



# Preventing and addressing workplace harassment and violence

A guide for federally regulated employers

© His Majesty the King in Right of Canada,  
as represented by the Canadian Human Rights Commission, 2023.

Cat. No.: HR4-106/1-2023E-PDF

ISBN: 978-0-660-68419-2

# Table of Contents

<b>Introduction</b> .....	<b>1</b>
<b>Harassment</b> .....	<b>1</b>
<b>Sexual harassment</b> .....	<b>4</b>
<b>A poisoned work environment</b> .....	<b>4</b>
<b>Workplace violence</b> .....	<b>5</b>
<b>Applying a human rights-based approach</b> .....	<b>5</b>
Participation and inclusion .....	5
Accountability .....	6
Substantive equality .....	6
<b>Preventing workplace harassment and violence</b> .....	<b>7</b>
1. Develop an action plan .....	7
2. Design and implement a policy.....	7
3. Conduct a workplace assessment.....	8
4. Provide mandatory training.....	8
<b>Ensuring workers can report harassment and violence</b> .....	<b>9</b>
Access to a mechanism for reporting workplace harassment and violence .....	9
Barriers to reporting.....	10
Key elements of an effective complaint process.....	11
Communication .....	11
Formal vs Informal Resolution .....	11
Alternative Dispute Resolution .....	11
Investigation/Fact Finding processes .....	12
Substantiated complaints.....	12
Unsubstantiated complaints .....	13
Appeals.....	13
Restoring the workplace.....	13
Supports and accommodation .....	14

<b>Annex A: Understanding the law</b> .....	<b>15</b>
Canadian Human Rights Act .....	15
Employment Equity Act .....	16
Canada Labour Code.....	16
<b>Annex B: Overview of policy for preventing and addressing workplace harassment and violence</b> .....	<b>17</b>
<b>Annex C: Additional resources</b> .....	<b>20</b>

# Introduction

**Harassment** in any form has a harmful impact on a workplace. When it is linked to one or more of the prohibited grounds listed in the CHRA it is also a serious form of discrimination.<sup>1</sup> Harassment creates systemic barriers to equality in employment. Employers must take steps to ensure their workplace is free from harassment. Where they fail to take appropriate steps to prevent, identify and address workplace harassment, employers can be held legally and financially responsible.

The purpose of this guide is to help federally regulated employers develop a human rights-based approach to preventing and addressing workplace harassment and violence, and to meet their obligations under the [Canadian Human Rights Act](#) (CHRA) and the [Canada Labour Code](#) (Code). The information in this guide is intended to help federally regulated employers understand their responsibilities in creating and maintaining work environments free from workplace harassment and violence. That said, employers should also consult the CHRA, the Code, the [Work Place Harassment and Violence Prevention Regulations](#) (Regulations), and any applicable collective agreement to ensure that they are meeting all of their related legal obligations.

Additional procedural guidance on meeting employer obligations under the Workplace Harassment and Violence Prevention Regulations can be found in the Government of Canada's [Sample harassment and violence prevention user guide](#) and [Sample harassment and violence prevention policy](#).

Being subjected to workplace harassment and violence can have significant and long-lasting psychological, emotional, and physical impacts on the individuals involved. It creates systemic barriers to equality in employment. It can profoundly impact a person's dignity and negatively affect their ability to earn a living, to feel safe and secure, and to meaningfully take part in society. It can negatively affect productivity and morale and lead to increased turnover, absenteeism, and health care costs. For employers, this is both costly and harmful to the workplace. Having an effective policy for preventing and addressing workplace harassment and violence is not only a legal requirement, it makes good business sense and enhances workplace well-being.

# Harassment

Harassment is when someone says or does something that offends or humiliates another person. Usually, the harasser must say or do these offensive things many times, but a serious one-time incident, may also be harassment.<sup>2</sup> Harassment can be direct or indirect, obvious or subtle, physical or psychological. It can occur in many ways, such as through spoken words, text, gestures, and images.

Even if an individual did not harass someone on purpose (with intent), their behaviour can still be harassment. The question is whether a reasonable person would have known that the behaviour in question was unwelcome.

---

<sup>1</sup> [CHRA, s. 3.](#)

<sup>2</sup> *Janzen v. Platy Enterprises Ltd.*, [1989] 1 S.C.R. 1252 at para 56 *Nielsen v. Nee Tahi Buhn Indian Band*, 2019 CHRT 50 at para 116 and *Alizadeh-Ebadi v. Manitoba Telecom Services Inc.* 2017 CHRT 36, at para. 163

Examples of workplace harassment include, but are not limited to:

- creating a toxic work environment (e.g. tolerating hostile, insulting or degrading comments or conduct)
- spreading rumours or gossip about an individual or group
- making offensive jokes or remarks
- cyber bullying (threatening, spreading rumours or talking negatively about an individual online)
- threats made in person, by phone, email, or through another medium to a worker (including from individuals unassociated with the workplace, such as a spouse or family member, when the incident occurs during the course of work and/or affects the safety of the workplace)
- playing unwanted practical jokes
- socially excluding or isolating someone
- stalking or inappropriately following a person
- tampering with someone's work equipment or personal belongings
- vandalizing or hiding personal belongings or work equipment
- impeding a person's work in any deliberate way
- persistently criticizing, undermining, belittling, demeaning or ridiculing a person
- intruding on a person's privacy
- public ridicule or discipline
- unwelcome physical contact
- sexual innuendo or insinuation
- unwanted and inappropriate invitations or requests, including of a sexual nature
- displaying or sharing offensive posters, cartoons, images or other visuals
- making aggressive, threatening or rude gestures
- misusing authority, including:
  - constantly changing work guidelines
  - restricting information
  - setting impossible deadlines that lead to failure, and/or
  - blocking applications for leave, training or promoting in an arbitrary manner
- microaggressions, or subtle acts of exclusion.

---

### **Intent is irrelevant in establishing a finding of harassment – a story**

An Indigenous worker<sup>3</sup> alleged that he was harassed by racist comments, jokes, and names from his supervisors and colleagues. Some of the witnesses claimed that although such jokes or comments were made, they were made in the spirit of fun between friends, and that no offense was meant. The Canadian Human Rights Tribunal (the Tribunal) found that the intent of the comments is irrelevant: "The issue is the perception of the individual who is victimized."

---

<sup>3</sup> Worker – includes all full-time, part-time, casual, contract, permanent and temporary employees, including service employees in military and other public safety roles, as well as suppliers, trainees/cadets, student interns, volunteers, job applicants and candidates, and those on approved leave.

The fact that the victim did not object to the comments and even participated in the “joking” was raised as a defense. The Tribunal held that this did not mean that the victim had consented to the racist comments, jokes and names or made this behaviour acceptable. According to the testimony of an expert witness, people may go along with activities “that they find objectionable and demeaning because they feel powerless to stop it and as an ego defense mechanism” ...it is “a form of coping.” (Swan v. Canadian Armed Forces)

---

**Microaggressions** are brief, indirect, and everyday slights, indignities, put-downs, and insults that communicate discriminatory attitudes towards members of equity-deserving groups. These can be behavioural, verbal, or environmental, and can be intentional or unintentional. Microaggressions can leave those subjected to them feeling uncomfortable, unwelcome, insulted, othered, and painfully reminded of stereotypes associated to their identities. Examples of racist microaggressions include, among many others, insistently asking a racialized person where they are really from, complimenting a racialized person on the quality of their English, or clutching one’s bag tighter in the presence of a Black man. Sexist and/or gendered microaggressions can reinforce traditional gender roles in the workplace, including masculine privilege and dominance. These may come in the form of comments on a woman’s appearance, demeaning comments about a woman’s abilities, and assumptions of inferiority of women in certain fields. These are all examples that communicate hostile, derogatory, or negative attitudes towards women. While there may be no harm consciously intended, microaggressions nevertheless cause harm, and the harmful impact is cumulative as those affected experience these microaggressions frequently in their day-to-day lives.

Both the CHRA and the Code protect workers in the workplace.

The CHRA prohibits harassment in employment and in the provision of services based on one or a combination of the 13 prohibited grounds of discrimination.

The Code also protects workers from harassment, including harassment that is **not** linked to a prohibited ground, such as domestic violence. The Code defines harassment and violence at subsection 122(1):

**Harassment and violence** is any action, conduct or comment, including of a sexual nature that can reasonably be expected to cause offence, humiliation or other physical or psychological injury or illness to [a worker], including any prescribed action, conduct or comment.

Workplace harassment **does not** include appropriate management action (such as performance evaluations, directives and job assignments) if these are carried out in a fair manner and for legitimate reasons. However, management action that results in a negative impact and which is made on the basis of a prohibited ground, can constitute harassment and/or discrimination. For example, it is a discriminatory practice if a person’s race is a factor in a manager’s decision to assign a less desirable task or shift to them.

# Sexual harassment

**Sexual harassment** is broadly defined as unwelcome conduct of a sexual nature that is likely to cause offence or humiliation to a worker. It is a demeaning practice that violates the dignity and self-respect of the victim, both as a worker and as a human being.

Sexual harassment can take many forms and may target any gender, including men, women, trans, non-binary and gender diverse individuals.

Examples of sexual harassment include, but are not limited to:

- unnecessary or unwanted physical contact
- persistent questions, insinuations or spreading gossip about a person's private life such as their sexuality, gender identity or expression or sex life
- insults or demeaning comments about one's gender or gender role
- staring at a person or parts of their body
- treating an individual differently because they do not conform to the gender role which one expects, such as a role that has been traditionally occupied by another gender
- repeated invitations to go out after prior refusal
- sexually explicit comments or gender-based jokes
- displaying or circulating offensive graphics, drawings, e-mails, text messages, letters, or comments
- making promises or threats in return for sexual favours
- the creation or perpetuation of a poisoned environment, where workers must tolerate or endure generalized sexual or gender related ridicule as part of a workplace culture
- any other behaviour that could reasonably be thought to put sexual conditions on a person's job or employment opportunities

## A poisoned work environment

The concept of the **poisoned work environment** is closely linked with the concept of discriminatory harassment, and is systemic in nature. A poisoned work environment is one in which insulting or degrading comments, actions or microaggressions cause individuals or groups to feel that the workplace is hostile or unwelcoming. When comments or conduct of this kind have an influence on others and how they are treated, this is known as a poisoned environment.

The essential feature of a poisoned work environment is that it is experienced by or impacts on more than just one individual such that it can be considered a practice. It has a detrimental effect on employment opportunities, particularly for those workers with the shared characteristics targeted by the conduct.

---

The harmful effects of a poisoned work environment are **exacerbated by indifference and inaction** on the part of management. It is in the organization's best interest to swiftly address any symptoms of a poisoned work environment before the problem escalates.

---



# Workplace violence

**Workplace violence** includes actions, conduct, threats or gestures that can be reasonably expected to cause harm, injury or illness. Violence can include, but is not limited to, the following acts:

- verbal threats or intimidation
- verbal abuse, including swearing or shouting offensively at a person
- contact of a sexual nature
- kicking, spitting, punching, scratching, biting, squeezing, pinching, battering, hitting or wounding a person in any way
- attacking or threatening to attack someone with any type of weapon

## Applying a human rights-based approach

It is important that organizations apply a human rights-based approach when developing policies, procedures, and training materials to prevent and address incidents while maintaining a work environment free of harassment and workplace violence. At its core, a human rights-based approach is about seeing the person in the worker; about putting the person first, ahead of process; about seeing the intersecting factors that have contributed to the person's lived experience; and it's about understanding how a person's lived experience has brought them to where they are.

The principles that support a human rights-based approach include the following:

### Participation and inclusion

All people have the right to participate in and have access to information related to decisions that affect their lives and well-being. Rights-based approaches require a high degree of participation by those affected. When developing or updating employment policies and procedures, it is important to engage and consult with a representative group of workers and managers that reflects the intersecting identities of a diverse workforce.

---

### The positive impact of an inclusive process

In the aftermath of a serious incident of workplace harassment, an employer undertook a comprehensive review of their policy on preventing and addressing workplace harassment and violence. As a first step, the employer invited ALL of their workers to complete an anonymous survey to gather perspectives on workplace culture. Workers were given time to complete the survey during work hours. As a follow-up to the survey, the employer invited workers to participate in facilitated sessions during which they would be welcome to share experience and perspectives. The employer also offered confidential sessions with a facilitator for those that did not feel comfortable voicing their concerns publicly. As a result of this collaborative approach, the trust and confidence of the workers was restored, colleagues felt more connected to each other and the workplace, and the employer had invaluable information with which to re-draft a robust and responsive policy that was tailored to the diverse needs of their workers.

---

## **Accountability**

An employer is responsible for the realization of their workers' human rights. In human rights terms, the employer is the "duty-bearer," and the worker is the "rights-holder." As the duty-bearer, the onus is on the employer to comply with the relevant laws and standards. Where the employer fails to do so, workers (as rights-holders) are entitled to seek redress and remedies through various channels (i.e. grievance procedures, human rights complaints, etc.). Being accountable includes ensuring workers are aware of how they can assert their rights, claim protection of those rights, and seek redress for violations of those rights.

---

### **Employer as duty-bearer**

An Indigenous worker in a primarily white work environment feels worn down, anxious and discouraged by their colleagues' frequent use of negative stereotypes of Indigenous peoples. The worker does not know where to go to report the poisoned work environment and does not feel safe speaking up. Witnesses who sense their colleague's pain and discomfort are also at a loss at how to address their concerns. The company does not have clear and established policies and procedures on how to prevent and addressing harassment in the workplace. Employers like this have failed in their legal obligation to prevent and address harassment and workplace violence. They also risk losing talented and committed workers, while potentially damaging their professional reputation.

---

## **Substantive equality**

When an employer develops, implements and applies workplace policies and procedures, they must make a priority of considering the equality and dignity of all workers. This means they must pause and consider how people's different lived experiences may affect how a workplace policy or procedure affects them. It is important to assess and consider how access to, identification with, and trust in, policies and procedures may vary among workers based on their various identities and lived experiences.

---

### **Example of substantive equality and access**

A white cis-gendered man's experience in the workplace will differ significantly from that of a racialized woman, and the employer must remain mindful of those disparities when applying a workplace policy or practice. This is because the racialized woman is more likely to have experienced individual and systemic discrimination in many facets of her life, as well as systemic barriers to justice, experiences of negative stereotyping, and sexism. These experiences add up over time, and can have a silencing affect on a person. As a result, a racialized woman may be reluctant to come forward with concerns about the work environment or her own experience of harassment or workplace violence for fear of repercussions or further mistreatment. An inclusive employer is mindful of the diverse needs of their workers and designs their policies in a way that creates inclusion.

---

# Preventing workplace harassment and violence

## 1. Develop an action plan

A plan that clearly identifies the organization's commitment to action will serve as a guidepost for determining that all the necessary pieces are in place for the effective implementation of relevant policies and procedures.

The action plan should set out the organization's commitment to implement its policies and procedures to prevent and address workplace harassment, discrimination and violence. It should be tailored to the organization's specific operational context, and could also include the following elements:

- commitment and target dates for review and updates to the policy to prevent and address workplace harassment and violence, any related training materials, and other related documents
- a list of mandatory training courses for new workers and refresher courses for existing workers, as well as additional training and courses that may be of interest to workers
- a schedule for the training of all staff, including timeframes within which new workers will receive training
- guidelines for the selection and training of workplace harassment and violence counsellors, mediators and investigators
- a communications plan for sharing information with workers and prospective workers, and the public, if relevant

## 2. Design and implement a policy

Part of an employer's obligations under the CHRA and other federal legislation is to develop and implement a workplace harassment and violence prevention policy. The policies and procedures developed to address workplace harassment and violence may be separate, part of, or associated with, the employer's anti-discrimination policies and complaints resolution process.<sup>4</sup>

Workplace harassment and violence policies and procedures should be tailored to reflect the specific work environment, job requirements, worker demographics and industry in which an employer conducts its business. For example, smaller transportation businesses that do not have dedicated labour relations departments have different needs and considerations than a large financial institution. However, no matter the nature of the business, size of employer, or workplace demographic, a clear, comprehensive and accessible policy is the building block upon which an organization can effectively prevent and address of workplace harassment and violence is anchored.

---

<sup>4</sup> The *Accessible Canada Act* requires all entities under federal jurisdiction to become accessible by 2040 by removing barriers, whether they be physical, architectural, technological or attitudinal, based on information or communications, or policies and practices, that hinder the full and equal participation in society of people with disabilities. As such, all policies should be made available in accessible formats, clearly outline the employer's responsibilities under the CHRA, and provide information on accommodation. The Government of Canada has released a [Digital Accessibility Toolkit](#) to help employers update their tools and services.

See [ANNEX B](#) for an outline of the key elements of a comprehensive Policy for preventing and addressing workplace harassment and violence. See also the CHRC's Policy Template – Preventing and Addressing Workplace Harassment and Violence.

---

Additional guidance is available in the Government of Canada's [Sample harassment and violence prevention user guide](#) and [Sample harassment and violence prevention policy](#) that outline the roles of the employer, designated recipient, workers, and applicable partner under the Workplace Harassment and Violence Prevention Regulations.

---

### **3. Conduct a workplace assessment**

There are a number of factors that can contribute to workplace harassment and violence, such as client characteristics,<sup>5</sup> the physical work environment, work activity and organizational culture. The purpose of a workplace assessment is to identify risks that exist in the workplace related to discrimination, harassment and violence so that issues can be addressed proactively.

The Regulations require that the workplace assessment be updated every three years. However, the Canadian Human Rights Commission (CHRC) recommends that employers conduct assessments annually.

---

Additional guidance is available in the [Sample workplace harassment and violence assessment tool](#) provided by Employment and Social Development Canada's (ESDC) Labour Program.

---

### **4. Provide mandatory training**

All workers, including management, should receive training on discrimination, workplace harassment and violence at least once every three years or more frequently if needed. New workers should receive training within three months of beginning their work term.

At a minimum, the training should cover:

- a) how to recognize, minimize and prevent workplace harassment, violence and discrimination, with examples tailored to the workplace;
  - b) the relationship between workplace harassment and violence and the prohibited grounds of discrimination under the CHRA; and
- 

<sup>5</sup> Working with clients that exhibit certain characteristics can put workers at greater risk of harassment and violence. This can include working with clients, and their relatives, who may lash out at the closest person due to: being angry and frustrated with the system; having a history of violence; a mental health condition, emotional disorder, or a head injury; racist, sexist, homophobic, transphobic, ableist or otherwise discriminatory attitudes and behaviors; and/or, being under the influence of drugs or alcohol.

- c) the elements of the workplace policy on preventing harassment and violence.

The CHRC recommends that training be provided by an individual with demonstrated expertise in the area and preferably, lived experience.

## Ensuring workers can report harassment and violence

### Access to a mechanism for reporting workplace harassment and violence

Workers should have clear access to a process through which they can report incidents of workplace harassment and violence and make complaints. The more accessible and easy-to-navigate a process is, the more effective it will be in preventing and addressing incidents in a meaningful and timely manner. The employer must communicate the full scope of options available to those who may come forward.

The steps for reporting workplace harassment and violence should be clear, straightforward and written in plain language and available in accessible formats. The following key elements of the reporting process should be displayed prominently in policies, information sheets, human resource materials, and any other documents related to workplace well-being:

- all acceptable methods for reporting an incident of workplace harassment or violence (i.e. e-mail, verbal, hotline, etc.)
- clear identification of the designated recipient<sup>6</sup> (i.e. to whom a report of workplace harassment or violence should be directed – Human Resources, supervisor, senior manager, etc.)
- a statement emphasizing that all complaints of workplace harassment or violence will be taken seriously and addressed in a timely manner
- a statement emphasizing that victims and witnesses who report workplace harassment and violence will be protected from reprisal<sup>7</sup>
- a statement clarifying that those wishing to [file a complaint](#) with the CHRC must do so within one year of the last incident of discrimination or harassment

---

<sup>6</sup> [Regulations, s. 1\(1\)](#). See [Sample harassment and violence prevention user guide](#) for additional guidance on this and other roles identified in the Workplace Harassment and Violence Prevention Regulations.

<sup>7</sup> Reprisal may include, but is not limited to: treating a person with hostility; excluding or isolating them; making negative remarks; assigning demeaning duties; engaging in discriminatory or harassing behaviour; or demoting, disciplining or dismissing a person because they exercised their rights or responsibilities in reporting workplace harassment or violence.

## Barriers to reporting

If barriers to reporting remain unaddressed, employers will be unable to effectively deal with incidents of workplace harassment and violence, and the work environment may become poisoned. If an employer fails to remove barriers to reporting, they may become liable under the CHRA in cases of harassment that end up going before the Canadian Human Rights Tribunal for a hearing.

It is quite common that workers who have experienced discrimination, violence or harassment, and in particular, sexual harassment, feel reluctant to come forward. This reluctance increases if a worker senses that workplace complaints are not being dealt with in a serious and timely manner, nor are resulting in meaningful outcomes.

---

### Hesitant to report because of lived experience

A trans worker who has experienced harassment without recourse in previous employment situations may be hesitant to come forward with allegations of harassment for fear of being re-traumatized. Since the current employer may not be aware of this worker's history, it becomes even more important that the employer emphasizes to workers that this is a workplace dedicated to preventing and effectively addressing incidents of harassment and workplace violence.

---

Workers must be confident that:

- the employer is committed to maintaining a healthy work environment where workers feel as safe as possible in reporting their concerns;
- all complaints will be taken seriously, acted upon promptly when received, and resolved meaningfully;
- investigations will be conducted fairly, in a timely manner,<sup>8</sup> and with sensitivity to the lived experience of those who have been the victims of workplace harassment or violence; and
- decisions, actions and remedies that result from an investigation into incidents of workplace harassment or violence will:
  - be communicated to the relevant parties;
  - address the individual incident(s) as well as overall workplace culture;
  - include measures to restore and improve the safety of the work environment for all workers; and
  - include recommendations for appropriate training and education among staff.

---

<sup>8</sup> Under the Regulations, employers must ensure that the resolution process is complete within one year of the notice of an occurrence of workplace harassment or violence. [Regulations s. 33\(1\)](#).

## Key elements of an effective complaint process

### Communication

It is important that all parties involved (including witnesses) be notified when a formal complaint has been filed, and informed about what steps have been taken as the complaint resolution process unfolds.

Clear lines of communication and regular updates to all parties should be maintained throughout the entire process from start to finish.

### Formal vs Informal Resolution

Where appropriate, informal resolution can provide an opportunity to resolve a dispute in a mutually respectful manner, while preventing an escalation of the situation. Some complaint procedures may differentiate between formal and informal processes.

Informal processes seek to resolve human rights issues without a formal investigation into the merits of the allegations. This is done by facilitating communication between the people involved. This type of informal process is generally not appropriate where there are serious or systemic allegations, or where the principal party<sup>9</sup> prefers a formal review of the allegations. The principal party must be comfortable with the method of resolution throughout the process, and their decision to end an informal resolution process in favour of a formal review should be respected and followed.

Read more in our companion guide: Human rights based approach to workplace investigations – Guidance and good Practices.

### Alternative Dispute Resolution

Most workplaces will typically have various types of alternative dispute resolution (ADR) available to staff. These options may be an appropriate compromise between early or informal resolution and a more formal investigation process. ADR processes are facilitated by a third party, such as a mediator, but may take different forms depending on the circumstances, cultural norms, and availability of services in a particular area. While generally not as effective as face-to-face meetings, virtual processes such as those conducted over technological platforms can be useful to overcome barriers such as access to mediators, or a principal party's discomfort being in the same physical space as the alleged harasser.

Read more in our companion guide: Human rights based approach to workplace investigations – Guidance and good Practices.

---

<sup>9</sup> **Principal party:** A worker or employer who believes they are the object of workplace violence, harassment, or sexual harassment (an occurrence). [Regulations s. 1\(1\)](#). The person who made allegations is referred to as the “principal party” in the Regulations and as the “complainant” in the CHRA. For the sake of consistency, we have used the term “principal party” throughout this document to refer to a person who has raised allegations under the Canada Labour Code, the CHRA or both.

## Investigation/Fact Finding processes

Investigation or formal fact-finding processes are appropriate in cases where early/informal dispute resolution and/or ADR do not lead to a resolution of the complaint. They are also a good practice in cases of serious harassment or violence, or where initial reports suggest there may be a systemic problem in the workplace.

An employer should proactively initiate an investigation process following an anonymous complaint, or where the employer has reason to believe that harassment and/or workplace violence is taking place. Employer-initiated investigations can be an important tool in proactively identifying and preventing behaviours that may be inappropriate or discriminatory. Employers may be held legally responsible if they knew or ought to have known about harassment in the workplace but did not take appropriate steps to prevent, identify, investigate, and address the behaviour.<sup>10</sup>

How an employer chooses an investigator is important to the credibility of the process. Investigators should be selected through a transparent and collaborative process. The employer, principal party and responding party<sup>11</sup> should attempt to agree on the selection of a qualified investigator. To be selected to conduct an investigation, a person should have the following qualifications:

- be trained and experienced in investigative techniques. In some circumstances, it will be important that the investigator have experience conducting trauma-informed investigations.
- have knowledge, training, and experience that is relevant to harassment and violence in the workplace, including specific expertise in substantive equality, racism, gender-bias, colonization, unconscious biases, trauma-theory, gender-based violence, and/or systemic discrimination.
- have an understanding and experience applying the legislation relevant to harassment and violence in the workplace (e.g. CHRA, the Code, the Regulations).

Importantly, regardless of how it is conducted, every investigation must be consistent with the principles of procedural fairness, which include being impartial, fair, and thorough.

Read more in our companion guide: Human rights based approach to workplace investigations – Guidance and good Practices.

## Substantiated complaints

When a complaint is substantiated, it means that the alleged incident has been confirmed and verified as workplace harassment or violence. The next important step is that the decision-making authority document their formal decision and implement corrective measures and remedies in a timely manner. A situation is not fully addressed until the employer and workers can move from resolution of the complaint to the restoration of the workplace.

---

<sup>10</sup> See [Canadian Human Rights Act s. 65](#). See also [Canada Labour Code s. 122.1 and 124](#).

<sup>11</sup> **Responding party:** The person who is alleged to have engaged in workplace violence, harassment or sexual harassment and is named in a resulting complaint.



It is a good practice to share as much information as possible throughout the complaint process with a worker who has been the victim of workplace harassment or violence. This includes information about investigation outcomes and measures taken to restore the workplace. While there may be reasons to keep investigation proceedings confidential (integrity of the process, witness confidentiality, etc.), a victim may need to know what steps have been taken following the conclusion of an investigation in order to feel comfortable in the workplace.

### **Unsubstantiated complaints**

Any workplace policy on how to respond to complaints of harassment and workplace violence should clearly state what will happen when a complaint is unsubstantiated, proven false, or proven to not qualify as workplace harassment or violence. First and foremost, it is important that the language addressing this situation be mindfully worded to avoid deterring other workers from coming forward. Sanctions for making unsubstantiated complaints should be reserved for the most egregious situations (i.e. there is concrete and compelling evidence of malice on the part of the principal party.) Given the challenge in proving allegations of harassment and/or discrimination, employers should avoid warnings of disciplinary action for unsubstantiated claims as they can have a significant chilling effect on victims who might be already hesitant to come forward.

### **Appeals**

Employers should establish a process by which workers may appeal the decision in relation to their complaint. It is a good practice to let workers know that this is an option when notifying the principal party (the worker) of the final decision.

If either party to a complaint believes that the complaint is not being handled in accordance with the policy, they can contact the senior manager responsible for the complaint process. If the procedural concerns remain unresolved, the matter may be referred to the Canada Labour Board's Head of Compliance and Enforcement, pursuant to s. 127.1(8) of the Code.

In addition, for cases that engage any of the prohibited grounds of discrimination listed in Section 3 of the CHRA, principal parties should also be advised that they may file a complaint under the CHRA or the Code.

### **Restoring the workplace**

Restoring the workplace is a crucial step in addressing the harm caused by workplace harassment and violence, and in preventing further incidents. Employers must have a plan to manage the sensitive and complex issues related to harassment and violence with the aim of restoring a respectful work environment, not only for the parties involved in an incident/complaint, but for the entire team.

Effectively restoring a workplace requires an employer to actively, deliberately and repeatedly reassure workers that they are safe and will be supported and heard, and that the employer is fully committed to providing an environment free from harassment, violence and discrimination. There is no such thing as over-communicating these core messages to staff.

## **Supports and accommodation**

Part of restoring the workplace following a complaint of harassment or workplace violence is supporting workers through the resolution process and beyond. Internal worker support programs, such as Employee Assistance Programs (EAP), must be accessible to all workers, not just those directly involved in an incident of harassment or workplace violence. In addition, employers should compile and publish a list of medical, psychological and other support services that are available to workers within their geographical area.

Employers must convey to workers that they recognize workplace discrimination, harassment and/or violence can have serious mental and physical health consequences that can rise to the level of a disability. In such cases, workers may require temporary or permanent employment accommodation in accordance with their needs.

# Annex A: Understanding the law

## Canadian Human Rights Act

The CHRA protects workers in federally regulated environments from harassment based on the following prohibited grounds of discrimination: race, national or ethnic origin, colour, religion, age, sex, sexual orientation, gender identity or expression, marital status, family status, genetic characteristics, disability, pardoned conviction and where a record suspension has been ordered.

Section 14 of the CHRA states that it is a discriminatory practice to harass an individual, or group of individuals, based on a prohibited ground of discrimination.

Section 14.1 of the CHRA states that it is a discriminatory practice to retaliate against, or threaten retaliation against, someone who filed a complaint, or someone who is acting on their behalf. Retaliation can be any form of adverse treatment that is linked to the filing of the complaint.

Section 65(1) of the CHRA confirms that the employer is legally responsible for the actions of its workers, contractors, or others with whom they have an employment relationship. Human rights law defines employment relationships broadly. In some cases, both the employer and the organization receiving services may be liable if a contractor is harassed in the course of employment.

Section 65(2) of the CHRA specifies that an organization cannot be held liable for actions of one of its workers if it “did not consent to the commission of the [harassment] and exercised all due diligence to prevent the [harassment] from being committed and, subsequently, to mitigate or avoid the effect thereof.” However, in order to meet the standard of due diligence noted in this section of the CHRA, the organization must be able to demonstrate that the measures in place to prevent harassment, respond to reports of harassment, and repair the damage done by harassment, are accessible, clear and effective.

## **Employment Equity Act**

The Employment Equity Act (EEA) was enacted in 1995. The purpose of the EEA is to achieve equality of opportunity in federally-regulated workplaces by ensuring that people are not denied employment opportunities or benefits for discriminatory reasons. Specifically, the EEA seeks to correct any conditions of disadvantage in employment experienced by members of four designated groups: women, Indigenous peoples, people with disabilities, and members of racialized groups.<sup>12</sup> The EEA requires federally regulated employers with 100 or more employees to establish proactive employment practices, such as special measures, to address disadvantage and persistent gaps in representation of the four designated groups.

When left unaddressed, harassment and workplace violence are barriers to employment for all workers and particularly those who may experience multiple intersecting forms of discrimination in employment. Therefore, under the EEA, an employer is legally obligated to prevent and resolve incidents of discriminatory workplace harassment and violence.

## **Canada Labour Code**

Federally regulated employers have additional obligations under the Code since January 1<sup>st</sup>, 2021, when changes to the Code and the supporting Regulations came into force. These changes expanded the existing Prevention of Violence framework and strengthened provisions in the Code by putting in place a single comprehensive approach that takes all forms of harassment and violence into consideration.

These changes also significantly expanded the legal obligations of federally-regulated employers to prevent and resolve workplace harassment and violence. In particular, the Workplace Harassment and Violence Prevention Regulations set out the requirements that employers must meet in order to satisfy their obligations to prevent, investigate, record, report, and provide training on workplace harassment and violence, including sexual harassment and sexual violence.

---

<sup>12</sup> The current EEA lists the follow designated groups: women, “Aboriginal peoples”, “persons with disabilities” and “visible minorities”. The Canadian Human Rights Commission’s position is that these are antiquated terms, and prefers “Indigenous peoples,” “racialized groups” and “people with disabilities” instead.

# **Annex B: Overview of policy for preventing and addressing workplace harassment and violence**

The following is a brief overview that can be read as a companion to the Canadian Human Rights Commission's "Preventing and resolving workplace harassment and violence – A policy template for federally regulated employers"

## **Title of the Policy**

The title should clearly reflect the employer's obligation and commitment to prevent and address workplace harassment and violence.

Example: "Policy for the preventing and addressing of workplace harassment and violence"

## **PART A – COMMITMENTS AND APPLICATION**

### **Statement of commitment**

The policy should contain a statement of the organization's commitment to creating and maintaining respect for human rights and fostering equality and inclusion. This is separate from a purpose or policy objectives section.

### **Policy statement**

The policy statement should set out the objectives of the policy. It should clearly state that discrimination, harassment and violence are unacceptable practices and a violation of the law. The policy statement should also clearly indicate that discrimination is prohibited by the Canadian Human Rights Act, and it should refer to the employer's obligations under the Employment Equity Act, the Canada Labour Code, and the Work Place Harassment and Violence Prevention Regulations.

### **Scope or application**

The Canadian Human Rights Commission (CHRC) recommends that the scope reflect the full scale of the workforce, functions and degrees of interaction with the public, where appropriate.

### **Key concepts and definitions**

The policy should contain a section that defines key concepts, such as discrimination, in addition to harassment and workplace violence. It should also offer examples to clarify concepts and could provide definitions of related concepts or common manifestations of discrimination, such as racism, heterosexism, homophobia, etc.

## **Responsibilities and expectations**

The policy should set out the roles and responsibilities of the various parties present in the organization. It should also include the position titles and contact information of those who will be accountable for the policy's effectiveness and responsible for making decisions related to the policy.

For guidance related to the Work Place Harassment and Violence Prevention Regulations, please consult the Government of Canada's [Sample harassment and violence prevention user guide](#) and [Sample harassment and violence prevention policy](#) that outline the roles of the employer, designated recipient, workers, and applicable partner.

## **PART B – TRAINING AND PREVENTION**

### **Training on harassment and workplace violence**

The policy should contain a summary of the training that will be provided to workers regarding discrimination, workplace harassment and violence.

### **Workplace assessment**

The policy should contain a section describing risk factors that contribute to discrimination, harassment and violence, including those internal and external to the workplace. For additional guidance on conducting a work place risk assessment, please consult the Government of Canada's [Sample workplace harassment and violence risk assessment tool](#).

### **Preventative measures**

Preventative measures will depend on the risks identified but may include steps such as developing or updating policies and procedures, including the workplace code of conduct; providing further training; conducting workplace surveys; and referring individuals to support measures, such as an Employee Assistance Program.

## **PART C – FILING AND ADDRESSING A COMPLAINT**

### **Complaint process**

A complaint resolution process should set out a clear, fair and effective mechanism for receiving and resolving complaints of discrimination, harassment or workplace violence. It should include emergency procedures in the event that the situation poses an immediate danger to the health and safety of a worker.

This section of the policy should also include information on how workers may challenge procedural aspects of the complaint process.

## **PART D – OTHER PROCEDURES**

### **External risks**

This section should outline how employers plan to mitigate the external risks of harassment and violence affecting workers (e.g. situations of domestic violence).

**Emergency procedures**

This section should outline what workers should do if they are facing an immediate risk of physical violence. It should also direct workers to the organization's detailed Emergency Procedures.

**Support measures and accommodation**

This section should list local organizations that can support workers who have experienced harassment and workplace violence. It should also affirm the organization's commitment to accommodating workers in relation to disabilities that have been precipitated by acts of harassment or workplace violence.

**Record keeping**

This section outlines what records will be kept and who is responsible for their preservation.

**Other redress**

This section outlines other procedures available to workers to address complaints of harassment and workplace violence (e.g. CHRC, union grievances, etc.).

**Privacy and confidentiality**

This section outlines how participants in the complaint process fulfill their obligations with regard to privacy and confidentiality. Where relevant, it should also note under what legal and/or policy authority these obligations are found. Participants include all individuals involved in the complaint or investigation process.

**Enquiries**

Include contact information for the person and/or position responsible for the policy and related procedures.

# Annex C: Additional resources

## Federal Legislation

- Canadian Human Rights Act, online: <https://laws-lois.justice.gc.ca/eng/acts/h-6/>
- Employment Equity Act, online: <https://laws-lois.justice.gc.ca/eng/acts/e-5.401/>
- Canada Labour Code, online: <https://laws-lois.justice.gc.ca/eng/acts/L-2/>
- Work Place Harassment and Violence Prevention Regulations (SOR/2020-130), online: <https://laws-lois.justice.gc.ca/eng/regulations/SOR-2020-130/FullText.html>

**A Policy Primer: Guide to Developing Human Rights Policies and Procedures.** 2013. Ontario Human Rights Commission.

[http://www3.ohrc.on.ca/sites/default/files/A%20policy%20primer\\_Guide%20to%20developing%20human%20rights%20policies%20and%20procedures\\_2013.pdf](http://www3.ohrc.on.ca/sites/default/files/A%20policy%20primer_Guide%20to%20developing%20human%20rights%20policies%20and%20procedures_2013.pdf)

**Digital Accessibility Toolkit.** 2019. Government of Canada. <https://canada-ca.github.io/a11y/index.html>

**Requirements for Employers to Prevent Harassment and Violence in Federally Regulated Workplaces.**

2020. Government of Canada. <https://www.canada.ca/en/employment-social-development/programs/workplace-health-safety/harassment-violence-prevention.html>

**Work Place Harassment and Violence Prevention (HVP) - 943-1-IPG-104**

<https://www.canada.ca/en/employment-social-development/programs/laws-regulations/labour/interpretations-policies/104-harassment-violence-prevention.html>

**Sample Harassment and Violence Prevention Policy.** 2020. Government of Canada.

<https://www.canada.ca/en/employment-social-development/programs/workplace-health-safety/harassment-violence-prevention/sample-policy.html>

**Sample Harassment and Violence Prevention User Guide.** 2020. Government of Canada.

<https://www.canada.ca/en/employment-social-development/programs/workplace-health-safety/harassment-violence-prevention/sample-user-guide.html>

**Sample Workplace Harassment and Violence Risk Assessment Tool.** 2021. Government of Canada.

<https://www.canada.ca/en/employment-social-development/programs/workplace-health-safety/harassment-violence-prevention/risk-assessment-tool.html>