, which the Chief Officers had made several comments Complainant SMITH was in line for. Complainant SMITH kept quiet and did what was asked of her to do, not wanting to displease her benefactors.
- [19] In 2016, she was encouraged by DC MOORE to apply for the Leadership Development Program (LDP) which DC MOORE oversees at LFS. In 2018 Complainant SMITH was the first female in LFS 103-year history to successfully graduate from the LDP.
- [20] Complainant SMITH participated in several committees including:
- a) City of Leduc Drug Action Committee;
 - b) City of Leduc Psychological Health and Safety Impact Group,
 - c) Clinical Education Committee from 2014 – current. This committee is responsible for auditing patient care reports (patient care reports), investigating and providing feedback regarding significant medical calls, developing, and facilitating training on a monthly basis, and collaborating with different organizations such as Alberta Health Services (AHS) and STARS to facilitate mandatory annual training;
 - d) In 2015 Complainant SMITH became the lead clinical educator for LFS. The position involved scheduling and facilitating all the Clinical Education meetings, developed a lot of training, policies and procedures that pertained to the ambulance side of the job, and was the "go to" person for DC MOORE. The clinical educator Lead is the liaison for the hospitals and address new medical training and recertifications.
- [21] She was also a preceptor of an Advanced Care Paramedic (ACP) Student completing a practicum at LFS.
- [22] After four years of proving herself and completing the LDP, she was put on modified duties because of hip pain, which eventually required surgery.
- a) During the time she worked modified duties the Chief and DC MOORE asked her to write policy, Standard Operating Procedures, audit the Patient Care Reports (patient care reports), and internal investigations.
 - b) She reports she started to notice the changes in early 2018 while being on modified duties and completing tasks for the Chief and DC MOORE.
- [23] As a result of the Complainant's stressors, became addicted to Ativan and alcohol in March of 2018. She tried to kill herself rather than tell LFS management what she was experiencing. She stated she did not want to do anything, because "I was scared it would affect my ability to graduate from the [LDP] officer program."
- [24] Complainant SMITH stated that from September 18th, 2018, to December 24th, 2018, she was treated for PTSD and concurrent substance abuse at the University of Alberta hospital psychiatric unit, then she went straight to the Edgewood treatment center in Nanaimo, BC.

- [25] DC MOORE and Chief CLANCY were aware of her diagnosis of Post Traumatic Stress Disorder (PTSD) with Concurrent Substance Abuse and knew in depth the struggles she had gone through and had overcome in regard to that diagnosis.
- [26] Complainant SMITH alleged that in 2019 there was a change of attitude and communication from management returning to work following her treatment for PTSD and substance abuse.
- [27] Complainant SMITH says the pattern of behaviour DC MOORE displayed towards her beginning upon her first meeting and return on March 13, 2019, which continued throughout the next year and a half year, demonstrated that Complainant SMITH had fallen "out of favour" with him.
- [28] She believed this was because she was off work as a result of a PTSD diagnosis. Complainant SMITH claims the changes were not related to her work performance, attention to detail, or abilities.
- [29] On December 18, 2020, Complainant SMITH experienced her second relapse and was taken to hospital by ambulance. In March of 2021 steps were taken for her to return to work at LFS.
- [30] On March 25, 2021, the Complainant's doctor cleared the Complainant as "able to work with limitation or restrictions", including working limited hours from 8:00 a.m. to noon for the first 4 weeks. In all, the Complainant's doctor indicated that the Complainant was advised not to perform twenty-five separate activities in any capacity.
- [31] In March 2021 when Complainant SMITH returned to work on modified duties there was no communication between her and MOORE and eventually CLANCY became her supervisor in April 2021.
- [32] April 28, 2021, Complainant SMITH submitted her claim of bullying, harassment, and discrimination to WCB, which the LFS was made aware of in May of 2021.
- [33] On May 6, 2021, the Complainant made a second attempt at taking her own life. The Complainant was taken to hospital by LFS fire and ambulance personnel.

Allegation #1: Discrimination Based on the Protected Grounds of Sexual Orientation

Sexual Orientation

- [34] In March-May 2017, Complainant SMITH was a preceptor for an advanced care paramedic (ACP) student who was openly gay (Student "A"). At this time, Complainant SMITH was stationed at Leduc Fire Station #1, where females shared rooms in the fire station dorms at the direction of LFS management.
- [35] Complainant SMITH alleges that firefighter/paramedic [Redacted] told her, 'I don't think it's a good idea that you and your student share a room because you are both lesbians.' Complainant SMITH also alleges that [Redacted] said, "If you are hanging around outside of work you should probably discontinue that behavior."
- [36] [Redacted] is the LFS practicum coordinator responsible for supervising advanced care paramedic students while at LFS.

- [37] Complainant SMITH alleges [Redacted] statements discriminated against her on the basis of her sexual orientation. Complainant SMITH further stated that she was shocked and offended by his comments.
- [38] [Redacted] admits he made the comments as reported by the Complainant. No other witnesses were identified to have been present during this conversation.
- [39] [Redacted] further informed the investigation that his intent was to probe a potential issue with a colleague who he could engage in that type of topic with since Complainant SMITH herself, was open about her sexuality and made jokes.
- [40] However, [Redacted] also stated that thought he could engage in that type of topic since Complainant SMITH herself, was open about her sexuality and made jokes.
- [41] [Redacted] intent was not considered in my findings as it was not relevant.
- [42] The manner in which the issue was put to the Complainant does not support [Redacted] claim in my view. To probe something means to “to search into and explore very thoroughly: subject to a penetrating investigation¹⁶.” In my view, there was little to no probing, just the statements made by [Redacted] in a manner that was more like a directive or order issued by the student practicum coordinator.
- [43] Based on [Redacted] admission, I am satisfied, on a balance of probabilities, that these comments were made. I am satisfied that the evidence is sufficient for me to find that it was more likely than not that the Complainant was singled out for these comments because of her sexual orientation. I am also satisfied Complainant SMITH was offended by these remarks.

The City of Leduc’s Respectful Workplace Policy

- [44] The City of Leduc’s Respectful Workplace Policy No.12.06.20 reads that the purpose of the policy is to establish and communicate the expectation that every City of Leduc employee be treated respectfully in the workplace. The intent of this policy is to contribute to a positive work environment.
- [45] To this end, the City of Leduc policy statement set out that all reported incidents of harassment will be investigated, and corrective actions will be taken to address the incidents.
- [46] The associated City of Leduc’s Respectful Workplace Complaint Resolution Procedure outlines a process for receiving and resolving complaints.
- [47] The City of Leduc’s Respectful Workplace Policy defines discrimination as:
differential treatment, whether intentional or not, of an individual or group of individuals which is based, in whole or in part, on one or more than one of the protected grounds identified in the Alberta Human Rights Act; and which has an adverse impact on an individual or group of individuals. Protected grounds as outlined in the Alberta Human Rights Act include race, colour, ancestry, place of origin, religious beliefs, gender, age, physical disability, mental disability, marital status, family status, source of income and sexual orientation.

¹⁶ <https://www.merriam-webster.com/dictionary/probe>

- [48] I am satisfied that Complainant SMITH is a person that falls within a protected class under the *Alberta Human Rights Act*.
- [49] The ordinary meaning of “treatment” is the manner in which someone behaves toward or deals with someone or something or “the act or manner or an instance of treating someone or something: such as conduct or behavior towards another¹⁷.
- [50] The ordinary meaning of “differential” is showing or depending on a difference; differing or varying according to circumstances or relevant factors or “making a distinction between individuals or classes¹⁸.
- [51] The Alberta Human Rights Commission writes that discrimination based on sexual orientation is prohibited in employment practices: Refusing to hire, promote or provide equal treatment to someone because of his or her sexual orientation is prohibited under the *Act*. Employees have the right to work in an environment free of harassment based on their sexual orientation.
- [52] Employers, landlords, business operators and providers of services are required to reasonably accommodate the needs of individuals based on any of these grounds¹⁹.
- [53] I am further satisfied that the evidence is sufficient for me to find that the comments were based in whole or in part on the protected ground of sexual orientation. In my view **Redacted** would not have made the comment if she had not been a lesbian.
- [54] Therefore, I am satisfied the protect ground was a factor in the adverse impact experienced by the Complainant.
- [55] The investigation did not reveal any improper behaviour on the part of Complainant SMITH in relation to her student or anyone else in this context. To the contrary, there is other evidence that sexual liaisons were tolerated between various staff members by LFS management. These liaisons did not appear to attract any admonishments from LFS management or any serious discipline.
- [56] The evidence also reveals that there were no other LFS personnel who had been instructed not to socialize with other persons associated to the LFS based on their sexual orientation (i.e., no other straight or LGBTQ2+ personnel were instructed not to associate with each other away from work.
- [57] For these reasons, I am satisfied that Complainant SMITH was treated differently because of her sexual orientation. I am further satisfied that differential treatment was because of her sexual orientation.
- [58] Complainant SMITH reported the incidents to DC MOORE as discriminatory on the bases of sexual orientation. She told DC MOORE she wanted to submit a complaint; however, DC MOORE counselled her not to make a complaint at that time. She followed his advice. DC MOORE told the Complainant he would take care of the matter.

¹⁷ Treatment Definition & Meaning - Merriam-Webster

¹⁸ <https://www.merriam-webster.com/dictionary/differential>

¹⁹ *ibid.*

- [59] That was the last the Complainant heard from DC MOORE about the incident. She was never informed of the outcome.
- [60] [Redacted] evidence is that he does "not recall ever having a conversation with anyone regarding the dorms," other than the Complainant, contradicting DC MOORE's account.
- [61] [Redacted] was adamant that he does not use Facebook and he was never informed about "anything concerning their social media," in relation to the Complainant and Student "A."
- [62] MOORE stated that he recalled the conversation with Complainant SMITH and that he thought they met at a Subway and discussed the matter. He felt that [Redacted] was trying to protect her image and the organization's. MOORE stated he approached [Redacted] after his conversation with Complainant SMITH because she was upset about it and took it as a personal attack on her as a person and her sexual orientation. MOORE stated he went to [Redacted] and asked "what really happened here, and he said, 'I brought up them....if you look at their social media accounts, it looks like they're dating. The two of them are out there going to dinners, and to hockey games together. The perception is flawed.'
- [63] I found DC MOORE's evidence on this issue to be contrary with his position and involvement with the Complainant he claims to have had, particularly his stated concern for the physical and mental welfare of the Complainant. I have given the Deputy Chief's evidence little to no weight on this issue. His response to the concern is reasonably construed as contributing to the discrimination of SMITH on the protected grounds of sexual orientation. DC MOORE's inaction to investigate the complaint contribute to the discrimination.

Analysis

- [64] Discrimination means differential treatment, whether intentional or not, of an individual or group of individuals which is based, in whole or in part, on one or more than one of the protected grounds identified in the *Alberta Human Rights Act*²⁰.
- [65] In my view, the adverse impact on the Complainant was how it affected her mental health, particularly her feelings of isolation.

Findings

- [66] For the reasons set out above, I accept the evidence of the Complainant, particularly as it is corroborated by [Redacted] I found the Complainant to be credible and I have given her evidence considerable weight on this issue.
- [67] In my view, the evidence of the Complainant is sufficient for me to find that it was more likely than not that the comments made by [Redacted] as details in this section, were discriminatory in nature. Specifically, they discriminated against the Complainant because of her sexual orientation. Further, the contradicting evidence of [Redacted] and MOORE support the complainant's view that even when reported, the issue was mishandled and contributed to the discriminatory action.

²⁰ *Alberta Human Rights Act*, RSA 2000, c A-25.5, <<https://canlii.ca/t/536q1>> retrieved on 2021-12-29

Allegation #2: Discrimination Based on the Protected Grounds of Mental Disability

- [68] I am satisfied that the Complainant suffers a mental disability and is this is included in the definition of a protected person under the *Alberta Human Rights Act*, RSA, and Leduc City Respect in the workplace policy.
- [69] Complainant SMITH alleged that when she returned from treatment for her mental health, she was treated differently because of her mental disability. She alleges:
- a) Between November 2019 and December 2020, she was removed from her teaching positions and committees without cause or any discussion how this would affect her mental health.
 - b) Complainant SMITH alleges that following her WCB complaint becoming common knowledge to LFS management, Complainant SMITH was no longer considered for acting time as a Captain.
 - c) The Complainant alleges that when she returned to Leduc after her last hospitalization, she noted that LFS management was treating her differently by not communicating with her and isolating her.
 - d) The Complainant stated that she believed she was denied an equitable chance to competed for promotion to the deputy chief rank in January of 2020 because of her mental disability.
 - e) LFS did not submit the proper paperwork when she took a partial shift off for a PTSD experience during a choking call on October 14th, 2020. As a result, WCB could not complete the claim.
 - f) Between December 18, 2020, through to April 1, 2021, she was removed from the Fire Manager schedule causing her to deplete her sick time bank and causing further anxiety. This denied Complainant SMITH her working hours and wages for four months and/or workers compensation benefits.
 - g) In November of 2020 she was harassed and disrespected by non-communication (isolation) when she informed her superiors of serious issues regarding legislation & policy violations potentially arising from the improper storage of controlled substances.
 - h) On November 25, 2020, she was harassed and disrespected by non-communication when she informed her superiors of serious issues regarding legislation & policy violations around COVID – 19 protocols;
 - i) On November 27, 2020, after being approved for training with the Psychological Health & Safety group, Captain MICHELSEN reversed the decision and denied her request for the training course.
 - j) On December 17th, 2020, she was blind-sided with an impromptu meeting with DC MOORE, who alleged a myriad of issues that were not substantiated causing Complainant SMITH to leave her shift early.
 - k) On January 29, 2020, and again on May 6, 2021, a member of the LFS collected health information about Complainant SMITH and then improperly shared that information with members of the LFS, contrary to the provisions of the *Health Information Act*, RSA;

Removal From Committees/Training

- [70] Complainant SMITH alleged that between November 2019 and December 2020, she was removed from her teaching positions for NARCAN training and the Clinical Education committee. She further alleged she was removed from the clinical education committee and the fire training committee. She stated this was done without cause or without any discussion with her how this affects her mental health.

Narcan Training

[71] Complainant SMITH alleges she was removed from teaching the NARCAN training at LFS and the City of Leduc. She stated:

- a) When she eventually spoke to DC MOORE several months later, he advised her that he removed her from her training role because he assumed the Complainant would not want to do the training anymore. DC MOORE did not state that he presumed someone with a mental health disability would not be able to do the training as the reason for his decision to remove the Complainant.
- b) DC MOORE stated that he met with J Wolfe, the psychologist, and the case manager to discuss keeping the Complainant involved at LFS, but not to overburden her while she was recovering.
- c) The Complainant's evidence on her workload was that she does not say no to any task that is suggested or assigned her, despite knowing she gets overburdened.
- d) In March of 2020, he had booked her to train a NARCAN course that was scheduled for June 2020; however, when the training date came up, the Complainant was off work. Also, in March he asked the Complainant if she could review a draft annual medical process for LFS.
- e) DC has stated that he did not want to contact the Complainant out of fear he would make her condition worse. Unfortunately, it had the opposite effect.
- f) In my view, his concern over her welfare does not relieve DC MOORE of his responsibility to treat those with mental health disabilities equitably. The City of Leduc definition of discrimination means differential treatment, "whether intentional or not."
- g) The City of Leduc's Respectful Workplace Policy defines "discriminatory action" as any action or threat of action by a person that does or would adversely affect a worker with respect to any terms or conditions of employment... including...demotion... discontinuation of a job.
- h) In this case the job function was discontinued for the Complainant, but not eliminated from LFS.
- i) However, DC MOORE states that her mental disability was partly as a result of the Complainant being tasked with too many duties and responsibilities. In any organization it is management's responsibility to individually assess the unique merits, capacities, and circumstances of an employee²¹.

Analysis

[72] DC MOORE's evidence was that he offered dates to Complainant SMITH for NARCAN training and although Complainant SMITH was willing, she was off during some of the dates when the training was scheduled.

[73] In my view, the differential treatment occurred because of the Complainant's mental disability. In my view, his evidence establishes that he would not have removed her except for her mental disability.

[74] DC MOORE's evidence was that it was reasonable to limit the patient care reports audits/investigations and training to limit Complainant SMITH's workload while she was recovering.

[75] In my view, the evidence shows that Complainant SMITH did resume a more inclusive role in many committees as well as the clinical educator lead.

²¹ <https://www.ohrc.on.ca/en/iii-principles-and-concepts/2-what-discrimination>

[76] For the reasons set out above, I am satisfied that DC MOORE did treat the Complainant differently after her hospitalization for her mental health disability with respect to the duties and jobs he assigned her. However, in my view, it is reasonable for LFS to lighten the Complainant's workload while she is recovering from an illness that has a nexus to being overworked.

[77] However, in my view while the discriminating behaviour may be interpreted as reasonable and justifiable in the circumstances, as permitted by section 11 of the *Alberta Human Rights Act, RSA*, the method in which decisions were made, often without inclusion or communication, would reasonably be viewed as discriminatory.

Findings

[78] For the reasons set out above, I am satisfied on a balance of probabilities that the Complaint was treated differently because of her mental disability and the mental crises she was experiencing. However, while the intention behind the discriminatory action may be assessed as reasonable and justified in the totality of the circumstances, the method in which MOORE and CLANCY implemented the decisions (non-inclusive, lack of communication, and uninformed on the potential impact) could reasonably be seen as discriminatory.

[79] For this reason, I would deem discrimination to have occurred because I am satisfied that while the intention may have been reasonable and justifiable in the circumstances as permitted in section 11 of the *Alberta Human Rights Act, RSA*, the method of implementation was not.

Clinical Education Committee

[80] On November 26th, 2020, Complainant SMITH and others received an email from DC MOORE advising them he was proposing a change of leadership in three of the four committees: Breathing Apparatus, EMS Equipment, Clinical Educator Group. The Fire Training committee was not included in the proposed changes because it did not have a lead at this time.

[81] Complainant SMITH stated that this email "removed" her from her position as the lead of the Clinical Education Committee. She also stated that in his email, DC MOORE also stated that if no one else wanted to take over the lead, he was more than happy to have Complainant SMITH continue as the lead.

[82] LFS firefighter/medic MONTGOMERY stated that she is friends with the Complainant. She has observed that Complainant SMITH is "quick to react" when talking about work stuff and she notes that Smith is very frustrated because she has no respect or acknowledgement from management for the work she does. The Complainant told MONTGOMERY that DC MOORE's email was rude and thought DC MOORE could have spoken to her or written the email differently.

[83] In November of 2020 DC MOORE tasked her and WIERENGA with reviewing patient care reports. DC MOORE stated he was still assigning her audits, just not every one of them as she had previously done. DC MOORE stated his goal was to give her some of them so that she was involved, but not so many that she was overburdened as he believed this contributed to the difficulties she was experiencing.

[84] Complainant SMITH stated that same day she resigned from the Clinical Education Committee as she felt disrespected and that this was retaliation towards her because she had brought forward concerns that DC MOORE did not seem to want to deal with in her view.

- [85] Complainant SMITH said, she believes DC MOORE's intent was malicious, that he had been omitting her from things she was normally involved in, and thereby denying her an opportunity to work, without anyone speaking directly with her, psychologist, or a physician, and without just cause, beginning upon my return to work.
- [86] On November 30th, 2020, Complainant SMITH received an email from Chief CLANCY apologizing for how DC MOORE handled this situation and that he did not accept her resignation from the Clinical Education Committee. At that time, she did not receive any correspondence from DC MOORE.
- [87] Redacted said Complainant Smith and DC MOORE were two stressed people who could not communicate. They did not understand each other. In his view, LFS management recognized the productivity in Smith; however, they tasked her with too much.
- [88] Redacted was also diagnosed with PTSD in 2014 and when he informed his supervisors of symptoms, he was removed from the clinical educator role. Redacted believes that he was removed because of mental health issues. One month later he was asked to take over the role again. Complainant SMITH experience mirrors Redacted experience.
- [89] This is further evidence of different treatment the Complainant was subjected to at LFS. No one, other than the Deputy Chiefs were supervised by the Chief, other than the Complainant, who was suffering from a mental health disability.
- [90] LFS may have been able to have justified the discriminatory action had they carried out their due diligence with the Complainant and her health care providers and determined that she was unfit to return to specific duties, however, in my view that law still imposed a duty on LFS to accommodate her.

Analysis

- [91] At time this incident occurred the Complainant was off duty at home recovering from COVID – 19. The email in question was sent to the Complainant and four others: Brandon NOVAK, Adam SWENDSEN, Dean JOBER and James JUNODD by DC MOORE on November 27, 2020.

- [92] In my view, the best evidence of what transpired is in the emails themselves.

- [93] DC MOORE's email reads:

"Mindy, Brandon, Adam, Jamie and Dean

I wanted to thank each and everyone of you for the hard work you put in to ensure the success of your respective committees.

The success of our organization relies on these working groups. We could not function without the group or the leadership you have provided.

To ensure continue success of these groups and the organization as a whole I feel it would be in the best interest to offer others the opportunities to become the leads/liaisons every two years.

I will be putting out emails to all members of the existing groups to see if there is any interest by anyone to take over this important role. If there is interest, I ask that you provide your support

of the incoming member to transition for continue success. If there is not interest, I am happy to have you stay in the current role.

Should you have any questions please feel free to let me know

Again, thank you for your hard work and leadership.”

- [94] What I take away from this message is DC MOORE is giving the five recipients a heads-up as to what his plans are for the lead positions on the committees in the future. In my view, no one was removed from their current position or duties in this email. He closes the email by inviting all five recipients to let him know if they have any questions.
- [95] In my view there is no evidence in this email that Complainant SMITH was treated any differently than the other four recipients. For that reason, I am unable to find any evidence of discrimination in this email.
- [96] However, the Complainant saw it differently. She replied to DC MOORE’s email with the following:

DC MOORE

I can understand the wanting to rotate working group leads, so others can acquire experience, and would have been more than happy to support that decision.

However, what I cannot understand (*sic*), or support is how this decision was made without even having a conversation with me to see where I was.

Especially with the amount of time and effort I have put into so many initiatives at LFS. Maybe it was something I was ready to give up and let someone else run with. Instead, I was lumped in a group email with Brandon, Jamie, Dean and Adam, who I am not really sure what groups they are even leading is quite insulting and disrespectful honestly.

I also find the timing of this very confusing.

In the middle of a pandemic, while staff already has so much to worry about, right before Christmas holidays, in the middle of our 2020 4th quarter and 2021 1st quarter JPR’s.

All of that being said, it is with heart felt sadness that I resign from the Clinical Education Committee effective immediately.

I want it to be known that I love educating and love all the work I do behind the scenes with LFS. My sole reason for resigning from this committee is that you (DC MOORE) have made it obvious to me that you no longer want me in this position by the way you have interacted with me and treated me since I have returned to work.

- [97] The Complainant’s initial complaint about the email is that she was not consulted independently from the other four recipients in light of the time and effort she had devoted to the committee and other initiatives. In my view, the fact that DC MOORE sent this email out explaining what he was proposing and providing some reasons why he was proposing the changes, along with an invitation to let him know if the recipients had any questions, was his way of inviting the

recipients to discuss it with him. However, in her email the Complainant seems to have missed this, complaining that he had not discussed it with her ahead of the others.

[98] It would appear to me that she is seeking treatment different from the other four recipients.

[99] The most probative evidence in my view is her resignation from the committee in her text message.

[100] Based on her resignation, I find that she was not removed by DC MOORE from the Clinical Education Committee.

Findings

[101] For the reasons set out above, I am not satisfied that this allegation has been proven on a balance of probabilities. This part of the complaint is not founded.

The Fire Training Committee

[102] At the return-to-work meeting on March 13, 2020, the Complainant told DC MOORE that she wanted to be on the fire training committee and step away from the EMS training because she was in the officer program. SMITH had successfully completed her fire inspector certification prior to this meeting and felt because she was in the LDP program she was qualified for the position on this committee.

[103] J. WOLFE's evidence corroborates that Complainant SMITH's claim she wanted to focus on the fire training and the LDP work.

[104] DC MOORE stated that at the March 13 meeting he told Complainant SMITH that if she wished to be on the firefighting training cadre, she would have to withdraw from the clinical educator committee because LFS personnel are not allowed to do both.

[105] DC MOORE added that he also told KUHN the same thing when she was assigned to the firefighting training cadre as she too would be required to withdraw from the clinical educator committee.

Analysis

[106] It was not clear to me whether this prohibition relating to working on both committees was a policy of LFS, or a management action taken by DC MOORE to manage workloads.

[107] It has been recognized that being denied mentoring or developmental opportunities such as secondments and training that are available to other people can be a subtle form of discrimination and/or harassing/bullying behavior.

[108] MOORE stated that he approved Complainant SMITH for the Fire Training Committee on the condition she step down as the clinical education lead. MOORE stated that Complainant SMITH was unwilling to step down from the clinical educator Committee and that was the sole reason for not getting the Fire Training Committee.

[109] Based on the evidence above, I am not satisfied that the evidence is sufficient for me to find on a balance of probabilities that the actions of DC MOORE were discriminatory on this issue. The complainant was treated the same away as the other individual seeking a position on the Fire Training Committee.

[110] If I had made a finding that DC MOORE's actions were discriminatory, I am of the view that the reasons for his actions were reasonable and justifiable in the circumstances the Complainant was in at the time: specifically, the negative effects of too many duties and responsibilities contributing to her mental disability in the months prior.

Findings

[111] For the reasons set out above, I am not satisfied this allegation is founded on a balance of probabilities.

Acting Captain's Positions

[112] Complainant SMITH alleges that following her WCB complaint becoming common knowledge to LFS management, Complainant SMITH was no longer considered for acting time as a Captain despite being eligible for these temporary assignments to fill in for the incumbent captain while on training, leave, or holidays.

[113] Complainant SMITH's evidence was as an acting captain she would receive a \$10.65 pay raise when a full-time officer was off work.

[114] DC MOORE's evidence was:

- a) Complainant SMITH sent him an email seeking clarification as to why she was not selected for the acting captain's position on a shift.
- b) LFS policy stated that management can either use those in the LDP from those on duty on the affected platoon, or they can pay someone to come in for the acting position for that shift.
- c) The Complainant emailed DC MOORE back stating that the full time LDP would be better off to switching to paid on call members and only signing up for the acting captain's shifts as they became available.
- d) In Complainant SMITH's case, when she completed the LDP, under this policy she had taken acting shifts away from the current [successful LDP] members already on shift with the platoon that required an acting captain.
- e) The issue was that the newest LDP candidate was getting the most shifts as an acting captain.
- f) Once the Complainant and others brought this to the attention of LFS management they changed the system to address the Complainant's concerns.

[115] The evidence of the union president BRITTON was very similar to DC MOORE's. BRITTON stated:

- a) The union filed a grievance a few months ago and with management's support about this issue.
- b) The issue brought forward by Complainant SMITH has resulted in full time members of LFS get the acting positions over any paid-on call members.
- c) With the new policy it is now more transparent how shifts get awarded and the hours of each member are tracked with the software program "Fire Manager."
- d) There are still some who are getting more LDP hours than others, but that is shift dependent.

Analysis

[116] As I understand the evidence, the policy that guides the selection of acting captains applies to all who have qualified to be acting captains. In my view, this means the Complainant was not treated differently than her peers, who were also disadvantaged by the policy.

[117] This policy also impacted individuals who were not individuals who fall within the protected grounds of the Alberta Human Rights Act.

[118] In my view, the Complainant has a valid complaint about the policy and process; however, it does not meet the definition of discrimination because the policy applies to all acting captains, not on the basis of the protected grounds.

Findings

[119] For the reasons set out above, I am not satisfied there is sufficient evidence for me to find on a balance of probabilities that the policy and procedures used by LFS to appoint individuals to acting captains discriminates on the basis of the protected grounds.

[120] This complaint is not founded.

Isolation/Lack of Communication

[121] The Complainant alleges that when she returned to Leduc after her last hospitalization, she noted that LFS management was treating her differently by not communicating with her and isolating her.

[122] The Complainant's evidence was:

- a) She observed that management was more distant and less communicative with her. The pattern captures incidents from SMITH's return to work meeting on March 13, 2019 and progressed through to current fall 2021.
- b) In April of 2021, Chief CLANCY became her supervisor in April 2021. There was little tasking for SMITH; however, she found work to do despite that.
- c) On November 27, 2021, during the course of this investigation, Complainant SMITH was made aware that she was no longer receiving the group email, in fact, three women, Megan FARRER-FARRER, Christa STEELE and Complainant SMITH were all completely removed from the LFS email list, which is auto-populated to normally include all employees of LFS.

[123] BRITTON's evidence was:

- a) When Complainant SMITH went on her last stress leave, she stopped talking to him and he did not know why. Stating, "I'd send her a text of how you doing? and I got nothing back".
- b) Then in June of 2021, the Complainant texted BRITTON and wanted to talk to him.
- c) BRITTON stated he spoke to the Complainant who told him that DC MOORE, told the Complainant BRITTON had made a complaint about Complainant Smith.
- d) BRITTON believes the Complainant isolated herself from the union executive for 5 or 6 months because of this "complaint".
- e) BRITTON stated that he does not know if DC MOORE intentionally drove a wedge, "I can suspect that he intensely drove a wedge, but he definitely put her on an island by herself. So that she wouldn't reach out to get any help from anybody."

[124] Chief CLANCY's evidence was that:

- a) He removed SMITH from the LFS group email was to prevent her from seeing the Chief's Update which contained information about self-medicating or "shooting up" with Ibuprofen. He particularly did not want SMITH to see that information.
- b) When Chief CLANCY was asked about cancelling the Complainant's access card, Chief CLANCY stated that deactivating her card would have been "isolation, you can't go down that road of removing or shutting people out."

[125] DC MOORE's evidence around communicating with the Complainant after her December 18 relapse was that he was concerned that he may have been the "trigger" for her behaviour, so he decided to "stay out of it".

[126] LFS firefighter/medic MONTGOMERY thought someone (Tamara/Sinead) from the platoon suggested that MONTGOMERY not text Smith after she went off on leave any more about work because Complainant SMITH "would spiral."

[127] According to Christa STEELE, on May 28, 2021, after co-worker Complainant SMITH had made formal complaints against members of the LFS, Chief CLANCY asked STEELE to meet with him when she was not on shift. She declined, he persisted, she relented. In the meeting, CLANCY told her he heard STEELE was going through a hard time and told her to focus on taking care of herself, and to "stay out of Mindy's shit." STEELE feels this was a not very subtle way of suggesting she should not support or provide information that corroborated Complainant SMITH'S complaints.

Analysis

[128] The Complainant did not corroborate BRITTON's evidence above.

[129] The issue here is whether the LFS treated the Complainant differently than other employees while she was off on sick leave because of her mental disability. In my view, LFS did treat her differently, albeit it may have been a negligent or reckless attempt to protect the Complainant from triggers and a relapse.

[130] However, the law around discrimination does not make exceptions for discriminatory action that occurs as result of good intentions.

[131] In this case, the approach by LFS to protect the mental health of the Complainant likely had the opposite effect in my view. It worsened her situation making her feel isolated.

[132] The Complainant's decision to talk to only one LFS member, the OH&S coordinator, during her time away from work likely also contributed to the perception by others that it was best to leave the Complainant alone.

[133] I am not satisfied that the provisions of section 11 of the Alberta Human Rights Act have been met with regards to LFS demonstrating that the discrimination was reasonable and justifiable in the circumstances.

[134] In an email dated April 11, 2021, the Complainant advised Chief CLANCY that she felt as though there was an intentional attempt to "isolate and exclude" her. She provided examples in her email:

- a) The CISM team called everyone on the department to do mental health check-ins follow the CTK incident. Despite not having attended the CTK call²² because she was on leave, she wondered why she had not been contacted. She stated she now had guilt because she was not at work for this call.
- b) She questioned why the Chief had not consulted her about her replacement while she was on sick leave. She stated this makes her feel "expendable."
- c) Captain MICHELSEN ran by her and a friend twice while she was walking her dog in the park, and he never bothered to say "hi" or ask how she was doing.

[135] The Complainant went on to write, "it feels like I'm being treated like the jealous, unsuccessful deputy chief candidate, a disgruntled employee, or a "troublemaker (sic)," all of which are very hurtful and harmful to my mental health, and (sic) are very untrue."

[136] In my view this was an adverse impact of the differential treatment.

[137] In an email dated April 12, 2021, the Complainant advised Chief CLANCY that she honestly believed there has been a lot of miscommunications (sic) or lack of communication and that has led Complainant SMITH to make a lot of assumptions. The Complainant went on to write, "I truly don't believe that lack (sic) of communication is malicious or there is harmful intent." I think a lot of it is because individuals are trying to "protect us" but quite often what ends up happening is we feel isolated, excluded, and omitted.

[138] She went on to write, "There are a lot of compounding factors when it comes to PTSD that I wasn't aware of and am still figuring out for myself as I go through this process."

Findings

[139] For the reasons set out above, I am satisfied that the Complainant was treated differently by LFS because of her mental disability, and its adverse impact upon her mental health.

[140] I find that it is more likely than not that the collective behaviours of the LFS personnel, including DC MOORE and Chief CLANCY were discriminatory, whether by negligent, reckless, or intentional behavior and actions.

[141] This complaint is founded.

Denial of Promotional Opportunity

[142] The Complainant stated that she believed she was denied an equitable chance to compete for promotion to the deputy chief rank in January of 2021 because of her mental disability.

[143] Her evidence was:

- a) She is suspicious of the timing of her removal from duty because this happened when the deputy chief promotions came out.
- b) Prior to falling out of favour with management she did not totally agree with, and internally questioned some of the decisions being made by the Chief Officers but did not report or

²² A fatality at a Leduc school involving a minor.

question anything because she was scared it would affect her ability to get a promotion to an officer ranked position, which the Chief Officers had made several comments Complainant SMITH was in line for.

- c) According to Complainant SMITH, she kept quiet and did what was asked of her prior to September of 2019.
- d) She believes that at the December 17th meeting that there was going to be consequences for the former LFS firefighter BRAUN/motorcycle rally situation and DC MOORE insinuated that DC Christensen was going to be terminated or forced to resign for his actions at the motorcycle rally and after.
- e) She believes DC MOORE knew that the deputy chief position was going to be posted, and she stated further that DC MOORE informed her of the likelihood there would be promotion opportunities in the near future. Complainant SMITH believes that is the reason for DC MOORE placing her off work for three months was to deny her the opportunity to compete.
- f) She was put off because of her mental disability.
- g) The Complainant stated that because she was off work, she did not have access to her LFS email. She was not aware of the promotional opportunity until the day the competition closed as a result.
- h) Complainant SMITH emailed LFS HR and Chief CLANCY and asked to be included in the process since she had not had access to her work email. They agreed and let her apply for the competition.
- i) Complainant SMITH did get an interview for the competition.
- j) Complainant SMITH emailed Chief CLANCY because he had called her and told her she did not get the Deputy Chief's job, and he said he would be more than happy to meet with her and discuss it in person.
- k) Complainant SMITH believed she had the qualifications for the position and the successful candidate had none of them.
- l) Complainant SMITH was skeptical, about meeting Chief CLANCY in person as she was concerned, he would not "put anything in writing."
- m) Complainant SMITH choose not to meet, and the chief's response back was, "I respect your decision not to meet in person. If you change your mind, my door's open"
- n) DC MOORE told her that LFS could not promote her because of her "mental health."
- o) She asked him to clarify what he meant. DC MOORE told the Complainant that she was "not doing well."
- p) She submitted a complaint to Alberta Health Services in reference to unauthorised access to her personal health records by members of the LFS while she was off duty. She has since been notified by Alberta Health Services (AHS) that Chief CLANCY and others had improperly accessed Complainant SMITH's electronic patient care reports on four occasions. The dates coincide around the date of the deputy chief competition.

[144] Chief CLANCY's evidence was:

- q) CLANCY stated that it is difficult to find LFS people who are willing to be on committees. When LFS members do volunteer and show up for committee work, other LFS members see those volunteers as management's favorites.
- r) The deputy chief promotion board consisted of Chief CLANCY, DC's MOORE and KELLY, Chris TOBIN from HR and Darrel Melvie, General Manager, Community and Protective Services.

- s) The candidates come in and present whatever they want and there is a scoring matrix, put together by HR, and that is how the scoring is done. The information is turned over to Chris Tobin and he tallies the scores.
- t) CLANCY's feeling is that the right person came out on top.
- u) CLANCY did add that they offer a "post" (feedback) for candidates who were unsuccessful, and he did meet with two of them (Skinner and Fox) and Complainant SMITH never came. It was pointed out that Complainant SMITH declined to attend in an email. CLANCY did admit he received an email from Complainant SMITH saying she will decline, that is all.
- v) When asked why an exception for Complainant SMITH to apply after the deadline for applications, CLANCY said that it was HR who made that decision because of the individual. He has never heard of that happen before, never experienced it before.
- w) In an email dated April 11, 2021, the Complainant advised Chief CLANCY that the only reason she applied for the deputy chief position was because [she] discussed it with [her] therapist and she thought the Monday-Friday schedule might be best for [the Complainant's] PTSD.

[145] Chris TOBIN from Leduc HR had stated that he has made allowances for the Complainant's outbursts because he has heard of her "active addiction" and did not want the exclusion of SMITH in the DC promotion to be punitive; however, this was contrary to the process set out in LFS policy. TOBIN believes her supervisor should be discussing with SMITH her aspirations for promotion and what that looks like and preparing herself for promotion to captain first.

Health Information Privacy Breach

[146] Complainant SMITH alleged that members of the LFS shared patient information and breached the confidentiality of her health information. The Complainant made a complaint to AHS who investigated and responded to the Complainant advising her that there had been:

[147] Improper disclosure of health information by EMS practitioner (KUHN) on January 29, 2020

- a) Improper access to your (SMITH's) health information Siren Electronic Health Record on December 24, 2020, June 29, 2021, July 21, 2021
- b) Two allegations of improper disclosure:
 1. By DCO on/around December 19, 2020
 2. By the Chief in an email dated February 12, 2021.

Analysis

[148] The Alberta Human Rights Commission has stated that in job applications, interviews or ads, employers are not allowed to ask about an applicant's present or past physical or mental conditions²³.

[149] In this case, the Complainant was a job applicant for the deputy chief position. LFS/City of Leduc did not have to ask the Complainant about her mental condition because they were improperly reading off her personal health records and were aware of her mental disability.

[150] In my view, this is tantamount to the same thing as asking an applicant. They were accessing and using information they were not entitled to and doing so was discriminatory based on the protected ground of mental disability.

²³ <https://albertahumanrights.ab.ca/Documents/MentalPhysicalDisab.pdf>

[151] The comments of DC MOORE corroborates that the LFS was using the Complainant's health information when he told the Complainant that LFS could not promote her because of her "mental health" and that she was "not doing well."

[152] The city of Leduc defines discriminatory action as any action or threat of action by a person that does or would adversely affect a worker with respect to any opportunity for promotion.²⁴

Findings

[153] For the reasons set out above, I am satisfied on a balance of probabilities, the LFS and the City of Leduc treated the Complainant differently than the other candidates because of her mental disability. I am also satisfied that this differential treatment more likely than not had an adverse impact on her competitiveness for promotion.

[154] This complaint is founded.

[155] The Alberta Human Rights Commission has also stated that employers are not expected to hire or continue to employ anyone whose disability notably increases the probability or likelihood of health or safety hazards to themselves, other employees, and or the public²⁵.

[156] However, the Alberta Human Rights Commission has stated if a job requires physical dexterity or the capacity to handle stress, for example, these requirements should be clearly stated in the job's description or employment advertisement. The Commission has written:

"If a potential employee has the experience and skills for the job, there should be no "special tests" to see if he or she has the capacity to do the job. However, an employer may ask an applicant if he or she can safely complete the duties as outlined in the job description. Any test for dexterity, medical exams for physical ability or stress-handling tests must be job-related. Applicants should be advised that, once hired, passing such tests or exams would be required."

[157] In these circumstances, the appropriate approach by the City of Leduc was to include the requirement for stress handling, and each candidate should be asked to produce a fitness for duty report from the appropriate health care professional related to the candidates' ability to handle stress. This ensures that each candidate is treated the same, and any concerns about health or safety hazards to themselves, other employees, and or the public.

[158] First responders in fire and ambulance services are at a higher risk of developing mental health issues because of the circumstances and conditions which they work in²⁶. In my view, the ability to handle stress can easily be justifiable given the vast amount of material on this subject that exists in academia.

²⁴ Source: *Respectful Workplace Policy- City of Leduc*

²⁵ <https://albertahumanrights.ab.ca/Documents/MentalPhysicalDisab.pdf>

²⁶ *First Responders: Mental Health Consequences of Natural and Human-Made Disasters for Public Health and Public Safety Workers*, David M. Benedek, Carol Fullerton, and Robert J. Ursano
Annual Review of Public Health 2007 28:1, 55-68

WCB Paperwork Not Submitted by LFS

[159] Complainant SMITH alleges that management did not submit the proper paperwork when she took a partial shift off for a PTSD experience during a choking call in October of 2020. The WCB could not complete the complaint of harassment as a result.

[160] On October 14, 2020, she completed an emergency call, which severely shook her up and triggered her PTSD. Complainant SMITH's evidence was:

- a) Immediately after the call, she called her Captain, Shawn MURPHY, and told him she needed to leave work from the call as she was shaken up from it.
- b) MURPHY immediately pulled her off the ambulance, reported the incident to Captain MICHELSEN and DC MOORE.
- c) Complainant SMITH assumed that paperwork was submitted by my employer but found out later it had not been submitted.

[161] The LFS OH&S coordinator, J. WOLFE's evidence was

- a) There was nothing unusual about the fact there was no paperwork filed. Furthermore, it is not mandatory to report incidents such as the choking call.
- b) These incidents were not reported in the past because it was hard to know if the incident would be part of a WCB claim.
- c) It was up to the individual to submit the claim and it remains the individual's responsibility to fill out the form.
- d) On April 14, 2021, Complainant SMITH had referenced the call that occurred on October 14, 2020.
- e) J. WOLFE was contacted by WCB on April 28, 2021, when a new claim was opened for the incident. J. WOLFE responded back to WCB confirming the incident.
- f) Captain MURPHY also submitted the email to confirm the incident.
- g) WCB accepted the claim and adjudicated it in favour of the Complainant.

[162] Captain Shawn MURPHY's evidence was:

- a) After attending the call, Complainant SMITH returned to the station, spoke to MURPHY about the call, and said she was out of service for "uniform reasons".
- b) MURPHY figured the call got to her and asked if she wanted Peer Support or Critical Incident Support Management (CISM), but she declined.
- c) Complainant SMITH talked to the crew about the call. MURPHY and Complainant SMITH talked further about it in his office.
- d) Complainant SMITH said it was stressful, so she wanted to go home.
- e) On October 14, 2020, at 2200 hrs MURPHY put Complainant SMITH out of service and brought in another medic. The code on the schedule was "other" from 2200-0700 hrs.

[163] DC MOORE's evidence was that:

- a) he was made aware of the choking call on October 15, 2020, when he came into work by Captain MURPHY and MICHELSEN, who was the acting Duty Chief Officer on shift. MOORE stated he also reached out to Sinead CLANCY re Complainant SMITH via text.

- b) Sinead called MOORE and said "it was an okay call with a good outcome and that she was fine. He was told that the call had triggered Complainant SMITH based on an incident in our past when a life partner had a choking incident on a camping trip that Complainant SMITH had to deal with.
- c) Then "we" reached out to J. WOLFE to see if we had to do paperwork or not for WCB and "we" were told only if it becomes the last time after the initial shift.

Analysis

[164] There is consistency in the statements with the witnesses. MOORE presents an unreliable statement when he stated that "we reached out to Jeri to see if we had to do paperwork or not for WCB. J. WOLFE stated she was only made aware of the situation when WCB called her on April 28, 2021, because they were opening a new claim

[165] On this issue, I prefer the evidence of J. WOLFE over that of DC MOORE.

[166] Discrimination means differential treatment, whether intentional or not, of an individual or group of individuals which is based, in whole or in part, on one or more than one of the protected grounds identified in the *Alberta Human Rights (AHR) Act*²⁷.

[167] In my assessment of the evidence, I am of the view that while the policy around submitting workplace injury reports may not have served the needs of the Complainant or the LFS, I am not satisfied the Complainant was treated differently than the usual practices of the LFS.

[168] I have given the evidence of J. WOLFE considerable weight in coming to this finding.

Finding

[169] For the reasons set out above, I am not satisfied there is sufficient evidence to conclude, on a balance of probabilities, that the behaviours and statements as outlined above were harassment or discriminatory. There is insufficient evidence in my view to find on a balance of probabilities that harassment has occurred as alleged.

[170] This complaint is not founded for that reason.

Removal from Work Schedule - Sick Time versus Short Term Disability

[171] Complainant SMITH alleges that she was unfairly removed from the Fire Manager schedule from December 18, 2020, through to April 1, 2021, causing her to deplete her sick time bank and causing further anxiety. This denied Complainant SMITH her working hours and wages for four months.

- a) SMITH explained that on the day before she had been mixing her prescription medications with alcohol. A friend found out what she was doing, called 9-1-1 and SMITH was transported to emergency.
- b) The Complainant stated that she was scheduled to return to work on December 23rd, 25th, 2020. Without any consultation from LFS with her psychologist or the Complainant to determine how to proceed, or without a note from a physician, DC MOORE placed me off work from December 23rd until April 1st as "other".

²⁷ *Alberta Human Rights Act*, RSA 2000, c A-25.5, <<https://canlii.ca/t/536q1>> retrieved on 2021-12-29

- c) Complainant SMITH stated she really did not want to return to work and further difficulty occurred because she could not get in contact with her psychologist, who was away for the holidays.
- d) Complainant SMITH decided to take the opportunity as time off, but it bothered her that when they could have given her some paid time off and they did not, so she remained off the schedule, which cost her over \$3000.
- e) DC MOORE explained it was a week before Christmas, the Complainant's next shift was supposed to be the 24th of December, however, from the information he received he knew she would not be back for her next rotation.
- f) DC MOORE explained he entered "other" as a placeholder on the Fire Management schedule because he did not want it to show up as she was off sick.
- g) He was concerned that he may have been the trigger for her behaviour, so he decided to "stay out of it." He did advise the Chief of what had transpired.
- h) DC MOORE stated that he did not speak to the Complainant for the next few weeks.
- i) He made the decision to remove her from the schedule because he needed to backfill her shifts.
- j) He was not prepared to let her work as a paramedic until he knew "where she was at physically and mentally."
- k) Complainant SMITH stated that unbeknownst to her, LFS used her sick time for the "other" scheduling. She found out in March when LFS advised her she had run out of sick time.
- l) LFS used her sick time, which in the Complainant's view was an improper and unauthorized use of her sick time. However, Complainant SMITH also stated that LFS does not have short term disability, therefore employees have to use sick time.
- m) This was confirmed by Gail MERRICK, in the City of Leduc Finance department. Because the LFS does not have short-term disability, the practice they have adopted is to use the employees sick time until some other form of compensation, such as WCB benefits is in place.
- n) J. WOLFE's evidence was that normally the check-ins with those who are off duty sick or injured is carried out by LFS weekly or at least every two weeks. It is normally a Captain that does the check-ins because they have the relationship with the members.
- o) However, J. WOLFE stated that in a meeting with Complainant SMITH, SMITH stated that she preferred that J. WOLFE do the check-ins.
- p) WOLFE stated she communicated with Complainant SMITH on January 2, 2021, to check in with her after her relapse. The Complainant told WOLFE she was feeling overwhelmed, so a comprehensive psychological evaluation was ordered after Complainant SMITH's psychologist returned January 9, 2021.
- q) MERRICK said that all of Complainant SMITH's sick time was returned to her time bank when she was approved for full WCB benefits, which is the usual procedure.

Analysis

[172] Complainant SMITH alleges the decision by LFS to unilaterally put Complainant SMITH off work from December 2020 until April 2021, was because of her mental disability a protected ground which makes the action discriminatory.

[173] Her evidence is also silent on what actions she took, if any, to arrange for "time off" as she claims she chose to take.

[174] I do also note that Complainant SMITH does not appear to have made any effort to contact LFS management to state she was ready and willing to return to work. Given that her psychiatrist had discharged her the next day. According to SMITH, she saw her psychiatrist at the hospital, and he

told her he thought it was an impulsive, isolated decision because she was upset about the meeting at work and discharged her home.

[175] Over the course of the interviews, the investigator has learned that the use of "other" has been used extensively by the LFS but there is no policy that includes that term.

[176] The Collective Agreement does include "Leaves-Other" in Article 22, which includes three situations: Compassionate Leave; Court Appearance/Jury Duty; and Union Leave.

[177] I am satisfied by the evidence of MURPHY and MOORE that it is common practice to use "other" when booking someone off for miscellaneous situations. MOORE stated it is used as a "placeholder" when the captains or management are unsure if the shift will be categorized as sick or WCB.

[178] In my view, to use "other" for months is quite unusual because MOORE knows that he can check with J. WOLFE in OH&S to see if it will be a "sick" or a "WCB" classification without it being left as "other."

[179] In my assessment of the situation, I find it reasonable for management to find replacements for Complainant SMITH's shifts during the Christmas holidays.

[180] The LFS Abilities Management Policy states:

The Abilities Management Program will support and enable employees to:

- Maximize their abilities, and enhance or maintain their overall quality of life;
- Stay at work, where feasible, in spite of disabling condition, and/or;
- Return to work in a timely and effective manner, without risk to their health or the safety of others.

[181] Because this is the way everyone was treated at LFS, in the absence of any other evidence on this issue, I am not satisfied there is sufficient evidence for me to find, on a balance of probabilities, that the Complainant was treated differently by being placed on "other".

[182] I do note that the Complainant was in contact with J. WOLFE, the LFS OH&S coordinator at the Complainant's personal request in December of 2020 and January of 2021. Unfortunately, J. WOLFE did not inform the Complainant of the sick pay practice at LFS.

[183] In my view, there is insufficient evidence to find, on a balance of probabilities, that the behaviours described above were discriminatory.

[184] The evidence of Gail MERRICK, specifically: that LFS does not have short-term disability, so the practice LFS adopted was to use the employees sick time until some other form of compensation kicked in.

[185] With respect to the removal of the Complainant from the Fire Management schedule, in my view this does not rise to the level of discriminatory behaviour.

[186] Based on the evidence of Complainant SMITH it was her decision to take time off after her hospitalization, despite being unable to contact her psychologist or get a note from her attending physician.

[187] In my view, the Complainant's suicide attempt was a mental health crisis. It was more than just the manifestation of a previously diagnosed mental disability, her behaviour put her at risk of serious injury and/or death. Following such a crisis, questions about whether a person can care for themselves are legitimate in my view.

[188] Given the nature of her work as an advanced care paramedic and firefighter there are also legitimate questions whether she could effectively function in this role. DC MOORE, by virtue of his position was duty bound to take into account any potential risks the Complainant may have occurred to the public/patients should she return to work before the crisis was appropriately treated.

[189] I do note her psychologist was away until January and an assessment of the Complainant had been scheduled for January 9th.

[190] The Complainant is silent on what advice, if any she received from her health care providers regarding her fitness for duty or return to work in December.

[191] Given the totality of the circumstances, I am of the view that DC MOORE's decision to ask for a doctor's note stating the Complainant was fit for duty was not an unreasonable request given the nature of her work. I do not find this request in itself to be discriminatory.

[192] If there was discriminatory behaviour/action in this instance, in my view, DC MOORE's actions were reasonable and justifiable for the reasons set out above.

[193] I am unable to find that removing the Complainant from the Fire Management schedule would reasonably adversely affect the Complainant with respect to any terms or conditions of her employment or opportunity for promotion, and includes termination, layoff, suspension, demotion or transfer of a worker, discontinuation or elimination of a job, change of a job location, reduction in wages, changes in hours of work, reprimand coercion, intimidation or the imposition of any discipline or other penalty²⁸.

[194] Because the Complainant was not treated differently in this instance, I am not satisfied she was discriminated against.

[195] There is, in my view, an element of mismanagement involved in this matter along with dysfunctional communication strategies. However, in my view, mismanagement does not automatically equate to discrimination.

Findings

[196] For the reasons set out above, I am not satisfied there is sufficient evidence for me to find, on a balance of probabilities, that this allegation of discrimination on the protected ground of mental disability is founded.

²⁸ The definition of discrimination.

Controlled Substance

[197] Complainant SMITH alleges that on November 5, 2020, she was harassed and disrespected by non-communication with Captain MICHELSEN and then she informed her superiors of serious issues regarding legislation & policy violations in relation to narcotic storage at LFS.

[198] Complainant SMITH's evidence was:

- a) Following the September 23rd, 2019, meeting, when she brought up issues around females not feeling welcome at LFS she felt she no longer had the support of DC MOORE.
- b) She felt that losing DC MOORE's support left her nothing to lose from that point.
- c) So, she started, "pushing September, October, November."
- d) She emailed about the controlled substances that were left unlocked in the Med vault at the LFS fire station.
- e) She stated she believed there was "probably a hundred thousand dollars' worth of controlled [substances]."

[199] She took picture and sent them to Captain MICKELSON and DC MOORE; however, she believed nothing was done.

[200] On November 5th, 2020, she sent an email to Captain MICHELSEN, Captain MURPHY, and DC MOORE expressing her concerns over staff not following LFS policy with regard to handling Controlled Substances and she photographed the open door to the medication supply room and a photo of the box with locks for the expired meds, which was accessible by the public.

[201] DC MOORE's evidence was:

- a) The Complainant refused to talk to the LFS quality assurance coordinator.
- b) The LFS quality assurance coordinator was the "brunt" of a lot of her outbursts.
- c) When he received the emails about the controlled substances, he sent the concerns over to the quality assurance coordinator, Rick Kamlah.
- d) He asked Kamlah report back to him, versus the Complainant because he did not want KAMLAH and the Complainant "battling about this."
- e) He also sent the information to WIERENGA and KUHN. WIERENGA emailed DC MOORE back that afternoon and the problem was attributed to human error.
- f) I had an email back from WIERENGA that afternoon by 1623. And I had an email four days later back from KUHN. That was discussed with Rick, discussed with KUHN and WIERENGA about it was a human error.
- g) KUHN emailed back four days later and said this is "on our platoon." She stated the platoon "screwed this up," admitting they made a mistake.

[202] DC MOORE stated that no one reported the findings back to the Complainant, which he stated in hindsight was a mistake, since all of the permanent captains were made aware of the problem and corrective action to be taken.

Analysis

[203] After the Complainant felt she had lost the support of DC MOORE, as she started to make notes of policy gaps, non-compliance with policies, as well as instances of discrimination, bullying and harassment, and ethical lapses at LFS.

[204] However, on this issue, I am not satisfied that there is sufficient evidence for me to find, that there is a sufficient nexus between the behaviours that occurred and an association to the Complainant's mental disability.

Findings

[205] For the reasons set out above, I am not satisfied this allegation has been proven on a balance of probabilities as discrimination.

COVID-19 Incident - November 25, 2020

[206] Complainant SMITH alleged that on November 25, 2020, she was contacted by AHS on a COVID contact incident. She felt the manner in which this was handled was harassment directed towards her and she felt disrespected when DC MOORE excluded her in communication when she informed her superiors of serious issues regarding legislation and policy violations.

[207] Complainant SMITH's evidence was that:

- a) On November 25, 2020, she received notification from AHS about a positive COVID exposure to one of the engine crews at LFS. However, she could not associate a patient care report (patient care reports) to the incident.
- b) She sent emails to DC MOORE about the absence of a LFS patient care report, concerned about what, if any, PPE equipment the crew used on the call.
- c) DC MOORE did not respond to her email.
- d) Two days later DC MOORE sent out an email to four of the five committees the Complainant led (Fire Training Committee was the exception) suggesting a change to the leadership, of which Complainant SMITH was the Clinical Education Lead.
- e) Complainant SMITH stated she was extremely upset about this and resigned as the clinical educator Lead and subsequently resigned from the whole committee.
- f) Chief CLANCY apologized to Complainant SMITH for how he handled that.
- g) Complainant SMITH had no communication with LFS because she was isolated at home with COVID symptoms at that time.

[208] DC MOORE's evidence was that her email raised two additional concerns for him.

[209] The first was the nature and tone of the email as it appeared the Complainant was "lashing out". The second was that there was a history between the Complainant and the captain of the engine crew.

[210] The Complainant had previously complained that Jeff BLACK was, "getting all of the shifts that she thought she was entitled to." "So, this was a little bit of retribution or revenge kinda thing" in DC MOORE's view.

[211] DC MOORE stated:

- a) This exchange occurred via text messaging which he retained.
- b) In response to her text reporting her concerns he texted back that they were looking into the matter.
- c) The Complainant then "lashed out stating that the fire crew had also not completed a patient care reports which was contrary to policy."
- d) He contacted the quality assurance coordinator, who received the same email from the Complainant.
- e) The quality assurance coordinator (Rick KAMLAH) contacted BLACK who advised the crew was wearing PPE.

- f) DC MOORE sent her a screen shot of the message he had received confirming that the engine crew was wearing PPE.
- g) The Complainant texted back questioning what type of PPE was used.
- h) She then suggested that Jeff BLACK would not know what type of N95 mask he had been fitted for if he were asked.
- i) When the Complainant directed her comments to Jeff BLACK personally, he felt she was lashing out at BLACK.
- j) DC MOORE went to the quality assurance coordinator who told DC MOORE that he had followed up with BLACK who told him they had not completed the patient care report yet, however, BLACK was not concerned about the exposure because they were in proper PPE.

Analysis

[212] In my view, the Complainant was upset that she was not given a more direct role in addressing the problem.

[213] I am unable to find in the complainant's evidence any nexus or association to her mental disability.

Findings

[214] For the reason set out above, I am not satisfied there is sufficient evidence for me to find on a balance of probabilities, that the behaviour and comments were discriminatory.

[215] The allegation is not founded.

Denial of Training

[216] Complainant SMITH alleges that Captain MICHELSEN denied her request for a training course, despite have received approval from DC MOORE and Chief CLANCY to be on the Psychological Health & Safety committee.

[217] Complainant SMITH alleges that she was working from home as a result of COVID symptoms.

[218] Complainant SMITH, in denying her training texted, "What you do while your [sic] off sick in your own time is your business."

[219] Captain MICHELSEN's evidence was:

- a) He did make those comments in a text.
- b) The Complainant was off sick, and they were texting back and forth about payroll stuff.
- c) He advised her to show the time she was off with COVID as sick time.
- d) The Complainant responded that she did not want my sick time to "count against" her while she was on a training course.
- e) He told her that he would get clarification from "the city" if it was okay for her to be off sick that night, but then pay her to be on training time during the day.
- f) He stated that he texted the Complainant back and told her what she did on her sick time was her "prerogative" when he wrote that what the Complainant did when she was off sick in your own time is your business.
- g) He stated that the Complainant texted him back and "unleashed" on him.

- h) He stated that he was concerned that the Complainant would “run into issues being sick and then asking for training time.”

[220] J. WOLFE stated:

- a) Leduc partnered with other groups for a two-year study into psychological health and safety and Complainant SMITH joined that group.
- b) On November 27, 2020, Complainant SMITH shared a text with WOLFE regarding compensation for a training course she was approved to take.
- c) Complainant SMITH shared a text conversation she had with her Captain, Spencer MICHELSEN, who denied her training.
- d) J. WOLFE sent MICHELSEN a message informing him that this training course was an agreed upon with MOORE and CLANCY as a part of her return-to-work plan.
- e) J. WOLFE stated that the approach MICHELSEN took was inappropriate and if he was not sure he should have asked first.
- f) Messaging was completed between Complainant SMITH, J. WOLFE and MOORE and the compensation was paid.

Analysis

[221] The evidence comes down to the interpretation of the text messages. Complainant SMITH perceives harassment and retaliation because she felt her relationship with MICHELSEN deteriorated since the incident with BRAUN attending the motorcycle rally in August 2020.

[222] Her text response was as follows:

“With all due respect Cap., and I am writing this in the most respectful way I can, but you have no idea what training course I’m even taking. It’s been pre-approved by DC MOORE and Jeri Wolfe for about 2 months because it’s a certification course that I can’t just take anytime, and your response to me is what I choose to do during my sick time is my choice.”

Wow, how about I understand you’ve been in bed for five days but thank you for still participating in this important training?”

[223] Captain MICHELSEN text back:

“Mindy, I apologize that the intent of that statement was not more clear (sic). I was not sure if you would encounter issues being off sick and still taking a course (being booked off on training approved and sick for the tour) I was meaning it in a wink, wink, nudge nudge kind of way. If for some reason I got information back from management say “yeah, she probably shouldn’t be in a course while off sick” or something along those lines you would know that I was supporting you in taking the course.

If it were me in your position, I would still be taking the course regardless.

DC MOORE did answer back, please code today as training approved for the day and sick for the night. Fire Management will reflect the same.

P.S. I did know what course you were on.”

[224] In my view, the facts of this issue as set out above do not rise to the level of discrimination.

[225] In my view, if the Complainant had already been approved by DC MOORE and/or Chief CLANCY for the training, why was the Complainant seeking approval for the training? In my view, the issue in the email is compensation for her training time.

Findings

[226] This allegation is not founded because the training was never denied to the Complainant.

Return-to-Work

[227] Complainant SMITH stated that from September 18th, 2018, to December 24th, 2018, she was treated for PTSD and concurrent substance abuse. During this time, she spent time completely away from LFS. She did not have access to her phone or work email as she was in the University of Alberta hospital psychiatric unit, then she went straight to the Edgewood treatment center in Nanaimo, BC.

[228] The Complainant alleges that when she returned to Leduc, she noted that LFS management was treating her differently by not communicating with her.

[229] Complainant SMITH stated that LFS was aware that she returned home from in December 2018. No one contacted her about her return/reintegration to her duties at LFS. Complainant SMITH believed there was a belief withing LFS management that they should not say anything to those off work for mental health reasons because talking to the employee would make their condition worse

[230] Redacted saw a change in Complainant SMITH when she came back from her treatment. He said between Complainant SMITH, management, and WCB or the therapy group, between those three parties, there was miscommunication of what was supposed to happen, no one had the answers. Management said it was not up to them to make the reintegration happen and this frustrated Complainant SMITH over time. In Redacted opinion the reintegration was poorly done in terms of expectations and duration.

[231] Complainant SMITH's evidence was that at the March 13, 2019, with everyone present, they talked about what work SMITH would be involved in, how many days/week, and hours/day she worked.

[232] DC MOORE's evidence was that during the following months MOORE stated that SMITH was offered opportunities to teach but she was often away and could not be involved.

[233] BRITTON attended a meeting on May 19, 2019, with Complainant SMITH, DC MOORE, Jeri Wolfe (LFS OH&S), and a representative from WCB to discuss SMITH's return to work. According to BRITTON:

- a) Complainant SMITH wanted to do something while she was still in treatment,
- b) Jeri Wolfe wanted to make sure Complainant SMITH had a clear understanding of her roles and responsibilities while on modified duties.
- c) LFS is "flying by the seat" of their pants when it comes to return-to-work processes. He has never seen LFS policy or procedure setting out how these types of return-to-work cases will be handled.

[234] Chief CLANCY disputed BRITTON's view. CLANCY stated that here is a disability management policy and return to work standards that occupational health and safety use and they follow that process. CLANCY is working towards contracting a private company. It was not clear from CLANCY's evidence whether that policy was in place in 2018. He added during his interview that he is researching programs in place for reintegration at the Edmonton Police Service.

[235] DC MOORE stated there was not "a cookie cutter" reintegration plan for anyone. MOORE stated return-to-work plans are:

- a) based on the reason for the leave,
- b) based on if it is a gradual return to work if it is their medical and physical and cognitive capabilities when they come back to work.
- c) created with LFS OH&S, WCB and LFS claims advisors, plus the involved member, medical practitioners
- d) LFS takes advice from those people on how best to reintegrate them into the workplace.
- e) LFS cannot create a cookie cutter reintegration plan because everybody that comes back from every leave is going to be different.
- f) MOORE further stated, "it's a very poorly understood system, because it is so different for everyone that comes back."

[236] J. WOLFE stated in her interview that for an employee to return to work, they must have medical support that they are able to return to work. Once medical clearance is received, J. WOLFE prepares offers for modified work/hours or offers to return to regular duties.

Analysis

[237] In my view, DC MOORE's claim that return-to-work is partially dependent on the reasons for the leave lends itself to discriminatory practices (i.e., those on leave for mental health reasons could be treated differently than those on leave for a broken bone).

[238] In my view, DC MOORE's claim is borne out by the Complainant's physician who in authorizing the Complaint to return to work in 2021 limited her to working from 8:00 a.m. to noon for the first 4 weeks. In all, the Complainant's doctor indicated that the Complainant was advised not to perform twenty-five separate physical and mental activities in any capacity. This would force any employer to treat that employee differently than the other employees and it is because of a protected ground, mental disability.

[239] However, those with substance abuse and suicidal ideation cannot return to work where controlled substances are readily available in my view. Additionally, any return-to-work plan for an advanced paramedic must take into consideration the risks to patient care. These are not trifling considerations in my view and are why section 11 of the Alberta Human Rights Act, RSA was created by the legislators.

[240] DC MOORE's evidence was not sufficiently clear on how persons returning from leave associated to mental health disabilities would be protected from discrimination, particularly if they had fallen out of favour with LFS management as a result of their mental disability.

[241] In my view, the totality of the evidence leads me to find that it was more likely than not that the treatment received by the Complainant was different than others, and that differential and harmful treatment was because of the nature of her disability.

[242] For this reason, I am satisfied that the evidence is sufficient for me to find LFS and DC MOORE discriminated against the Complainant because of her mental disability.

[243] This complaint of discrimination is founded.

December 17 Meeting with DC MOORE

[244] Complainant SMITH alleges that on December 17th, 2020, she was blindsided with an impromptu meeting with the MOORE, who alleged a myriad of issues that were not substantiated causing Complainant SMITH to leave her shift early, feeling embarrassed and humiliated. She alleges that the actions of DC MOORE were discriminatory.

[245] On December 17, 2020, the Complainant met with DC MOORE at his request.

[246] According to Complainant SMITH, DC MOORE "blindsided" her with the statement that Chief CLANCY had "ripped" him a "new one" because of how DC MOORE had managed the proposed changes to the clinical lead for the Clinical Education team.

[247] DC MOORE told the Complainant that LFS personnel had stated that the Complainant was impaired at work.

[248] According to the Complainant, DC MOORE told her that this all stemmed because she went home after experiencing psychological trauma at the October 14 choking call.

[249] DC MOORE stated:

- a) He had received some emails from Complainant which he was not impressed with, nor was he impressed that she had resigned from the clinical education team. He knew something was wrong, so he arranged a meeting on December 17 with the Complainant.
- b) He asked her about some of the things he had recently heard about her.
- c) This included a rumour that she was selling off her belongings which he knew to be one of the warning signs of an impending suicide. Given her history, he was concerned.
- d) He had also heard from FOX, whom he believed to be a good friend of the Complainant, that the Complainant had been using alcohol again.
- e) He asked the Complainant if she was drinking, and she admitted she was.
- f) He asked her if he had to be concerned.
- g) He showed the Complainant the email she had sent directly to MOORE regarding the Complainant trying to hold LFS captains accountable.
- h) He stated that he said that it was not her job to hold captains accountable.
- i) He then stated that he had heard some rumours and he wanted to discuss them with her.
- j) He brought up that he had heard that she was selling off her possessions and cancelling her wedding.
- k) The Complainant told DC MOORE that it was not his concern.
- l) The Complainant then explained that she was trying to fund treatment for her fiancée.
- m) DC MOORE said the conversation came easier at this point.

- n) He talked to her about her emotional outbursts, not only the email but in person as well, often followed by an apology from the Complainant the next day. He told her was concerned because that was not her normal self.
- o) She told DC MOORE that she was not going to finish her shift and she was going home.
- p) He did not think the Complainant was impaired or unfit for duty.
- q) The next morning, he got a text message from her, that stated she was okay after their conversation, and she is glad they had talked.
- r) The text went on to read that she had taken all of it to heart and she was going to make sure she did everything she need to do on a daily basis to be a better and stronger person, closing off by thanking him for his concern and she appreciated his efforts.
- s) DC MOORE responded back that he was glad to hear she was well and to let him know if there was anything he or the department could do to assist her.
- t) The Complainant texted DC MOORE back that she would let him know if she needed anything.

Analysis

[250] In my view, the words spoken by DC MOORE as noted above are the nexus that connects his actions with her mental disability. By pointing to this issue as the root cause, DC MOORE has created an association between his actions and the Complainant's mental disability.

[251] The issue then becomes whether the Complainant was treated differently because of her mental disability. The question is differently from whom? Another firefighter with a mental disability or a firefighter without a mental disability.

[252] The nature of DC MOORE's comments and questions would not likely be put to a firefighter with a disability or a firefighter who was not suicidal. They are specific to this firefighter whom he suspects is having a mental break down and could harm herself.

[253] In my view, there is insufficient evidence for me to find on a balance of probabilities that the behaviour's described are differential treatment of a person he is concerned is having a mental breakdown or crisis.

Finding

[254] For the reasons set out above, I am not satisfied this allegation has been proven on a balance of probabilities to be discrimination.

The WCB Claim and Compensation/Return to Work 2020

[255] The Complainant alleged that LFS did not submit the proper paperwork when she took a partial shift off for a PTSD experience during a choking call on October 14th, 2020. As a result, WCB could not complete the complaint of harassment.

[256] Gail MERRICK's evidence was that in any situation that may be considered a WCB matter, DC MOORE sends messaging out to the employee's captain, requesting they submit the paperwork within 72 hours for a WCB claim.

[257] However, J. WOLFE stated:

- a) With reference to the October 14, 2020, choking call where SMITH left for home part way through her shift, J. WOLFE said there was no incident reporting paperwork submitted on this call after SMITH went home.

- b) There was nothing unusual about the fact there was no paperwork files.
- c) J. WOLFE stated that this was never reported in the past because it was hard to know if the incident would be part of a WCB claim;
- d) It was up to the individual to submit the claim and it remains the individual's responsibility to fill out the form. Furthermore, it is not mandatory to report incidents.

[258] DC MOORE's evidence was that after he attended the Complainant's residence on December 18, he contacted J. WOLFE, who in turn, reported the hospitalization to WCB for follow-up so they could begin collecting information about Complainant SMITH's injury. Complainant SMITH's responsibility to contact her was fulfilled by J. WOLFE, who acted on her behalf and notified WCB.

[259] Chief CLANCY notified Complainant SMITH that her sick time had run out and the options to her included returning to work or going on employment insurance. (Reference #227-228) Complainant SMITH ultimately returned to work as per her psychologist in March 2021 because she did not feel it was the right decision for her to remain off work and she had run out of sick time because she was scheduled as "other." Complainant SMITH was put back on the schedule in March 2021.

Analysis

[260] The City of Leduc's Abilities Management Policy states that an employee is responsible for contacting a supervisor as soon as possible when unable to attend work, or to report an injury.

[261] J. WOLFE's evidence that it was up to the individual to submit the claim and it remains the individual's responsibility to fill out the form

[262] Based on J. WOLFE's evidence, I am not satisfied that there was any behaviour on the part of LFS personnel that prevented the Complainant from starting a WCB claim

Findings

[263] For the reason set out above, I am not satisfied that there is sufficient evidence for me to find on a balance of probabilities that the discrimination occurred in this instance.

Allegation #3: Harassment

Platoon 4

[264] Complainant SMITH alleges that she was retaliated against by Platoon 4 after she completed a patient care reports audit/investigation involving Adam SWENDSEN in 2018. The retaliation was in the form of workplace harassment.

[265] At that time, Complainant SMITH was on the LFS Clinical Education Committee which was responsible for auditing/investigating patient care reports. The committee also investigated significant medical calls/responses and provided feedback for improvement.

[266] A patient care records audit had resulted in remedial work and a higher supervision level for firefighter/paramedic Adam SWENDSEN for missteps that had occurred during an emergency response. As a result of her work in this area, the Complainant alleges she was bullied and harassed by LFS members, particularly those on Platoon #4.

[267] Complainant SMITH stated that after the audit was completed, the platoon members erroneously believed that Complainant SMITH had overstepped her boundaries and taken it upon herself to discipline SWENDSEN. She was accused of “witch-hunting” SWENDSEN and being a “rat” to management.

Analysis

[268] In Alberta, employers are expected to create an inclusive workplace that respects the dignity of every individual²⁹.

[269] The common meaning of a witch-hunt at work is an attempt to find and punish a particular group of people who are being blamed for something, often simply because of their opinions and not because they have actually done anything wrong³⁰.

[270] It appears the platoon was unaware the audit/investigation occurred as a result of a complaint from an emergency room doctor who had concerns about SWENDSEN’s care of the patient.

[271] Complainant SMITH’s evidence was that she was isolated and ostracised by members of Platoon #4. She stated she believed LFS personnel were “speaking behind her back.” She also stated that LFS personnel would intentionally “talk over” her while she was teaching. She received unwelcome and demeaning comments including: “Who are you going to write us up on this time, Deputy SMITH?”

[272] Bullying is defined as the tendency of individuals or groups to use repetitive and persistent aggressive or unreasonable behavior against a co-worker or subordinate. Workplace bullying can include, but is not limited to, such tactics as teasing, taunting, threatening, psychological abuse, physical abuse, and humiliation. Although bullying can include physical abuse or the threat of abuse, it usually causes psychological rather than physical harm.³¹

[273] The Complainant alleges she was being treated differently and LFS management did not support her. The Complainant described her experience as “psychological bullying” where, according to the Complainant, members of LFS come into a room ignore her; saying “Hi” to everyone else around her but ignoring her.

[274] Complainant SMITH stated she went to the captain of Platoon 4, Michael LABUTES, and spoke to him about the behaviour of his platoon. He agreed that Swendsen was quite angry with Complainant SMITH and the whole platoon supported SWENDSEN.

[275] Captain LABUTES corroborates the Complainant’s allegations in my view. He stated:

- a) LABUTES was “pretty sure” that the comments directed at the Complainant were not confined to his platoon. He said other people had the same opinion as those on Platoon 4. Captain LABUTES added that the people making comments did not have all the information. He stated he had empathy for Complainant SMITH.
- b) He said people thought SMITH had gone “above and beyond” to go after people about medical calls.
- c) LABUTES admitted that he stated that he was “putting out fires” with his platoon members over the SWENDSEN investigation.

²⁹ https://albertahumanrights.ab.ca/employment/employee_info/Pages/employee_rights_and_responsibilities.aspx

³⁰ <https://www.collinsdictionary.com/dictionary/english/witch-hunt>

³¹ *Respectful Workplace Policy - City of Leduc*

d) LABUTES stated he does not recall the comments made by Complainant SMITH suggesting he address with discipline to stop the harassment. LABUTES' response was, "What am I supposed to do about it."

[276] Redacted also corroborates Complainant SMITH's allegations in my view. Redacted stated that "one platoon hated her" for the investigation she did on one of the platoon's members. There was uneasiness and tension because of the investigation according to Redacted. For this reason, I have given Complainant SMITH's evidence significant weight.

[277] Complainant SMITH further stated that she informed DC MOORE about the behavior of platoon 4. However, DC MOORE did not recall this conversation as alleged by Complainant SMITH when he was interviewed on this matter.

[278] Human rights or Occupational Health and Safety issues arising in a workplace must be afforded an employer's utmost attention and diligence. Employers have a responsibility to promptly investigate an allegation of discrimination. If an allegation is substantiated, the employer needs to take appropriate action to ensure the discrimination stops³².

[279] However, DC MOORE does recall the Complainant bringing up the 2018 SWENDSEN patient care record investigation at a more recent meeting, where she alleged, she was being retaliated against because of the investigation because her vehicle window had been broken at a fire station.

[280] I found DC MOORE's evidence on this issue to be contrary with his position and involvement with the Complainant he claims to have had, particularly his stated concern for the physical and mental welfare of the Complainant.

[281] The City of Leduc's Respectful Workplace Policy defines workplace harassment as:

"The abusive, unwelcome, unfair, or demeaning behaviour, including actions or gestures, towards a person or group that has the purpose or effect of interfering with a person's or group's dignity, well-being, status or performance, or creating a hostile or intimidating working environment. Incidents of harassment may involve bullying, the abuse of power one individual has over another, or unwelcome conduct including threats of and/or acts of physical violence."

[282] I accept the evidence of Complainant SMITH as corroborated by DENHAM and LABUTES and have assigned this evidence significant weight.

[283] In my view, their combined evidence is sufficient for me to find that it was more likely than not that treatment she was subject to by members of Platoon 4 and others was unwelcome, unfair and demeaning.

[284] I am also satisfied by the evidence of Complainant SMITH as corroborated by DENHAM, and LABUTES that the treatment she received had the effect of interfering with the Complainant's well-being, and her job performance, particularly as it related to her work on the Clinical Evaluation Committee. I am further satisfied that the behaviour of platoon 4 and others at LFS created a hostile and/or intimidating working environment.

³² https://albertahumanrights.ab.ca/employment/employee_info/Pages/employee_rights_and_responsibilities.aspx

[285] I note that Firefighter HYDE also described the overall environment at LFS as, "huge toxicity," despite his assertion that he never saw any bullying towards the Complainant. Chief CLANCY also stated that he was aware that firefighter [Redacted] had posted the working environment at LFS was "toxic." [Redacted] describes LFS as having a "culture of fear."

[286] The bullying that occurred towards SMITH was known by DC MOORE (SMITH's recollection is preferred over that of MOORE) and yet was not remedied. MOORE's actions or inactions as a senior leader contributed to the harassing behavior experienced by SMITH.

[287] For the reasons set out above, I am satisfied that it is more likely than not that the Complainant was subjected to harassment and bullying in the workplace, and that this was known by senior leadership, who by action or inaction, contributed to the situation which had a negative impact on SMITH's mental health. This complaint is founded in my view.

End of Analysis and Findings

OTHER CONSIDERATIONS

- [41] Employees may perceive, either rightly or wrongly, that they are misunderstood, undervalued, and not treated in a respectful manner by their co-workers, supervisors, or the public.
- [42] As often happens in many workplaces, there were overlaps between discrimination and other legitimate factors in this matter.
- [43] The *Alberta Human Rights Act* prohibits discrimination in employment based on the protected grounds of race, colour, ancestry, place of origin, religious beliefs, gender, gender identity, gender expression, age, physical disability, mental disability, marital status, family status, source of income, and sexual orientation. Employers are expected to create an inclusive workplace that respects the dignity of every individual. This is not occurring at LFS in my view.
- [44] The Occupational Health and Safety Code 2020 at section 391 requires employers to train workers on various aspects of addressing and preventing harassment. In my view, LFS has not been successful in meeting this requirement.
- [45] With respect to the differential treatment of the Complainant because of her mental disability, the Alberta Human Rights Commission has stated that employers are not expected to hire or continue to employ anyone whose disability notably increases the probability of health or safety hazards to themselves, other employees and/or the public.
- [46] In October of 2020, the Complainant attended a call that triggered her PTSD. Although the outcome of the call saved the patient's life, the Complainant could not continue on with her shift. In my view, the LFS had a duty to treat this as a "red flag" regarding the Complainant's ability to perform in the field as an advanced care paramedic.
- [47] The Complainant had a recent history of suicide attempts between 2018 and 2021 and the concern that additional stress from the workplace could trigger more attempts at self-harm was genuine in the investigator's view. In my view, this meets the criteria of a notable increase in probability for harm to the Complainant.
- [48] The Complainant is an advanced care paramedic who responds to life and death emergencies in Leduc. According to her return-to-work authorization from her doctor, the Complainant was unable to perform twenty-five separate physical and cognitive activities in any capacity at LFS after her relapse in November 2020.
- [49] Unfortunately, the manner in which management handled this situation at LFS was less than professional and compassionate, and was mismanaged in either negligent, reckless, or intentional ways. This did contribute to the instances where discrimination was founded.
- [50] By December of 2020, the Complainant had been waging a "nothing left to lose" campaign against management at LFS over the way females were being treated at LFS and other workplace grievances which the Complainant had been stockpiling for several years.
- [51] Unfortunately, the manner in which she was conducting herself was aggressive and disruptive and at times insubordinate, such as when she decided to hold middle management accountable for lapses in their skills and ethics on her own.

- [52] Effective communication between the Complainant and LFS management had all but collapsed by December of 2020.
- [53] This led to erroneous assumptions being made by both LFS management and the Complainant.
- [54] The Complainant then submitted her complaints, identifying her current and former list of grievances.
- [55] It was not lost on the investigator that the Complainant benefited career wise from the same individuals whom she now alleges discriminated against her or failed to stop those that harassed her. The Complainant now alleges that the preferential treatment she benefited from, which has now been withdrawn and bestowed on others, is improper and discriminatory.
- [56] In many ways, the manner in which the LFS Chief responded to the complaints and the investigation indicates that there is a possibility that systemic harassment in the guise of discipline and management may be endemic at LFS.
- [57] His comments, actions/lack of action and the appearance of tacit approval for harassing behaviour (e.g., his use of the derogatory "6-8 weeks" nickname to refer to an employee) and alternatively warning Christa Steele not to get involved in "this Mindy shit" is reasonably considered to identify his true feelings towards the complaints and complainants and is experienced as institutional betrayal, particularly where the LFS have failed to prevent or respond supportively to wrongdoings. This becomes more evident when one takes into the personal biases towards complainants (e.g., they are always negative, they are lying, they are wrong) that the LFS Chief expressed both in the workplace and during this investigation.
- [58] When coupled with the appearance/perception of favouritism, cronyism, nepotism and poorly handled grievances, the complainant that LFS has a toxic work environment becomes more fathomable. (See report #4)
- [59] Contrary to what the LFS Chief stated, the reasonable person would and should believe that the buck does stop with him.
- [60] It is important to note that discrimination and harassment have far-reaching effects, and more so in an organization where members tend to spend extensive periods of time together and rely on each other for ongoing mental health such as LFS. As well, they are dependent on each other for their safety, and potentially their lives on a daily basis.
- [61] Human rights issues arising in a workplace must be afforded LFS 's utmost attention and diligence. Employers have a responsibility to promptly investigate an allegation of discrimination. If an allegation is substantiated, the employer needs to take appropriate action to ensure the discrimination stops.
- [62] First responders are prone to mental health crises and disabilities due to the nature the trauma they are exposed to. LFS needs a professional support program in addition to its existing peer support program, for psychological injuries. LFS should be looking for a program that is administered by health care professional, detached from the management at LFS.

- [63] Discipline based upon quality assurance audits is not a sound strategy. If process improvement and patient care improvement are the goals then administering discipline based upon the results of QA assessments of patient care reports will likely frustrate the Clinical Educators and QA goals, by making the LFS membership distrustful of the process and resistant to cooperating.

RECOMMENDATIONS

As a Human Resource Risk Management firm, the associates involved in these investigations have several recommendations to offer, to transform a hostile and toxic culture. These will be provided to the client upon digestion of the reports, corrective action, and a request for the recommendations.

NEXT STEPS

- [64] With respect to the founded allegations of harassment and discrimination, the next steps for LFS are to apply its policies and procedures to address the incidents of harassment and discrimination and take the appropriate corrective action, based on the totality of the findings in the five reports. The City of Leduc will be provided options for consideration by Veritas Solutions. These options will include workplace restoration initiatives.

CONCLUSION and OBSERVATIONS

- [65] The actions/inactions and mismanagement by negligent, reckless, or intentional ways by peers, colleagues and senior leaders identified in this report, in addition to reports 2-5, has been identified as discriminatory and harassing in nature.
- [66] Some of the actions identified by the complainant as being discriminatory could not be founded. However, it is reasonable to understand that due to the founded allegations and series of mismanagement and missteps that occurred, that SMITH perceived some benign or appropriate management decisions as discriminatory.
- [67] If one factors in the costs related to investigations, mediation, dispute resolution, settlements, and or legal defences, the cost of prevention, and workplace restoration is a more effective approach for the client.
- [68] Leaders significantly impact the emotional health and wellbeing of first responders. The leadership gaps identified in this report are significant and require remedy.

OTHER SUPPORT

This report does not contain recommendations related to discipline sanction as it is beyond the scope and expectations of an objective investigator to do so. The Principal Director of Veritas Solutions, and human resource associates, are available to the client to assist in risk management decisions, culture assessments and potential training in the areas of:

- Harassment, Bullying and Sexual Harassment Identification and Prevention
- Psychological Safety in the workplace
- Conducting Workplace Investigations
- Risk Informed Management Training
- Workplace Restoration and Culture Transformation
- Leading with Emotional Intelligence

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