

Workplace Harassment & Violence Prevention

Michael Boileau, M.Sc., C.Chem



Objective

Support workers, supervisors, and employers in creating a harassment and violence free workplace.

The Context



- What is harassment?
- Who does it?
- Why does it happen?

- What is workplace violence?
- Who does it?
- Why does it happen?



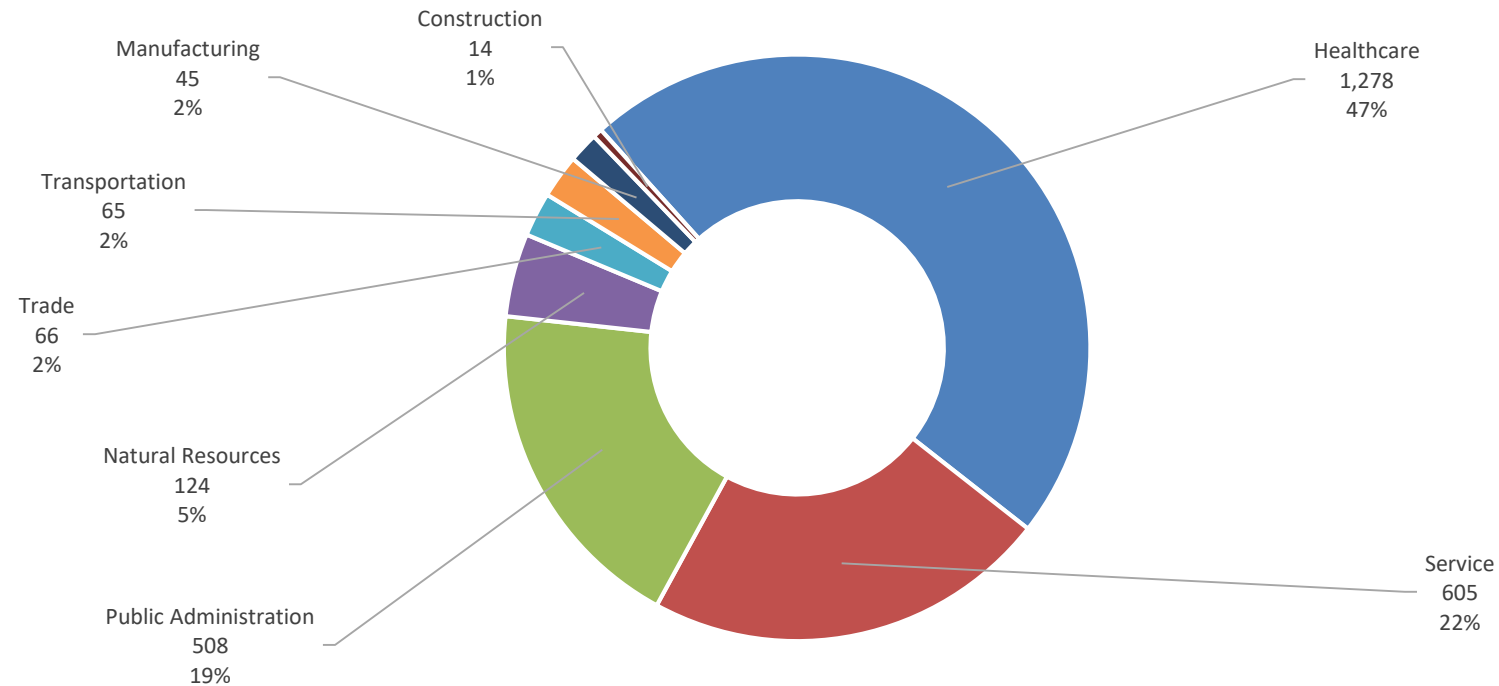
Changing Perspectives

What are some of the attitudes we have regarding violence that create barriers to preventing injuries? Eg “It’s part of the job”

What are some of the attitudes we hear about harassment that create barriers to preventing workplace harassment? Eg “people are overly sensitive”

Extent of the Problem – Violence

Assaults & Violent Acts in Manitoba by Sector
Accepted Time Loss Injuries, 2012-2016



•Source: Annual Report Database

Extent of the Problem – Harassment

Careerbuilders – Harris Poll Canada

- 45% of workers have felt bullied at their job
- Of those who felt bullied
 - Only 44% of victims reported problem to HR , and half of those workers said no action was taken to relieve the situations.
 - 1 in 4 have left a job because of bullying



It's the Law

Several laws imposed duties on employers and workers

- Human Rights Legislation
 - Act and Code
- Workplace Safety and Health Act and the Canadian Labour Code
- Criminal Law
- Civil Law
- Collective Agreements
- Policies, Guidelines and Standards



It's the Law

- Our focus is on the WSH Act
- Act outlines general duties and rights
See 4(1) and 2(2)e
- Regulations provide more detail
 - Part 10 Harassment
 - Part 11 Violence



Defining Harassment

Look up WSH Regulations Part 1 – Definition of Harassment

“Harassment” means

(a) Objectionable conduct that creates a risk to the health of a worker; or

(b) Severe conduct that adversely affects a workers’ psychological or physical well-being.



Defining Harassment

Part 1.1.1(1) - 1.1.2 (3) provides further interpretation of harassment as:

1.1.1(1) For the purpose of the definition of "harassment" in section 1.1, conduct is

(a) objectionable, if it is based on race, creed, religion, colour, sex, sexual orientation, gender-determined characteristics, marital status, family status, source of income, political belief, political association, political activity, disability physical size or weight, age, nationality, ancestry or place of origin; or

(b) severe, if it could reasonably cause worker to be humiliated or intimidated and is repeated, or in the case of a single occurrence, has a lasting, harmful effect on a worker.



Defining Harassment

1.1.1(2) Reasonable conduct of an employer or supervisor in respect of the management and direction of workers of the workplace is not harassment.

1.1.1(3) In this section and in the definition "harassment" in section 1.1, conduct includes a written or verbal comment, a physical act or gesture or a display, or any combination of them.



Defining Harassment

Human Rights Based Harassment

- where the harassment is based on any of the protected characteristics listing by human rights Act or Code.
- this is considered a form of discrimination.

Non Human Rights Based Harassment

- general / personal harassment

Single Incident / Repeated

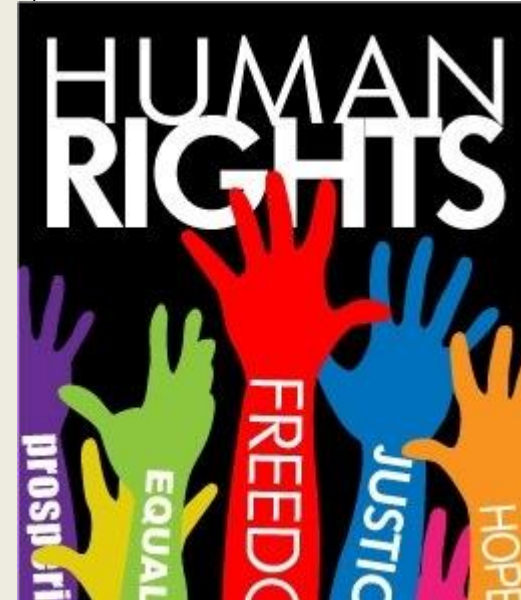
Sexual Harassment

Personal Harassment

Psychological Harassment

Bullying

Mobbing



Is this harassment?

- John and Lisa have been flirting with each other at the office for the past two months. They wink at each other when they say “good morning.” Lisa stands very close to John when reviewing reports. John regularly makes comments to Lisa about how “smokin hot” she is.



Is this harassment?

- Jenwa is a health care aid who has recently been promoted into her position at Mercy Hospital. Her new co-workers are not happy Jenwa was awarded the position over their friends. They ignore Jenwa, they never ask her to join them for coffee or lunch breaks. Twice they have not shared information which caused her to get in trouble with the area supervisor.



Is this harassment?

- Janice works as an administrative assistant at a large government agency. She receives a group e-mail making sexual and derogatory jokes about women. Janice responds that she finds the jokes offensive and asks to be removed from the e-mail group.
- A few days later Janice receives another group email this time with graphic cartoons. Janice emails the group again letting them know she finds the content offensive. Several replies are sent suggesting she “lighten up,” “quit being so serious” and “sorry you can’t take a joke.”



Is this harassment?

- Terry has been working as a chef at a busy restaurant. On Saturday evening the owner comes into the kitchen and in front of all the cooks and serving staff begins screaming and swearing at Terry for an error he made on an order. The owner pounds on the counters. He points his finger at Terry and screams “I wouldn’t have hired you if I knew you were a fat lazy girly-boy.” The next day the owner called Terry to apologize. Terry is too upset to return to the restaurant.



Is this harassment?

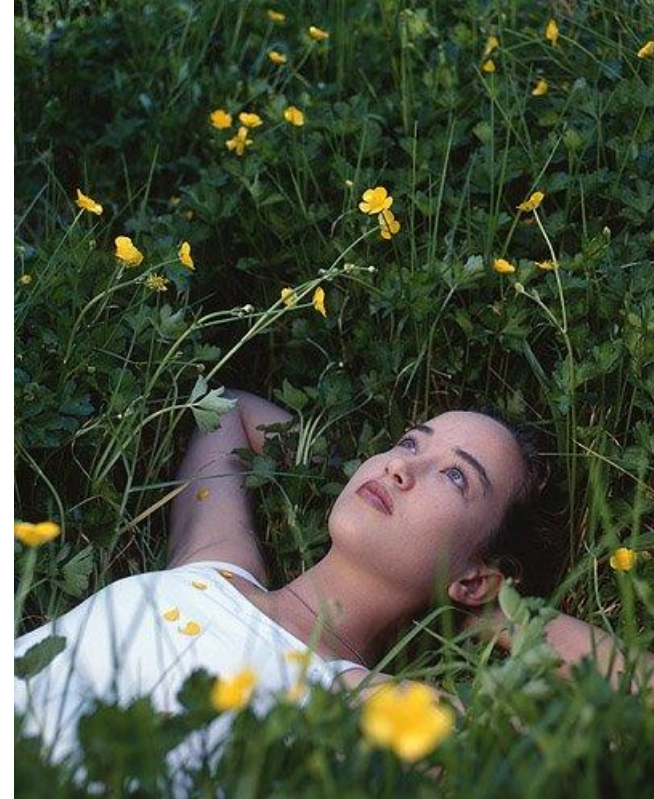
- GG's Automotive Plant has seen significant changes in the past 2 years. Some of the staff have not been happy with these changes. Sean is particularly vocal about his unhappiness and makes negative comments about the workplace. His co-workers comment he is always in a bad mood and rude; frequently interrupting others, smirking and shaking his head. He complains daily and over lunch regularly tries to engage other staff in negative banter about the workplace.





Preventing Harassment Respectful Workplace

What does a respectful workplace
look like?



Know the Law

Part 10 – Employers Must

Develop a Policy with Worker Input

10.1 (1) An employer must

- (a) Develop and implement a written policy to prevent harassment in the workplace; and*
- (b) Ensure that workers comply with the harassment prevention policy*

10.1 (2) The harassment prevention policy must be developed in consultation with the committee at the workplace....



Know the Law

Part 10 – Employers Must

Ensure the policy includes required statements

10.2 (1) *The harassment prevention policy must include the following statements:*

- (a) Every worker is entitled to work free of harassment*
- (b) The employer must ensure, so far as is reasonably practicable, that no worker is subjected to harassment in the workplace;*
- (c) The employer will take corrective action respecting any person under the employer's direction who subjects a worker to harassment;*
- (d) The employer will not disclose the name of a complainant or an alleged harasser or the circumstances related to the complaint to any person except where disclosure is:
 - (i) Necessary to investigate the complaint or take corrective action with respect to the complaint, or*
 - (ii) Required by law;**
- (e) A Worker has the right to file a complaint with the Manitoba Human Rights Commission;*
- (f) The employer's harassment prevention policy is not intended to discourage or prevent the complainant from exercising any other legal rights pursuant to any other law.*

WSH Regulations

Part 10 – Employers Must...

Ensure the policy outlines the process for complaints and investigations

10.2 (2) Policy must provide information on the following procedures:
(a) How to make a harassment complaint;
(b) How a harassment complaint will be investigated;
(c) How a complainant and alleged harasser will be informed of the results of the investigation

Post the policy in a visible location

10.3 An employer must post a copy of the harassment prevention policy in a conspicuous place at the workplace





Responsibilities & Rights

True or False

1. The workplace safety & health (S&H) committee is responsible for ensuring the workplace is free of harassment.
2. If an employer suspects harassment in the workplace but no one has made a complaint, the employer may still be found responsible.
3. The committee is responsible for investigating harassment and bullying allegations.
4. Harassment that occurs outside of the workplace and/or working hours is not the employer's responsibility.
5. A worker must attempt to speak with the harasser about their concern before making a complaint.
6. Workers should report harassment they see occurring in the workplace.
7. The employer must provide the S&H Committee with copies of harassment complaints and investigations.
8. Workplace Safety and Health Officers investigate incidents of harassment.
9. A worker can be let go for making a complaint for harassment if the investigation shows harassment did not occur.

Responding to Harassment



Explain Process



Informal Resolution



Formal Complaint
Process



Investigate



Determine Findings



Report



Corrective Actions



Follow Up

Preventing Workplace Violence



What is Workplace Violence?

- Refer to MB Workplace Safety and Health Regulations 217/06 – Part 1
- If there is a relationship between the violence and the workplace it may be workplace violence

*Manitoba Regulation 217/2006 Part 1 defines
“**Violence**” as:*

- (a) the attempted or actual exercise of physical force against a person and/or*
- (b) any threatening statement or behaviour that gives a person reasonable cause to believe that physical force will be used against the person*

Workplace Violence

Examples of workplace violence and where this might occur:

- Property damage
- Physical assault
- Unwanted touch
- Threats
- Finger waving in face
- Pranks
- Spitting



Is this Workplace Violence?

Sharon is employed as a nurses aid in a personal care home. As part of Sharon's duties she must waken the residents for their morning breakfast and hygiene routine.

Sharon is brushing Mrs. Jones hair when she suddenly is slapped across the face by Mrs. Jones. Sharon is left with a large red welt on her right cheek.



Is this Workplace Violence?

Ralph, ABC Company's shipper receiver, decides to coordinate a golf tournament outside of work hours with his work buddies. Everyone is having fun and getting along quite well until Ralph realizes his team is losing the tournament.

He eventually loses his temper with his co-worker and punches him.



Is this Workplace Violence?

Kelly is employed as a claims adjuster with a local insurance company. One of Kelly's clients is quite upset about a negative decision she delivered to him on the phone.

During that conversation the client told Kelly to watch her back when she leaves the building that evening.



Is this Workplace Violence?

Andrew is an 8th grade school teacher in Winnipeg. During a recent class one of his students expressed outrage at the test score he recently received.

Later that week Andrew sees the student in a local store and is assaulted.



Is this Workplace Violence?

Francis is employed as a machinist at a local manufacturing company. She is going through a difficult divorce and has a court hearing later in the day. Just before lunchtime her spouse arrives at the workplace armed with a concealed gun.



Know the Law

- MB WSH Regulation Part 11 – Provincially Regulated Workplaces
- Canada Labour Code Part 2 – Federally Regulated Workplaces



Legal Requirements

As per WSH Part 11 employer is responsible to:

- Know if Part 11 applies
 - Automatically listed
 - Based on violence risk assessment
- Develop a violence prevention policy with workers – (10 must haves!)



Roles & Responsibilities

Everyone has a role to play:

- Employer
- Supervisor / Manager
- Health and Safety Committee
- Worker



True or False

- Employers must develop the workplace violence prevention policy.
- Workers can be disciplined for not following violence prevention policy.
- Employer is not allowed to disclose any personal information regarding clients who may pose risk.
- The H&S committee investigates incidents of violence.
- The worker is obliged to seek counseling.
- Violent incidents must be reported to WSH.
- The H&S committee must prepare an annual report of violent incidents.
- Workers should be included in assessing the workplace for violence.

Prevention is Key

Spot the Hazard

Assess the Risk

Find a Safer Way

Everyday



Legal Requirements

Worker Rights

1. Right to Know
2. Right to Participate
3. Right to Refuse
4. Protection from Discriminatory Action

Visit Our New Website Today!

safemanitoba.com



[Visit: safemanitoba.com](http://safemanitoba.com)