Bill 168: Workplace Violence and Harassment

(Including Bill 132 update)

OVMA Member Kit: Understanding Your Obligations
Preface

In 2010, new Ontario legislation setting out workplace violence and harassment prevention requirements will take effect. Since then, the legislation has been updated as workplace needs have evolved, including recent changes to better define and address sexual harassment in the workplace. These new requirements are in addition to the current employer obligations under the *Occupational Health and Safety Act (OHSA)*. Veterinary practice owners should ensure that they are complying with their existing OHSA health and safety obligations when implementing these new requirements.

OVMA has developed this kit to assist members in meeting their new obligations. However, it must be noted that this kit is not a legal document. Any specific questions about Bill 168 as it pertains to your practice should be discussed with a lawyer. As an OVMA member, you have access to free, over-the-phone legal advice through the OVMA Legal Counsel Service (1.877.636.8557). Please ensure you have your OVMA member number on-hand if you call for advice.

This kit provides checklists, forms, templates, and other information to assist employers to comply with the legislation. To read the legislation (Bill 168) itself, please visit: [http://www.ontla.on.ca/bills/bills-files/39_Parliament/Session1/b168.pdf](http://www.ontla.on.ca/bills/bills-files/39_Parliament/Session1/b168.pdf).

The Ontario Ministry of Labour has also developed a general guide for all workplaces affected by the Bill. The guide can be found at: [http://www.labour.gov.on.ca/english/hs/pubs/wpvh/index.php](http://www.labour.gov.on.ca/english/hs/pubs/wpvh/index.php)
In general, Bill 168 requires employers to do the following:

1. Develop written policies regarding violence and harassment in the workplace. If an employer has 6 or more employees, they must post the policies and review them on an annual basis.

2. Develop a program for the implementation and maintenance of workplace violence and harassment policies. The details of the program must be communicated to all employees.

3. Conduct a risk assessment of workplace violence and communicate the results of that assessment to your Joint Health and Safety Committee, your Health and Safety representative(s) or to the workers where no committee or representative exists.

4. Provide information to workers about an individual with a history of violence where workers are likely to encounter that specific person in the course of their work and where there is risk of physical injury.

5. Allow workers to refuse unsafe work where workplace violence is likely to endanger their personal safety.

6. Take reasonable precautions where the employer is aware or should be aware that domestic violence is likely to expose workers to the risk of physical injury in the workplace.
Bill 168 Checklist

(Check these off as you go. Supporting documents follow for most of the list points)

☐ **Develop Policies.** Prepare policies for workplace violence and workplace harassment. A single policy can be developed that covers both violence and harassment, but a separate policy for each would most likely be easier to draft.

☐ **Post Policies.** Both policies (individually or in one) must be posted where they will be seen by all workers (where more than 5 workers are regularly employed). The policies must be reviewed as often as deemed necessary, but at least annually.

☐ **Assess Risks.** Risk assessments must be performed at each workplace location and should be in writing. Assessment tools and forms are included. As an employer, you should be looking at all possible situations that pose violence and harassment risks to you and your workers.

☐ **Provide Results of Risk Assessment to the Joint Health & Safety Committee** (for larger clinics - 20 or more workers) or Health & Safety Rep(s) (smaller clinics - 5 - 20 workers). Identify risks found in writing.

☐ **Develop a Workplace Violence Prevention Program.** Develop a program to address the risks identified by your risk assessment. Be as specific as possible. The forms included in this kit can assist with the specifics including; who to call in an emergency, investigation procedures, etc.

☐ **Discuss Domestic Violence Policy.** The new law requires that employers who are aware - or ought to be aware of - domestic violence may occur in the workplace take every reasonable precaution in the circumstances to protect a worker at risk of physical injury.

☐ **Create a Procedure for Identifying a Person with a History of Violence.** Develop a procedure to define what constitutes a history of violence, what information can be used to assess whether a person has a history of violence, and how to address privacy matters.

☐ **Work Refusals.** Develop or update any work refusal policy that addresses workplace violence. Also, provide training to any human resources personnel on how to properly manage work refusals as they relate to workplace violence.

☐ **Reporting.** Establish procedures for workers and supervisors to report and record any incidents of workplace violence.
Definitions

"Workplace harassment" means,
(a) engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome, or
(b) workplace sexual harassment

“Workplace sexual harassment” means,
(a) engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, or
(b) making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome;

"Workplace violence" means,
(a) the exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker,
(b) an attempt to exercise physical force against a worker, in a workplace, that could cause physical injury to the worker,
(c) a statement or behaviour that it is reasonable for a worker to interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker.
Example of Workplace Violence and Domestic Violence Policy

Date

At the [Name of Practice], priority is given to protecting our employees and ensuring they are safe from injury and harm, including workplace violence. The management is committed to providing the means reasonably necessary to protect its employees from workplace violence and to assist employees subject to domestic violence. By working collaboratively, we will meet our shared objectives of working in a safe and healthy work environment.

The [Name of Practice] maintains a zero tolerance of violence in the workplace and at work-related events. The policy applies to all practice owners and employees. We all have a responsibility to uphold this workplace violence policy and prevent workplace violence.

The clinic has developed a workplace violence prevention program that supports this policy. It addresses potential risks specific to our clinic and staff. It includes measures and procedures to protect our workers as well as a process for raising concerns and reporting incidents.

Where the clinic becomes aware of the existence of domestic violence and the consequences of domestic violence may spill over into the workplace, we have a legal and moral obligation to take measures to protect the interests of the individual concerned and other employees.

The clinic management will ensure the policy is reviewed at least annually with all employees. We will ensure the policy and the program are followed and respected by employees and that the program fulfills its intended outcome. Supervisor(s) will also adhere to the policy and supporting program. Violence risk assessments will be completed by management on a periodic basis.

Any acts/or threats of violence will be investigated immediately in order to protect employees from danger and unnecessary anxiety concerning their welfare. The clinic pledges to investigate and deal with all workplace violence and domestic violence in a fair and timely manner, respecting the privacy of all concerned as much as possible. No employee will be subject to retaliation or disciplinary action as a result of reporting an incident in good faith. The clinic is respectful to the sensitive dynamics of violence in the workplace.

By implementing this policy, the [Name of Practice] is demonstrating its commitment to ensuring the safety of its employees, and to offering an excellent working environment for all staff. If an employee has any questions regarding this policy, please speak to [Name].

Signed:____________________________

Dr. X
Owner
Example of Workplace Harassment Policy

Date

[Name of Practice] is committed to providing a work environment in which all staff are treated with respect and dignity. Workplace harassment will not be tolerated from any person in the workplace (including customers, clients, other employers, supervisors, workers and members of the public, as applicable).

Workplace harassment means engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome or workplace sexual harassment. Workplace sexual harassment means:

1. engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, or
2. making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome;

Reasonable action taken by the employer or supervisor relating to the management and direction of workers or the workplace is not workplace harassment.

Workers are encouraged to report any incidents of workplace harassment to the appropriate person. *(Clinic may specify the person or department to report any incident(s) of workplace harassment.)*

Management will investigate and deal with all complaints or incidents of workplace harassment in a fair, respectful and timely manner. Information provided about an incident or about a complaint will not be disclosed except as necessary to protect workers, to investigate the complaint or incident, to take corrective action or as otherwise required by law.

Managers, supervisors and workers are expected to adhere to this policy, and will be held responsible by the employer for not following it. Workers are not to be penalized or disciplined for reporting an incident or for participating in an investigation involving workplace harassment.

If a worker needs further assistance, he or she may contact [insert JHSC or health and safety representative (if any), or employee assistance program if available].

Signed: ____________________________

Dr. X
Owner
Workplace Violence Risk Assessment

**Step 1. Understanding the Four Types of Potential Risks of Workplace Violence**

**Type 1: External - Criminal Intent**

A criminal could enter the clinic or stop you on-farm looking for cash or controlled drugs. He/she may be a community member or a person you have never seen before. He/she may be armed and dangerous, and/or under the influence of drugs or alcohol. The possibility of this type of encounter must be factored into your workplace violence policy.

**Type 2: Customer /Client**

Workplace violence can take the form of a client threatening or assaulting an employee. The probability of this type of violence in veterinary clinics may be heightened because clients can become emotional when forced to make difficult decisions involving their beloved pets. The practice policy must recognize this potential threat and set out how to address this type of violence, should it occur.

**Type 3: Employer/Employee and Employee/Employee**

Workplaces are hierarchical by nature, but the proper exercise of authority does not require intimidation or violence. Nor should one employee be allowed to intimidate or threaten others. Discussing how workers can effectively interact and communicate with one another, especially during stressful times such as emergency procedures, will assist in preventing any violence within the practice team.

**Type 4: Personal Relationships**

Seventy per cent of people who are victims of domestic violence are victimized at work. Workers may receive harassing phone calls or be stalked outside of work hours by a co-worker. Under the new law, employers need to inform all workers of any relationship that may be a threat to staff members. What you thought “is none of my business”, has now become an obligation of yours if you believe it may be a threat to you or any of your workers.
Step 2. Assessing the Risks by Looking at the Risk Factors

Your practice may have been fortunate over the years and avoided any incidents of violence or harassment in the workplace. However, a lack of past incidents does not mean that such events could not occur in the future. The following checklist may be of assistance in identifying potential risk factors in your practice.

1. Which of the following apply to your employees? Yes No Don’t Know
   (a) Interact with clients and/or animals
   (b) Occupation involves conducting staff performance appraisals
   (c) Deal with the public, visitors, contractors, couriers (e.g., who may be under the influence of alcohol or drugs)
   (d) Communicate information that may negatively impact clients
   (e) Dispense or have access to drugs
   (f) Work alone (out of sight and hearing of other employees)
   (g) Work at night or during early morning hours
   (h) Work in clients’ private residences
   (i) Perform security functions (e.g., working with high-risk people)
   (j) Travel among multiple worksites
   (k) Run errands/transporting clients/animals
   (l) Handle cash
   (m) Carry cash outside the clinic
   (n) Occupation involves dealing with client’s financial issues

2. Are these client characteristics risk factors in the workplace? Yes No Don’t Know
   (a) Clients sometimes exhibit signs of substance abuse
   (b) Clients may become violent when presented with bad news
   (c) You are aware that certain clients have a history of violence
   (d) Emotional, hyper-sensitivity or disruptive behaviour
   (e) Evidence of criminal/gang activity in area
   (f) Feeling of “uncertainty” with client

3. Are these environmental aspects risk factors in the workplace? Yes No Don’t Know
   (a) Small work spaces
   (b) Working with inexperienced workers
   (c) Stressful situations
   (d) A lack of communication amongst staff
   (e) Staff who work long hours
   (f) Staff who show aggression on the job
   (g) History of arguments among staff

Surveys can also be a useful tool to help you assess the potential for violence in your workplace. The following survey can be provided to your staff to gather information to assist you with your Workplace Violence Prevention Program:
Workplace Violence Hazard Assessment Survey for Veterinary Staff

Part 1: Work Description: Please briefly describe the activities/duties you perform on a regularly basis as part of your employment:

Part 2: Exposure to Risk.

A) Do you work directly with money and/or controlled drugs? Yes_____ No______
If yes, does working with them make you feel susceptible to potential violence in the workplace? Yes___ No__
If yes, is there anything that could be done to make you feel less at risk? Please describe:

B) Do you ever feel threatened at the clinic (or on-farm)? Yes___ No_____
If yes, is it by individuals you are not familiar with? Yes____ No_____ 
By clients? Yes____ No_____ 
By other employees? Yes ____ No _____ 
By suppliers or outside business associates (delivery person, etc.)? Yes___ No____
By someone else you know? Yes ____ No_____

If answered yes to any of the above, please describe the situation:

Please provide any recommendations on what would make you feel less threatened in the future.

Is working alone ever part of your job, formally or informally? Yes___ No_____
If yes, have there been times you have felt unsafe working alone? Yes__ No___

Part 3- History

Have you ever been threatened or exposed to intentional physical violence in the practice? 
Yes___ No____

If yes, by whom?
Another worker_____ a client _____ a stranger _____other (please describe) ________________

Is intimidation common in the workplace? Yes______ No____
Is yelling common in the workplace? Yes____ No____

Have you ever felt or do you feel “bullied” in the workplace? Yes____ No____

Do you think staff communicate well with: clients? Yes____ No _____

One another? Yes____ No____

Part 4 – Procedures

Have you ever encountered a violent situation at work where you didn’t know what to do? Yes____ No____

If yes, please describe:

Would you feel comfortable reporting incidents of violence and harassment in the workplace? Yes____ No____

If no, please indicate why you would not feel comfortable:

Currently incidents of violence and harassment in the workplace are reported to the employer and/or the Health and Safety Rep. You can report to either one, or both. Would you feel uncomfortable reporting to either?

Are there any other suggestions you have that contribute towards an optimal clinic violence prevention program?

Thank you for your input.

Step 3 – Utilizing the Risk factors to Identify the Specific Risks

Now that you have used the tools, you have a better sense of the potential risks of violence and harassment in the workplace. To identify the risks, it’s best to utilize the four “types”.

Type 1 External – Criminal Intent
List all possible risks that can come from an external source. For example:
  1. Criminal comes into clinic looking for controlled substances
  2. Criminal comes into clinic looking for cash
  3. ____________________________________________________________
After listing all possible risks, you can use your tools to identify the medium to high risks, and which ones should be included in your procedure. For example, at first you may have thought that you have been fortunate and have not had anyone break into your clinic in the last 10 years. But after looking at the risk assessment tools, you realize:

- The clinic is located in a busy urban location
- The clinic has cash, drugs, and expensive equipment
- The local store just down the street was robbed last month
- The street lamp outside the clinic has been broken for weeks
- The clinic just extended its evening hours with only two staff members working those hours
- A strange person walking by the clinic always near closing time
- You and your staff have been really busy and tired lately

By looking at all of these for Type 1, you may determine that to minimize your workplace violence prevention program will include:

Minimizing risks:
- Ensuring that proper lighting is always working/available in and around your clinic
- After 6 PM, a sign is placed on your front counter that states there are no drugs or cash on the premises
- A clinic policy is made to include that at least two staff members work up front after a certain hour, etc.

Developing a Procedure:
A procedure should be in place and communicated to staff specifying what to do if someone enters the practice brandishing a weapon and demanding cash, drugs, etc. Details can include:

- Hand over the requested items immediately
- Lock the door as soon as the criminal leaves
- Alert other workers
- Other workers to immediately lock other doors
- Call 911, etc.

Type 2—Customer/Client
Since most incidences come from this “type”, it may be emphasized to a great degree in your violence prevention in the workplace program. At the same time, it is a difficult area to address through procedures and policies because it involves a wide range of emotions.

List all possible risks that can come from Type 2 – Customer/Clients. For example:

1. Client is verbally abusive because he/she cannot afford treatment for pet
2. Client appears to be impaired by drugs or alcohol
3. Client is known to have exhibited violent behaviour in the past
4. ______________________________________________________________
5. ______________________________________________________________
6. ______________________________________________________________
In this “type”, the risk often exists due to the emotional nature of the interaction. A key element of the prevention program is to minimize the risk by:

- Perhaps establishing a policy for staff to call someone so they are never alone when a client is emotional
- Providing staff training on dealing with people in emotional situations
- Developing uniform strategies to deal with people who cannot afford treatment for their pets, or who have received bad news about their pets, etc.
- Finding the best methods to communicate with people with disabilities to avoid miscommunication
- Working together (or not at all) with clients who are known to be aggressive or rude

Again, for this “type”, procedures should be part of the program so staff are aware of the protocol. Procedures may include:

- Calling another staff member immediately if a staff member is concerned that a client may become violent
- Calling 911 if the client will not leave within 20 seconds of being asked.
- Filing an “incidents report”
- “Firing” the client

Type 3 – Employee on Employee (Including Employers)

This particular “type” can be difficult to address because it can be discreet and may involve the employer. However, violence amongst workers is very serious and should be an important part of your prevention program.

List all possible risks that can come from Type 3 – Employee on Employee. For example:

1. Stressful environment causes staff to yell at one another
2. Too many workers in a small space
3. Staff not utilizing their breaks
4. ________________________________________________
5. ________________________________________________
6. ________________________________________________

Again, minimizing risks is essential, despite how well you think everyone gets along at your clinic. The most important tool you can implement is giving your staff the ability to report threats and incidences in good faith. Staff should be able to report to the employer or someone on the Joint Health and Safety Committee (JHSC)/Health & Safety Rep. or both.

Minimizing risks can include:

- Regular staff meetings to open up staff dialogue in the clinic
- Ensuring no staff member is working too much over-time or is over-stressed
- Stepping in when one employee is speaking inappropriately to another employee
• Introducing staff bonding activities/events.

Your program must include procedures on what to do if any of your staff feel threatened or have been subjected to violence in the workplace by another employee. This may include:

• Summoning assistance if needed
• Filling out an incident report (template attached)
• Establishing protocols to be followed while an investigation is underway
• How the investigation is to be done
• The consequences for staff who resort to violence or harassment

Type 4 – Personal Relationships

This is yet another difficult “type”. While it is illegal for an employer to ask someone if they are married during a job interview, under this new law, an employer has an obligation to ask about employees’ personal relationships if they feel there is a threat to the personal safety of any worker.

For workers in a veterinary clinic, this is not necessarily a serious threat. However you can create policies and procedures that allow the staff to be more open about these threats and also create protocols when these threats are made known. They can include:

• Telling employees that they should report concerns to their employer if they fear domestic violence may enter the workforce
• Letting other employees know about the threat
• Developing a safety plan if the individual who may become violent tries to enter the workplace. The plan may involve other employees, the police, etc.
**Step 4. Sharing the results of your risk assessments with your Joint Health & Safety Committee or Health and Safety Rep(s).**

This is an essential element of the Bill. As an employer, you cannot create a program to address risks without first sharing your assessment findings. If the assessment was done in writing, a copy must be provided to the Joint Health & Safety Committee and/or Health & Safety Rep(s).

**Step 5. Developing your Workplace Violence Prevention Program**

Now that you are aware of what your threats/risks are in all 4 “types” and have assessed them, you are able to develop your Workplace Violence Prevention Program. Your program must be in writing, and must include:

- Measures and procedures to mitigate the risks identified in your assessment
- Measures and procedures for summoning immediate assistance when workplace violence occurs or is likely to occur
- Measures and procedures to enable workers to report incidents of workplace violence to the employer/supervisor
- The process to be used by the employer to investigate and deal with incidents or complaints of workplace violence

How you develop your violence prevention program is up to you as long as it incorporates the above information. To assist you in that process, the following template has been provided:
Clinic:  
Date of assessment:  
Date of review:  
Done/Approved by:

Reported to Health & Safety Rep(s) on:  
Communicated to Staff on:

Risk identified: (utilize assessment tools to help identify risks from all 4 “types”, etc.)

Measures and procedures to control the risk: (proactive preventive measures, etc.)

How are employees to report the incident/complaint? (forms, verbally, to whom, etc.)

How will the employer investigate? (timeframes, what will happen in the meantime, etc.)

Other important aspects: (potential training, added responsibilities could be listed here, etc.)
**Sample Violence Incident Report**

Date and time this report is being filled out: ____________________________

1. Identifying information

Employee’s Name: ___________________ Work Location/Department: ______________________

Date and time of incident: ________________________________________________

Location of incident (please provide specific details. Examples: 2nd floor hallway, as leaving the front door, etc.):

Type of incident:

☐ THREAT
  ☐ verbal threat in person
  ☐ verbal threat by telephone
  ☐ written threat (paper/text/email)

☐ PHYSICAL ASSAULT
  ☐ struck
  ☐ pushed
  ☐ pinched/bitten
  ☐ sexual assault

Describe the incident – including events leading up to the incident:

Describe immediate action take (Examples include, screaming for help, calling 911, etc.):

Were the authorities/3rd party summoned?

☐ Police
☐ Fire Department
☐ Paramedics

☐ Friends/family
☐ Other __________

Was a police report made?  ☐ Yes  ☐ No

2. Assailant/Accused

Was the assailant known to you? If so, name: ________________________________________
How do you know this person (client, friend, etc.)?: _________________________________

Description: □ Male □ Female Approximate Age: _________________________________

Complexion/Race: ______________________ Height _________________________________

Weight: ___________________________ Other characteristics _______________________

Have you ever seen this person be violent before? □ Yes □ No

If yes, please describe:

3. Witnesses

Did anyone witness the incident? □ Yes □ No

If yes, please provide names and how to locate the witnesses:

Are you aware of anyone who has witnessed violent behaviour by this person before?
□ Yes □ No

If yes, please provide names and how to locate the witnesses:

4. Eliminating Future Risks

Have there ever been similar incidents in the past? □ Yes □ No

Please provide any suggestions on what the clinic should do to ensure this incident does not occur again:

Signature of employee __________________ Signature of employer __________________
Step 6 – Workplace Harassment Prevention Program

Along with your Workplace Violence Prevention Program, your clinic requires a Workplace Harassment Prevention Program, a sample of which is below:

[Name of Practice] is committed to providing a work environment in which all workers are treated with respect and dignity. Workplace harassment will not be tolerated from any person in the workplace, including clients, supervisors, workers, and members of the public, as applicable.

The workplace harassment program applies to all workers including managers, supervisors, temporary employees, students and subcontractors.

1. Workplace harassment

Workplace harassment means engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome or workplace sexual harassment.

Workplace sexual harassment means:

1. engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, or
2. making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome;

Reasonable action taken by the employer or supervisor relating to the management and direction of workers or the workplace is not workplace harassment.

2. Reporting workplace harassment

A. How to report workplace harassment

Workers can report incidents or complaints of workplace harassment verbally or in writing. When submitting a written complaint, please use the workplace harassment complaint form (see attached). When reporting verbally, the reporting contact, along with the worker complaining of harassment, will fill out the complaint form.

The report of the incident should include the following information:

1. Name(s) of the worker who has allegedly experienced workplace harassment and contact information
2. Name of the alleged harasser(s), position and contact information (if known)
3. Names of the witness(es) (if any) or other person(s) with relevant information to provide about the incident (if any) and contact information (if known)

4. Details of what happened including date(s), frequency and location(s) of the alleged incident(s)
   1. Any supporting documents the worker who complains of harassment may have in his/her possession that are relevant to the complaint.
   2. List any documents a witness, another person or the alleged harasser may have in their possession that are relevant to the complaint.

B. Who to report workplace harassment to

An incident or a complaint of workplace harassment should be reported as soon as possible after experiencing or witnessing an incident. This allows the incident to be investigated in a timely manner.

Report a workplace harassment incident or complaint to [name, position, and contact information]. If the worker’s supervisor or reporting contact is the person engaging in the workplace harassment, contact [position or name of alternate reporting contact and contact information]. If the employer (e.g. owner, senior executive, director) is the person engaging in the workplace harassment, contact [position or name of alternate reporting contact and contact information]. (Note: The person designated as the reporting contact should not be under the direct control of the alleged harasser.)

Human Resources [or designated person] shall be notified of the workplace harassment incident or complaint so that they can ensure an investigation is conducted that is appropriate in the circumstances. If the incident or complaint involves the owner, senior executive or [list positions as appropriate], an external person qualified to conduct a workplace harassment investigation who has knowledge of the relevant workplace harassment laws will be retained to conduct the investigation.

All incidents or complaints of workplace harassment shall be kept confidential except to the extent necessary to protect workers, to investigate the complaint or incident, to take corrective action or otherwise as required by law.

3. Investigation

A. Commitment to investigate

[Name of Practice] will ensure that an investigation appropriate in the circumstances is conducted when the employer, human resources, a manager or supervisor becomes aware of an incident of workplace harassment or receives a complaint of workplace harassment.

B. Who will investigate

[insert name, manager or department] will determine who will conduct the investigation into the incident or complaint of workplace harassment. If the allegations of workplace harassment involve [insert jobs, positions, levels or departments (e.g. senior leadership, president and above)], the employer will refer the investigation to an external investigator to conduct an impartial investigation.

C. Timing of the investigation
The investigation must be completed in a timely manner and generally within 90 days or less unless there are extenuating circumstances (i.e. illness, complex investigation) warranting a longer investigation.

D. Investigation process

The person conducting the investigation whether internal or external to the workplace will, at minimum, complete the following:

1. The investigator must ensure the investigation is kept confidential and identifying information is not disclosed unless necessary to conduct the investigation. The investigator should remind the parties of this confidentiality obligation at the beginning of the investigation.
2. The investigator must thoroughly interview the worker who allegedly experienced the workplace harassment and the alleged harasser(s), if the alleged harasser is a worker of the employer. If the alleged harasser is not a worker, the investigator should make reasonable efforts to interview the alleged harasser.
3. The alleged harasser(s) must be given the opportunity to respond to the specific allegations raised by the worker. In some circumstances, the worker who allegedly experienced the workplace harassment should be given a reasonable opportunity to reply.
4. The investigator must interview any relevant witnesses employed by the employer who may be identified by either the worker who allegedly experienced the workplace harassment, the alleged harasser(s) or as necessary to conduct a thorough investigation. The investigator must make reasonable efforts to interview any relevant witnesses who are not employed by the employer if there are any identified.
5. The investigator must collect and review any relevant documents.
6. The investigator must take appropriate notes and statements during interviews with the worker who allegedly experienced workplace harassment, the alleged harasser and any witnesses.
7. The investigator must prepare a written report summarizing the steps taken during the investigation, the complaint, the allegations of the worker who allegedly experienced the workplace harassment, the response from the alleged harasser, the evidence of any witnesses, and the evidence gathered. The report must set out findings of fact and come to a conclusion about whether workplace harassment was found or not.

E. Results of the investigation

Within 10 days of the investigation being completed, the worker who allegedly experienced the workplace harassment and the alleged harasser, if he or she is a worker of the employer, will be informed in writing of the results of the investigation and any corrective action taken or that will be taken by the employer to address workplace harassment.

F. Confidentiality

Information about complaints and incidents shall be kept confidential to the extent possible. Information obtained about an incident or complaint of workplace harassment, including identifying information about any individuals involved, will not be disclosed unless disclosure is necessary to protect workers, to investigate the complaint or incident, to take corrective action or otherwise as required by law.
While the investigation is on-going, the worker who has allegedly experienced harassment, the alleged harasser(s) and any witnesses should not to discuss the incident or complaint or the investigation with each other or other workers or witnesses unless necessary to obtain advice about their rights. The investigator may discuss the investigation and disclose the incident or complaint-related information only as necessary to conduct the investigation.

All records of the investigation will be kept confidential.

G. Handling complaints

[The employer must set out any interim measures that may be taken after the complaint is received and during the investigation. The employer must also set out how they might deal with the complaint of harassment if harassment is found. This may include discipline up to and including termination.]

4. Record keeping

The employer (human resources or designated person) will keep records of the investigation including:

1. a copy of the complaint or details about the incident;
2. a record of the investigation including notes;
3. a copy of the investigation report (if any);
4. a summary of the results of the investigation that was provided to the worker who allegedly experienced the workplace harassment and the alleged harasser, if a worker of the employer;
5. a copy of any corrective action taken to address the complaint or incident of workplace harassment.

All records of the investigation will be kept confidential. The investigation documents, including this report should not be disclosed unless necessary to investigate an incident or complaint of workplace harassment, take corrective action or otherwise as required by law.

Records will be kept for:

Date created:

Annual review date:
Workplace harassment complaint form

This is an example of a complaint form for workers to report an incident or a complaint of workplace harassment. It can be modified to meet the needs of workplace. Note: Whether the worker uses the complaint form or not, the employer is still obligated to ensure an investigation appropriate in the circumstances is conducted into an incident of workplace harassment.

Date

Name and contact information of worker who has allegedly experienced workplace harassment:

Name of alleged harasser(s) and contact information, if available:

Details of the complaint of workplace harassment
Please describe in as much detail as possible the bullying and harassment incident(s), including: (a) the names of the parties involved; (b) any witnesses to the incident(s); (c) the location, date and time of the incident(s); (d) details about the incident(s) (behaviour and/or words used); (e) any additional details. (Attach additional pages if required):

Relevant documents/evidence
Attach any supporting documents, such as emails, handwritten notes, or photographs. Physical evidence, such as vandalized personal belongings, can also be submitted. If you are not able to attach documents and they are relevant to your complaint, please list the documents below. If someone else has relevant documents, please note that below.

Signature:
Date:

Do you require any form of security/protection while this being investigated?
☐ Yes ☐ No

I hereby certify that to the best of my knowledge the above information is true and accurate.
Necessary Items for your Programs:

Domestic Violence

As previously mentioned under “Type 4” risk assessments, employers have an obligation to take every precaution reasonable to protect their workers when they are aware, or ought to be aware of, domestic violence that may occur in the workplace. You are permitted to disclose personal information related to domestic violence as long as it is related to the prevention of violence in the workplace. Remember that you are required to incorporate domestic violence prevention in your program.

Information about a Person with a History of Violent Behaviour

The new law emphasizes the employers’ requirement to provide workers with information related to a risk of workplace violence from a person with a history of violent behaviour. This can include personal information about the person. However, workers must expect to encounter these violent people in the course of their work and only when the risk of workplace violence is likely to expose a worker to physical injury. Remember to incorporate information about people with a history of violent behaviour in your program including how your clinic is defining “person with a history of violent behaviour” for the purpose of the program.

Work Refusals

Under the OHSA Act, any worker can refuse work if he/she has reason to believe that he/she is in danger by workplace violence. However this is not the case for workplace harassment. Therefore, it is a good idea to mention this in your Workplace Violence Prevention Program. You may specify details such as; where a safe place for employees to stay or work or a list of resources to assist employees while the investigation is in place.
Step 7. Reporting

The employer is obligated to provide appropriate information, training and/or instructions to his/her workers on the content of the workplace violence prevention policy and program and the workplace harassment prevention policy and program.

All workers are required to know:

- How to report incidents of workplace violence and harassment
- How the employer will investigate and deal with incidents or complaints of workplace violence and harassment

Employers are obligated to review the policies and programs annually - at a minimum - but should be done as often as needed, if required more frequently.