

How to Do a Workplace Harassment Hazard Assessment



Expand your workplace violence hazard assessment to include harassment'especially if you're federally regulated.

Performing a workplace violence hazard assessment has become part of what it takes it to run an OHS program in Canada these days. But chances are that you've never performed a hazard assessment for workplace *harassment*. And there's a good reason for that. OHS laws don't require you to. But that's all about to change. For federally regulated employers, the change will happen on January 1, 2021 when the new Bill C-65 workplace violence and harassment rules take effect. Here's what you must do to comply.

What If You are Not Federally Regulated'

Based on previous experience, OHS legislation and regulation is a copycat endeavour, especially with regard to workplace violence and harassment. So, you can expect Bill C-65 to inspire other jurisdictions to revise their own OHS laws to require workplace harassment hazard assessment. Consequently, non-federally regulated employers should strongly consider following the Bill C-65 model as a best practice and preparation for what's likely to eventually become a legal obligation.

One Hazard Assessment, Not Two

As noted above, OHS laws require employers to perform hazard assessments to determine if their workers are exposed to risk of violence on the job. If so, employers must implement appropriate measures to control those risks. Most jurisdictions also require employers to take measures to prevent workplace harassment. The difference is that they don't say you have to do a harassment hazard assessment.

Federal Bill C-65 is the first to require both a workplace violence and harassment hazard assessment. More precisely, it expands current workplace violence rules to also include harassment and says employers must conduct a combined hazard assessment addressing both risks. This new approach, which was foreshadowed by CSA-Z1003-13, recognizes that the hazard to be controlled goes

beyond acts and threats of physical violence but any workplace behaviour that threatens a worker's overall psychological safety.

The Blending of Violence and Harassment

The Canada Labour Code even includes a new combined definition of harassment and violence as:

- 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 an employee, including any prescribed action, conduct or comment.

The good news is that you need only perform one hazard assessment and broaden your current workplace violence assessment to incorporate workplace harassment. Here's what you'll need to do to comply.

Laying the Groundwork

As before, you'll need to designate a competent person who has the necessary knowledge, skills and experience to do the combined violence and harassment assessment. Under Bill C-65, the assessment must be conducted jointly by the employer and its so-called 'applicable partner,' i.e., the employer's policy health and safety committee or, if no such committee exists, the workplace joint health and safety committee (JHSC) or health and safety representative (HSR). The 'applicable partner' concept isn't anything radically new given that even outside the federal jurisdiction, employers are generally required to do their workplace violence hazard assessment in consultation with the JHSC or HSR (or the workers themselves if there is no JHSC or HSR at the workplace). What does in 'consultation' mean' Answer: Any one or combination of 3 things:

- Letting the JHSC, HSR or workers participate in the planning process;
- Having them do or help in some or all of the actual assessment; and/or
- Giving them the final assessment results.

The 5 Workplace Violence and Harassment Risk Factors to Consider

The new federal OHS regulations implementing the Bill C-65 rules list the 5 risk factors the assessment must consider:

1. The culture, conditions, activities and organizational structure of the workplace;
2. Circumstances outside the workplace that could lead to harassment and violence in the workplace, such as domestic abuse or family violence;
3. Reports, records and data related to harassment and violence in the workplace;
4. The physical design of the workplace; and
5. The current measures in place to protect psychological health and safety.

Note that risk factors 3, 4 and 5 are also relevant to workplace violence hazard assessments and should pose no problems getting used to. The possible exceptions are risk factors 1 and 2. One excellent technique for getting the information

you need to properly evaluate these risk factors is to reach out to your workers and ask them to complete an anonymous survey relating their own experiences with harassment, bullying and violence at your workplace, the threats they perceive and who, where or what those threats come from. It's also a best practice to survey supervisors separately.

Follow-Up, Updating & Review

While follow-up and review of previous hazard assessment is a must for not just workplace violence and harassment but all hazards, Bill C-65 includes some unusually specific requirements. Most notably, employers must review and update the workplace assessment:

- In response to any changes to identified risks;
- In response to any changes that compromise the effectiveness of a preventive measure; and
- At least every 3 years.

After the assessment is done, the employer and applicable partner have 6 months to jointly develop and implement preventive measures and a prevention plan that mitigates the risk of harassment and violence in the workplace.