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## **BULLYING AND HARASSMENT IN THE WORKPLACE**

### **Richards Buell Sutton Employment Newsletter**

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#### **Frequently Asked Questions by BC Small Business Employers**

##### **Q1: Do I need a Bullying and Harassment Policy?**

**A:** Yes. Under new WorkSafeBC Occupational Health and Safety policies that were introduced over a year ago, all BC employers have a duty to stop and prevent bullying and harassment in the workplace. The first step in complying with this legal obligation is to prepare a written workplace bullying and harassment policy.

All employees are to be provided with a copy of the bullying and harassment policy, and the policy statement must be reviewed every year.

##### **Q2: I already have a Sexual Harassment and/or Non-Discrimination Policy. Do I also need Bullying and Harassment Policy?**

**A:** Yes. Bullying and harassment is defined, and dealt with differently from sexual harassment and discrimination. WorkSafeBC defines bullying and harassment as "Any inappropriate conduct or comment towards a worker that the person knew, or reasonably ought to have known, would cause that worker to be humiliated or intimidated, but excludes any reasonable action taken by an employer or supervisor relating to the management and direction of workers or the place of employment."

Examples of conduct or comments that might constitute bullying and harassment include verbal aggression or insults, calling someone derogatory names, harmful hazing or initiation practices, vandalizing personal belongings, and spreading malicious rumours. This type of conduct is therefore different from the conduct typically dealt with under a workplace sexual harassment or non-discrimination policy.

##### **Q3: Is there anything else I need to do in addition to having a Bullying and Harassment Policy?**

**A:** Yes. In addition to drafting a Bullying and Harassment Policy, the new WorkSafeBC rules impose a duty on employers to:



- Prevent or minimize bullying and harassment;
- Train workers and supervisors;
- Develop reporting procedures; and
- Develop procedures for dealing with / investigating incidents or complaints.

In addition to the WorkSafeBC rules and Policies there are other legislative standards which deal with conduct in the workplace under:

- the BC Human Rights Code;
- the BC Employment Standards Act; and
- the Criminal Code.

**Q4: What type of conduct does not constitute Bullying or Harassment?**

**A:** Not every unpleasant interaction in the workplace is bullying or harassment.

Managers and supervisors must be able to do their job. This may sometimes include disciplining an employee, expressing a difference of opinion, offering constructive feedback or frank advice about work-related behaviour or performance. It may also include making a legitimate complaint about a co-worker.

As long as these actions are taken in a respectful manner, they will not constitute bullying and harassment.

**Q5: What must I do if an employee reports that they have been bullied or harassed?**

**A:** If an incident of bullying and/or harassment is reported, the employer must investigate the incident.

To investigate an incident of bullying and/or harassment you will have to:

- Inform the person who is accused of the bullying or harassment (the “respondent”), of the complaint. If the complaint has been made in writing, then a copy of the complaint should be provided to the respondent.
- Interview the complainant, the respondent and any witnesses to the complaint.
- Try to ensure that the investigation is dealt within as confidential a manner as possible. This means that the names of witnesses should usually not be disclosed and that reports prepared in investigating the complaint should only be disclosed on a “need to know” basis.

The purpose of the investigation is to determine the facts. Once you have determined the facts (i.e. establishing whether or not the incident of bullying or harassment occurred), you will then need to determine the outcome and any required disciplinary action.



The scope of the investigation will depend on the severity of the alleged bullying and harassment. In cases where the incident is relatively minor, it may be possible to deal with the situation quite informally without the need for an extensive investigation. In more serious cases a careful and thorough investigation should be conducted. In some cases it may even be appropriate to contract with an external investigator to conduct the investigation.

**Q6: What responsibilities do my employees have?**

**A:** Employees are responsible for their conduct in the workplace. This means that they must treat other employees with respect, and must not bully or harass their co-workers.

Employees are also under an obligation to report bullying and harassment if they see it in the workplace.

All employees should be reminded that the issue is “inappropriate” conduct in the workplace. This means that conduct which might be acceptable amongst family and friends (such as off-colour jokes), physical contact (such as hugging, massages, pats on the shoulder, hand or head) and staring at, or flirting with, co-workers, is NOT appropriate in the workplace.