

# New MHCC Report on Psychological Health and Safety



In Feb. 2013, the Mental Health Commission of Canada (MHCC) released a report on workplace mental health issues. *Tracking the Perfect Legal Storm* by Dr. Martin Shain concluded that employers have a legal duty to maintain not only a physically safe but also a *psychologically* safe workplace under seven different kinds of laws.

Two years later, the MHCC has released a follow-up report by Dr. Shain. *Weathering the Perfect Legal Storm* discusses how to navigate requirements of the duty to provide a 'psychologically safe system of work' in the context of the voluntary National Standard of Canada on Psychological Health and Safety in the Workplace CSA Z1003/BNQ 9700. (The full report is available [here](#).)

The new report discusses the fact that CSA Z1003 is a voluntary standard that hasn't yet been adopted by any jurisdiction into its OHS or employment standards laws. But the applicable laws may indirectly impose a duty to provide a psychologically safe workplace on employers, especially to the extent that these laws bar harassment and bullying. And compliance with the Standard can help employers satisfy that duty.

In addition, voluntary compliance with CSA Z1003 can not only help employers avoid legal liability for the psychological injury of workers on the job but also benefit employers and the workplace with:

- Health and productivity advantages
- Benefits to recruitment and retention of talent
- Protection of corporate reputation
- Avoidance of conflicts, grievances and disputes.

The Standard contains a vision for a psychologically healthy and safe workplace, which is a workplace that actively works to prevent harm to worker psychological health, including in negligent, reckless, or intentional ways. Or more simply, the report says it's a workplace in which due diligence is applied by the employer to protect the psychological health and safety of employees.

## The 4 Be's

Although the Standard provides detailed information and guidance on how to actively work towards a psychologically healthy and safe workplace, there are

four simple principles (The 4 Be's) which can help illustrate the main concepts.

### **1. Be Aware**

Employers should be aware that the employment contract could at any time be interpreted by a court or tribunal as including an implied promise to provide a psychologically safe system of work.

### **2. Be Just**

The foundation of everyday justice in the workplace is a consistent process for resolving issues fairly and promptly. This process balances the rights and responsibilities of the employer with the rights and responsibilities of employees.

### **3. Be Careful**

Being careful, in the context of a psychologically healthy and safe workplace, means behaving in such a way as to avoid reasonably foreseeable harm to others. To do so, at a minimum, those who manage, support or supervise others should have *basic interpersonal skills* that include the ability to actively listen, elicit information and facilitate vital conversations in a respectful manner. Employers can also extend this principle to support the development of basic, respectful interpersonal skills for *all* employees.

### **4. Be Vigilant**

Be on the lookout for *signs of conflict or other interpersonal tension* among employees, and between employees and their managers or supervisors. Act to resolve conflict when you see it. Being vigilant is facilitated by a system that includes regular evaluation of a minimum standard of fair, civil and respectful conduct, and is important in both unionized and non-unionized workplaces.

The responsibility to be proactively vigilant in this regard is a key element of sustaining a psychologically safe workplace. In light of this fact, and as a precautionary measure, employers would do well to study the Standard as a potentially effective way to avoid or weather the storm that potential liabilities can attract.

Beyond this strategy of self-defence, employers can use the Standard to shift the employment relationship towards one in which their interests in business and service efficiency are served by the same strategies that protect psychological health and safety at work.

For more information and resources on CSA Z1003 and mental health issues in the workplace, go to the Psychological Safety Compliance Centre.