

Preparing for the Influx of Psychological Damage Claims



Ten years ago, most safety managers would have been caught off guard if you'd suggested they might one day be responsible for preventing and managing mental health injury claims. Physical safety dominated the conversation: preventing falls, controlling chemical exposures, guarding machines. Now, the horizon is shifting, and it's not a subtle change.

In Ontario, as in several other Canadian jurisdictions, the legal definition of a "workplace injury" has expanded to include certain types of psychological harm. This shift, driven by evolving laws and court challenges, means that **claims for chronic mental stress and traumatic mental stress are not only possible; they're increasingly common.**

For safety leaders, this is both a compliance challenge and a cultural one. You now need to think about psychological hazards the same way you think about moving machinery or a slippery loading dock. Ignore them, and you risk facing claims that could be expensive, time-consuming, and damaging to your reputation.

From Rare To Recognized: How We Got Here

For decades, Ontario's Workplace Safety and Insurance Act worked like this: if you were injured at work, you could apply

for no-fault benefits through WSIB, and in exchange, you gave up the right to sue your employer for negligence. The system worked – for physical injuries. Mental health injuries were another story. Unless you'd witnessed a catastrophic event (a fatal fall, a gruesome accident) you had almost no chance of qualifying for compensation.

That changed after constitutional challenges argued that excluding most psychological injuries was discriminatory and inconsistent with modern understandings of workplace health. In 2018, WSIB began accepting claims for chronic mental stress and traumatic mental stress. Suddenly, the bar moved.

Case in point: In 2021, a warehouse supervisor filed a WSIB claim after months of sustained verbal abuse from a manager, supported by witness statements from coworkers. No physical injury was alleged. The claim was accepted. While the employer disputed the decision, the evidence showed a clear pattern of workplace stressors linked to the worker's diagnosed anxiety disorder.

Why Safety Managers Can't Afford To Look Away

One of the biggest misconceptions is that these cases are "just HR's problem." They're not. Under Ontario's OHS Act (and similar legislation in BC, Saskatchewan, and federally regulated workplaces) employers have a duty to take every reasonable precaution to protect workers. That includes protecting their psychological wellbeing.

The shift isn't just legal; it's statistical. According to WSIB data, mental stress claims have risen steadily since eligibility expanded, with acceptance rates still lower than for physical injuries but trending upward. The Canadian Mental Health Association notes that nearly **1 in 3 workers** report high levels of work-related stress; a fertile environment for

more claims.

If you're a safety manager, you're now operating in a reality where a poorly handled harassment complaint, an unmanaged workload crisis, or a toxic supervisory style could trigger not just an HR investigation, but a compensable injury claim.

The Hidden Complexity Of Psychological Injury Claims

Unlike a fractured arm, which comes with an X-ray and a clear incident date, psychological injuries often develop gradually. The "accident" might be an accumulation of stressors (repeated exposure to aggressive behaviour, unreasonable production demands, constant fear of discipline) rather than a single, dramatic event.

Investigations become more complicated. You may be dealing with confidential medical records, conflicting witness accounts, and behaviour that's open to interpretation. And because mental stress claims can overlap with human rights complaints, harassment investigations, and even criminal allegations, missteps can have serious ripple effects.

Take the example of a mid-sized Ontario manufacturing company in 2022. A line worker reported anxiety and panic attacks linked to repeated shift changes and constant overtime demands. Management dismissed the complaint as a "scheduling issue" and made no changes. Six months later, the worker filed a WSIB chronic mental stress claim, citing the unaddressed workload as the main stressor. WSIB accepted the claim, noting that the employer's failure to take action after being alerted to the problem demonstrated a lack of due diligence.

Where Organizations Go Wrong

The most damaging errors often happen in the early stages. Dismissing complaints as personality clashes, assuming an employee is “too sensitive,” or delaying action until a formal complaint is filed all create an impression of negligence. In some cases, the failure to document conversations, investigations, or corrective actions becomes the employer’s undoing; when WSIB or a court asks for evidence, there’s nothing concrete to provide.

Another pitfall is poor coordination between safety and HR. If a safety manager isn’t looped in on ongoing harassment investigations, they can’t address the psychosocial hazards those conflicts create. This siloed approach means hazards persist, and the legal risk grows.

Even well-intentioned managers sometimes make the mistake of focusing only on “solving the problem” without considering the compliance piece. For example, moving a worker to a different shift to avoid a conflict may help in the short term, but if the hazard isn’t addressed (say, a bullying supervisor) the next worker in that role may experience the same harm.

Building A Strong Defence Through Prevention

The most effective way to manage psychological injury claims is to prevent them from arising in the first place. That starts with recognizing that psychological hazards belong in your hazard assessments alongside physical and chemical risks. If your assessments don’t ask about workload, role clarity, workplace relationships, and exposure to violence or harassment, they’re incomplete.

It also means actively monitoring for early warning signs. Elevated absenteeism, frequent interpersonal conflicts, and

high turnover in specific departments are red flags that merit a closer look. Addressing them proactively not only reduces the likelihood of a claim, it also creates a healthier, more productive workplace.

Training is another critical factor. Supervisors are often the first to hear about stress-related concerns, and how they respond can make or break a case. A dismissive comment (“toughen up, everyone’s stressed”) can later be cited as evidence of a hostile work environment. Training supervisors to respond empathetically, document concerns, and involve the right internal resources quickly is essential.

The Compliance And Culture Connection

WSIB’s acceptance of psychological injury claims hasn’t just changed the legal risk landscape; it’s reshaping the culture of workplace safety. Compliance now requires integrating mental health into your safety program, not as an add-on, but as a core component.

That might mean revisiting your workplace violence and harassment policy to ensure it reflects current law, building clear investigative procedures that stand up to regulatory scrutiny, and ensuring workers know how to report concerns without fear of retaliation.

It also means treating psychological safety metrics with the same seriousness as lost-time injury rates. Tracking complaints, survey results, and even exit interview data can give you valuable insight into where hazards exist and whether your interventions are working.

Protecting Your Business

Ultimately, the rise in psychological damage claims is part of a broader trend toward recognizing mental health as a workplace safety issue. You can't eliminate all risk; but you can show, through clear documentation and consistent action, that your organization takes its duty of care seriously.

That record of due diligence (hazard assessments, training logs, investigation reports, corrective actions) is your best defence if a claim is filed. It's also your best tool for preventing claims in the first place.

If there's one takeaway for safety managers, it's this: the same principles that keep workers physically safe (identifying hazards, controlling risks, training employees, and documenting everything) apply to psychological safety, too. The hazard looks different, but the compliance and risk management fundamentals remain the same.

The claims are coming. The question is whether you'll be ready to respond; or whether you'll be caught trying to explain why your safety program didn't see them coming.

Appendix: Psychological Injury & Workers' Compensation In Canada – Quick Reference

Jurisdiction	Accepts Chronic Mental Stress Claims?	Accepts Traumatic Mental Stress Claims?	Eligibility Highlights / Notes
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Jurisdiction	Accepts Chronic Mental Stress Claims?	Accepts Traumatic Mental Stress Claims?	Eligibility Highlights / Notes
Federal (Canada Labour Code)	No direct WCB; claims go to provincial/territorial boards	Yes	Federally regulated workers claim through the board in their province/territory.
British Columbia (WorkSafeBC)	Yes	Yes	Chronic: work-related stressors must be predominant cause of diagnosed condition (e.g., bullying, harassment, high workload). Excludes stress from employer decisions like discipline unless abusive.
Alberta (WCB Alberta)	Yes (since 2018)	Yes	Chronic: must be caused by “a significant work-related stressor or series of stressors” and be the predominant cause. Ordinary workplace stress or interpersonal conflict not enough.

Jurisdiction	Accepts Chronic Mental Stress Claims?	Accepts Traumatic Mental Stress Claims?	Eligibility Highlights / Notes
Saskatchewan (WCB Saskatchewan)	Yes	Yes	Chronic: gradual onset from multiple work-related stressors. Excludes labour relations issues unless abusive or harassing.
Manitoba (WCB Manitoba)	Yes	Yes	Chronic: must be caused by work-related stressors that are excessive compared to normal pressures of the job. Ordinary job stress not covered
Ontario (WSIB Ontario)	Yes (since 2018)	Yes	Chronic: caused by substantial work-related stressors; must be predominant cause. Claims often involve harassment/bullying or exposure to traumatic events. Six-month filing limit from onset/diagnosis.

Jurisdiction	Accepts Chronic Mental Stress Claims?	Accepts Traumatic Mental Stress Claims?	Eligibility Highlights / Notes
Québec (CNESST)	Yes (functional equivalent under “occupational disease”)	Yes	Psychological injury recognized if it’s caused mainly by work-related stressors and diagnosed by a physician.
New Brunswick (WorkSafeNB)	Yes	Yes	Chronic: covered if caused by significant work-related stressors. Traumatic: sudden event(s) like robbery, accident, or assault.
Nova Scotia (WCB Nova Scotia)	Yes	Yes	Chronic: work-related stress must be the predominant cause and be unusual/unexpected for the job.
Prince Edward Island (WCB PEI)	Yes	Yes	Chronic: requires evidence of substantial work-related stressors; “reasonable person” test applied.
Newfoundland & Labrador (WorkplaceNL)	Yes	Yes	Chronic: work-related stressors must be excessive/unusual and the main cause of injury.

Jurisdiction	Accepts Chronic Mental Stress Claims?	Accepts Traumatic Mental Stress Claims?	Eligibility Highlights / Notes
Yukon (WCB Yukon)	Yes	Yes	Chronic: requires diagnosed psychological condition primarily caused by work-related stressors.
Northwest Territories & Nunavut (WSCC)	Yes	Yes	Chronic: recognized if caused by one or more significant work-related stressors and is the predominant cause of the injury.

Manager's Note:

Even where chronic stress claims are allowed, boards set a high bar for proof. Claims are generally denied if stress stems from interpersonal conflict, performance management, or discipline – unless those actions are abusive or discriminatory.

That said, acceptance rates are rising as more employees and medical professionals understand the criteria. For safety managers, the trend is clear: psychosocial hazards must be addressed with the same diligence as physical hazards.