

Domestic Violence Is a Workplace Issue



By Jamie Jurczak and Peter Mueller, [Taylor McCaffrey LLP](#)

‘Do we need to address domestic violence in our violence prevention policy’ This question often comes up when we’re contacted by clients to advise them on workplace violence prevention. Many employers are aware that there are specific OHS laws in Ontario that require employers to consider domestic violence in the context of workplace violence prevention. Under the violence and harassment provisions of Ontario’s *Occupational Health and Safety Act*, Sec. 32.0.4 says that ‘an employer who becomes aware, or ought reasonably to be aware, that domestic violence would likely expose a worker to physical injury in the workplace, the employer shall take every precaution reasonable in the circumstances for the protection of the worker.’ But what if you’re not in Ontario’

Initial findings of Canada’s [first ever survey on domestic violence in the workplace](#) were released Nov. 27, 2014. The researchers surveyed 8,429 people, most of whom were English (95.5%), born in Canada (87.7%), female (78.4%), between the ages of 25 and 64 (94.1%), and heterosexual (86.1%). The regional distribution was dominated by Ontario (49.8%) and BC (21.6%).

All respondents were asked to answer 60 questions about their experiences with domestic violence in the workplace. Those who had personal experience with domestic violence were asked

additional questions. The survey defined domestic violence as “any form of physical, sexual, emotional or psychological abuse, including financial control, stalking and harassment. It occurs between opposite- or same-sex intimate partners, who may or may not be married, common law, or living together. It can also continue to happen after a relationship has ended.”

The survey’s results show the broad impact that domestic violence can have in the workplace. For example, 38% of respondents said that domestic violence impacted their ability to get to work, including being late for work, missing work altogether or both. More specifically to workplace safety, over half of the respondents who’d experienced domestic violence said that at least one type of abusive act occurred at or near the workplace. In addition, 40.6% of the reported abusive acts were abusive phone calls or text messages, while 20.5% involved stalking or harassment near the workplace.

The survey report noted that Ontario was the first province to amend its OHS laws to specifically address domestic violence in the workplace. So in setting out recommendations based on the results, the survey’s authors suggest that other jurisdictions follow in Ontario’s footsteps and enact specific requirements in the OHS laws that set out explicit, positive obligations on employers regarding domestic violence.

This recommendation may lead some to think that employers outside of Ontario don’t currently have any domestic violence obligations under OHS laws, which, however, isn’t necessarily the case.

Although there may not be specific mention of domestic violence in all OHS laws, those that do set out general violence prevention obligations typically define ‘violence’ broadly enough to cover domestic violence. For example, BC’s *Occupational Health and Safety Regulation* deals with violence in the workplace, defining ‘violence’ as “the attempted or actual exercise by a person, other than a worker, of any

physical force so as to cause injury to a worker, and includes any threatening statement or behaviour which gives a worker reasonable cause to believe that he or she is at risk of injury.”

In Manitoba, the *Workplace Safety and Health Regulation* also addresses violence prevention, defining violence as ‘the attempted or actual exercise of physical force against anyone, or any threatening statement or behaviour that gives a person reason to believe that physical force will be used against them.’

These definitions of ‘violence’ are clearly broad enough to apply to situations where domestic violence spills into the workplace, including texts or phone calls that are of a nature where a worker reasonably believes that he or she is at risk of injury. Employers in BC and Manitoba must conduct a violence risk assessment in a workplace in which a risk of injury to workers from violence arising out of their employment may be present. Additional obligations arise if a risk of violence is identified, including creating policies, procedures and instructing workers as to the risks of violence in the workplace’even if the risk comes from a domestic violence situation. Similar obligations with respect to workplace violence can be found in many other jurisdictions.

Further, all OHS laws contain a general duty clause, requiring employers to ensure the safety and health of their workers at work. These general duty clauses are certainly broad enough to capture domestic violence where it impacts the workplace and puts workers’ safety at risk.

Consider a situation where a worker is being stalked by an abusive partner and there’s an imminent risk the partner will attend the workplace, posing safety risks to not only the worker being stalked, but also other workers who are present. The duty to ensure the safety of all workers at work no doubt requires the employer in such circumstances to take steps to

eliminate or minimize the risks that the worker's partner might pose if he or she enters the workplace, such as increasing security measures, developing an emergency plan or contacting police.

BOTTOM LINE

Regardless of whether OHS laws make specific mention of domestic violence, employers shouldn't be caught believing that domestic violence has no bearing on their OHS obligations. Studies like the domestic violence survey drive home the reality that domestic violence has far reaching effects and employers must be prepared to be responsive to that reality when developing violence prevention policies.

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The OHS Insider has additional articles, tools and resources on domestic violence, including:

- [Five Strategies for Addressing Domestic Violence in the Workplace](#)
- [Recorded Webinar: Domestic Violence: Rights, Responsibilities & Response](#)
- [Domestic Violence Handout](#). [/box]