

# Workplace Harassment: from investigation to prevention

Version 2.0



**Harassment can be as toxic to worker health as any other workplace hazard.** Only in recent years have health and safety laws changed to recognize this reality. Harassment is widespread and continues to be a pressing issue in Canadian workplaces.

A 2020 Canadian Labour Congress (in conjunction with research partners) survey (released in 2022) of nearly 5,000 workers found that 7 in 10 workers experienced a form of harassment and violence at work. Nearly 50 per cent of workers experienced sexual harassment and violence in the last two years. Workers who are Indigenous, racialized, disabled, or 2SLGBTQI+ experience higher rates of harassment and violence.

The survey also revealed alarmingly high levels of third-party violence from customers, clients, and patients, highlighting the need for stronger protections for members who work with the public.

## What is workplace harassment?

*Ontario's Occupational Health & Safety Act (the Act)* defines workplace harassment as “engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome” and includes virtual online harassment using information and communications technology. Virtual harassment may include inappropriate emails or messages, behaviour during video calls, and harassment via social media or other digital platforms. The *Act* also includes a specific definition of workplace sexual harassment, although the *Act's* definition is intended to cover all 15 prohibited grounds for discrimination and harassment under *Ontario's Human Rights Code*.

*The Act* also defines what harassment is not – “a reasonable action taken by an employer or supervisor relating to the management and direction of workers or the workplace.”

Elsewhere, harassment is known as moral harassment, psychological violence and bullying. Regardless of the label, common harassing activities and behaviours can involve incidents or patterns of behaviour intended to humiliate, degrade, threaten, intimidate and/or offend the victim(s) and now also includes microaggressions, or subtle acts of exclusion.

## What are microaggressions?

Unlike overt harassment, microaggressions are subtle and often unintentional. They are frequently normalized or dismissed as personality traits or jokes in the workplace.

Microaggressions consist of everyday verbal, behavioural, or environmental slights that convey hostile, derogatory, or negative messages toward marginalized groups.

While a single microaggression may seem insignificant, their cumulative impact can amount to discrimination.

## Workplace risk factors

Certain workplace factors, including the physical layout of the workplace, the nature of the work, how it's organized and managed, can increase the risk of workplace harassment.

Workers can be more vulnerable to harassment if they are working alone; at night; in an isolated location or at a mobile workplace; where money is exchanged or where alcohol is served.

Those who serve the public in retail, service and hospitality sectors, or who provide a range of public services including health care, education, social services, transportation, security and law enforcement have increased exposures to harassment.

Economic recession, global competition, outsourcing, and new technologies are also changing the nature of work and employment relationships. More work is precarious – part-time, insecure, poorly paid and with few benefits.

Government temporary foreign worker programs also create low-wage, insecure jobs especially in caregiving, agriculture and seasonal industries. Laws governing these working arrangements and the dependencies that result make it more difficult for workers to report abusive treatment.

## The impact of workplace harassment

Workplace harassment and related stress can cause psychological and physical harm.

Psychological impacts include anxiety, depression, post-traumatic stress disorder, sleep disturbances and even work-related suicide. Chronic stress is also associated with musculoskeletal disorders and coronary heart disease.

A weakened immune system can also contribute to the common cold and increase the risk of cancer.

Workplace harassment hurts affected victims and their families, but it can ripple through an entire organization causing increased conflict, absenteeism and staff turnover. Left unchecked, harassment can create a toxic work environment. Studies find that those who witness workplace bullying are also more likely to report more stress and mental health issues.

More concerning, workplace harassment can escalate into physical violence. Some researchers have found a link between verbal abuse and the increased risk of physical injury at work, especially among health care workers.

## What is the law in Ontario?

Until recently, those seeking legal protection against harassment found it in human rights and criminal law. Since 2010, Ontario health and safety law requires employers to protect workers against workplace violence and harassment by developing policies and programs and providing information and instruction on the content of those programs to workers. Employers must also assess the workplace for the risk of violence and report the results to the joint health and safety committee (JHSC), health and safety representative or workers where there is no representative.

In 2016, expanded employer duties on workplace harassment include:

- developing and maintaining a written program to implement the harassment policy in consultation with the JHSC or representative
- setting up procedures and measures for workers to report incidents to someone other than their supervisor or employer, if those persons are the alleged harasser
- establishing how information obtained during harassment investigations may be disclosed
- ensuring investigations are appropriate to the circumstances
- communicating, in writing, the results of a harassment investigation to the worker and alleged harasser (if they're an employee)
- reviewing, at least annually, the harassment program.



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# Resource Lines

In 2024, Bill 190 amended the *Act* to extend employer obligations to virtual, online, and remote work environments within the definition of workplace harassment, requiring employers to maintain safe work and update applicable policies to address online and remote interactions.

Complaint-driven laws however do not help to prevent harassment and may fail to protect vulnerable worker populations who are more likely to be unaware of their rights and afraid to report abuse. Ministry of Labour, Immigration, Training and Skills Development health and safety inspectors, however, have new powers to order harassment investigations, at the expense of the employer, by an impartial, qualified person.

The Ministry has implemented a *Code of Practice to Address Workplace Harassment*. Although it falls far short of an enforceable regulation, the *Code* includes sample policies, programs and an investigation template. The Ministry also offers the guideline, *Workplace Violence and Harassment: Understanding the Law*.

In some jurisdictions, workers have less access to compensation benefits for work-related mental health conditions. Ontario expanded workers' compensation eligibility for mental health issues, joining other provinces in 2018 with amendments to the Workplace Safety and Insurance Act to not only include traumatic mental stress but now chronic mental stress too – a mental injury caused by “substantial work-related stressor”. An example of a substantial work-related stressor is workplace harassment.

Still, inequities persist even when workers are compensated for work-related mental injuries. A study by Canadian and Australian researchers finds claimants with mental injuries are less likely to be offered modified work and less likely to return to work than workers with musculoskeletal disorder claims.

### Federal jurisdiction

Bill C-65, in effect since January 1, 2021, amends the *Canada Labour Code* to create a unified approach to preventing and addressing harassment and violence in federally regulated workplaces. It requires employers to put policies in place, assess workplace risks, provide training, and establish formal, confidential processes to handle incidents, including sexual harassment. Unlike Ontario's *OHS*, federal employers are required to jointly develop workplace harassment and violence prevention policies, plans and training with policy committees and/or safety representatives. The legislation applies across the federal public service, parliamentary workplaces, and federally regulated private-sector employers.

### Other jurisdictions

Canadian jurisdictions include workplace violence in their health and safety laws, and now also recognize harassment and/or bullying. In 2004 Quebec introduced psychological harassment language into its *Labour Standards Act* but Saskatchewan was first in 2007 to include harassment prevention obligations in its health

and safety regulations. Since then, all remaining provinces have included some reference to harassment and/or bullying in their regulations, with Nova Scotia being the final province in 2025.

Further several international jurisdictions have passed legislation requiring employers to identify, assess and control all hazards that can cause psychosocial injuries and illness. The best of these requires involvement of work representatives.

### Preventing workplace harassment

Acknowledging how the workplace can contribute to mental injuries is a critical step in preventing harm and finding workplace-based solutions. This begins with a commitment from organizational leaders to provide a psychologically healthy and safe workplace that is diverse, inclusive and respectful. Workplace policies and practices should reflect these values and drive efforts to root out risk factors which can contribute to all forms of violence, including harassment.

Elements of an effective workplace harassment prevention program include:

- Developing a harassment prevention policy that reflects specific workplace concerns. Ensure the policy addresses all grounds for harassment covered by the *Ontario Human Rights Code*.
- Assessing the workplace by incorporating psychosocial risk factors into regular workplace inspections. Don't forget to include risk factors related to the physical layout of the workplace, especially those that cause isolation.
- Gathering and considering worker input through surveys and questionnaires, an easy, effective and anonymous way for workers who may be afraid to report concerns.
- Establishing procedures for confidentially sharing investigation conclusions with affected workers and sharing anonymous, aggregate results of harassment investigations with the JHSC to monitor program effectiveness.
- Providing clear and unambiguous training for all staff which outlines both acceptable organizational actions and patterns of behaviour and unacceptable actions and behaviours and consequences of latter, including possible discipline.
- Offering specific training for: JHSC members to understand and address workplace harassment risk factors and how to provide support to victims; workers most at risk including how to identify and respond during high-risk situations; supervisors to recognize and address risk factors as well as effective human resource management.
- Ensuring harassment investigation procedures and processes are transparent, accessible and trusted. Assure staff harassment will not be tolerated and incidents will be promptly and seriously addressed.
- Supporting victims of workplace harassment, including affected colleagues, through employer-provided employee assistance programs and appropriate accommodation of injured workers.

Many resources and tools exist to support workplace harassment prevention efforts including:

- Occupational Health Clinics for Ontario Workers *Mental Injuries Toolkit*
- Guarding Minds@Work developed by Centre for Applied Research in Mental Health and Addiction
- Canadian Human Rights Commission: Preventing and addressing workplace harassment and violence.

Some workplaces are adopting the Canadian Standards Association *National Standard on Psychological Health and Safety in the Workplace (CAN/CSA-Z1003-13)*. Commissioned by the Mental Health Commission of Canada, the standard focuses on worker psychological health and preventing psychological harm in the workplace. Those implementing the voluntary standard have reported significant improvements in worker well-being and productivity.

**NOTE:** Workers Health & Safety Centre offers comprehensive training to address workplace violence and harassment, psychosocial hazards, occupational stress and post-traumatic stress. See additional Resource Lines, *Workplace Violence: predictable and preventable and Domestic Violence in the Workplace: breaking the silence*. For more information, contact a WHSC training services representative near you.



## Resource Lines

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**Workers Health & Safety Centre**

📍 675 Cochrane Drive, Suite 710  
East Tower, Markham,  
Ontario L3R 0B8

☎ 416-441-1939  
Toll free: **1-888-869-7950**

🌐 [whsc.on.ca](http://whsc.on.ca)

✉ [contactus@whsc.on.ca](mailto:contactus@whsc.on.ca)

Executive Director: **Andrew Mudge**

Director, Policy and Programs:  
**Loretta Michaud**

Editor: **Shivani Sadana**

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