



# Workplace Harassment Prevention Guide

April, 2023

**WorkplaceNL**

Health | Safety | Compensation

## Preventing Workplace

# HARASSMENT

### Glossary of Terms

**Balance of Probabilities:** The standard of proof that has to be reached, which is less than complete certainty and means that something is more likely than not to have happened.

**Complainant:** A person who lodges a complaint. In this case, the complaint is of workplace harassment.

**Credibility:** The quality of being convincing or believable. A harassment investigator must assess the credibility of evidence and parties involved.

**Harassment:** Inappropriate vexatious conduct or comment by a person to a worker that the person knew or ought to have known would cause the worker to be humiliated, offended or intimidated.

**Impartial:** Treating all disputants equally, making decisions based on objective criteria, rather than based on bias or prejudice.

**Investigator - In-house:** An investigator that works for the same organization as the complainant.

**Investigator - External:** An investigator that may work for the same organization as the complainant but who is so far removed from the work unit of the complainant and respondent that the investigator can be considered to be a third party and objective. Alternatively, an investigator who works for a completely external, third party organization outside of the complainant's employer.

**Procedural Fairness:** Includes the right to be heard, the right to be treated without bias, the right to be informed of allegations being made and to be provided with an opportunity to respond to them, and the right to information regarding the status of the complaint.

**Respondent:** A person who is called upon to issue a response to a complaint made by another (in this case the complainant). In the case of harassment allegations, the respondent (i.e. the alleged harasser) is the person(s) who is accused of having engaged in harassing behaviour.

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## Introduction

Sections 22 – 24.2 of the Newfoundland and Labrador OHS Regulations require a workplace violence risk assessment to be performed and a Harassment Prevention Plan to be developed, implemented and maintained. Harassment is a form of violence, and left unaddressed, these behaviours can escalate and become more violent in nature. The violence risk assessment takes into account factors that may lead to increased likelihood of workplace harassment. More information on the workplace violence risk assessment can be found in the [Workplace Violence Risk Assessment Process Guide](#).

Workplace harassment is defined in the OHS Regulations, Section 22(2), as “inappropriate, vexatious conduct or comment by a person to a worker that the person knew or ought to have known would cause the worker to be humiliated, offended or intimidated.”

It can take place at work or in a situation connected to work; can happen repeatedly (i.e. pattern of behaviour) or only once (i.e. single incident); be intended or unintended; and can be written, verbal, physical, a gesture or display, or any combination of these. It can include electronic messages to a person or social media posts.

### Examples of harassing behaviour may include:

- Unwelcome conduct, comments, gestures or contact which causes offense or humiliation.

- Misusing power or authority.
- Referring to a person using terms or pronouns that do not align with the person’s affirmed gender.
- Physical or psychological bullying which creates fear or mistrust, or which ridicules or devalues the individual.
- Excluding, intimidating or isolating individuals.
- Making inappropriate gestures or comments.
- Making inappropriate sexual advances.
- Discriminating based on gender or other personal characteristics.
- Cyberbullying, such as posting offensive or intimidating messages through social media or email.
- Deliberately setting the individual up to fail.

### **Reasonable and fair actions taken by an employer or supervisor, in a respectful manner, to manage and direct workers is NOT harassment. Examples of this include:**

- Changing work assignments.
- Scheduling, assessing and evaluating work performance.
- Inspecting workplaces.
- Implementing health and safety measures.
- Taking disciplinary action, such as dismissing, suspending, demoting, or reprimanding with just cause.

### **Section 24.1 of the OHS Regulations requires every provincially regulated workplace to develop, implement and maintain a Harassment Prevention Plan.**

## Harassment Prevention Plan

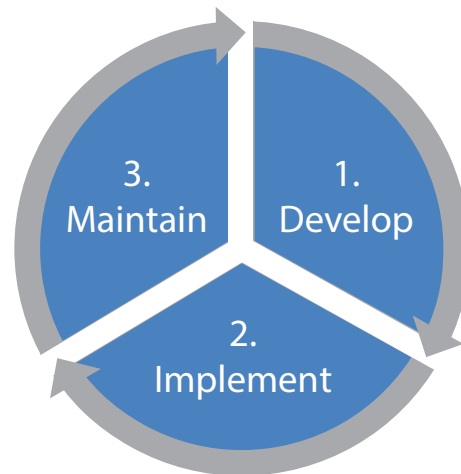
The Harassment Prevention Plan (the Plan) consists of a harassment prevention policy (statements), as well as harassment prevention procedures. Several statements and procedures are prescribed by the OHS Regulations and at a minimum, these must be included in the Plan. Employers must develop, implement and maintain the Plan in consultation with the occupational health and safety committee, worker health and safety representative or workplace health and safety designate. The purpose of the Plan is to make it clear to all employees that harassment is not acceptable. It should provide clear direction to any worker who wishes to report harassment (the complainant) about an alleged harasser (the respondent).

The Plan must state the commitment and obligations of the employer, supervisor and workers and outline the process and procedures for dealing with a harassment complaint. These procedures include:

- Reporting harassment/making a complaint of harassment.
- Investigating complaints.
- Notifying those involved of the results of investigations and any actions to be taken.

The following guide will help you develop, implement and maintain the minimum requirements of a workplace harassment prevention plan. As every workplace is unique, plans will vary and more details may need to be added to any section to better address an organization's specific approach.

### Harassment Prevention Plan Process



### 1. Develop a Harassment Prevention Plan

#### The Policy: Start with the law

This section of the Plan includes the definition of harassment and a brief overview of Sections 22 – 24.2 of the OHS Regulations.

Include the prescribed statements from the OHS Regulations directly in the Policy.

Ensure that the Plan is dated, so that annual review and maintenance requirements can be met and audited.

**Include the statement that every worker is entitled to a harassment-free workplace**

**Include a statement of employer's commitment**

- The employer is committed to eliminating, where possible, or otherwise minimizing, the hazard of workplace harassment.

**Include a statement of supervisor's obligations**

- The supervisor is obligated to ensure the health and safety of workers, as well as to apply and comply with the Harassment Prevention Plan.

### **Include a statement of workers' obligations**

- Workers are obligated to take reasonable care to not engage in bullying or workplace harassment, report observations or experiences of bullying and workplace harassment and comply with the Harassment Prevention plan.

"Workers" includes all persons engaged in an occupation with the employer, including staff, supervisors, managers and owners.

### **Include a statement of confidentiality and workers' rights under various laws**

- Any information obtained relating to a claim of workplace harassment, including personal information, will not be disclosed unless it is necessary for the purpose of an investigation, corrective action relating to the complaint or where required by law.
- The employer's Harassment Prevention Plan is not intended to discourage a worker from exercising his or her rights under the Human Rights Act, 2010, the Criminal Code (Canada) or any other law of the province or of Canada.

### **Include a statement of protection and support**

- The employer shall protect workers from retaliation and provide support to workers when workplace harassment occurs.

Expand on any of the statements in the Plan to add context, e.g. provide examples of the support, which your organization can provide. Add any other statements as needed to suit your organization, to set the tone and to declare commitments, as appropriate.

If the word "supervisor" is not used in your organization, substitute it for the word which is used instead, e.g. "lead hand", to make it specific to your organization.

## **The Procedures**

### **Develop reporting procedures for making a complaint**

Workers who believe they are being harassed, or who have observed harassment in their workplace, need to know what to do when making a complaint. This can be a stressful time and having clear and simple directions to follow will help to reduce stress for both the complainant and respondent. Procedures must be developed for reporting complaints of harassment to the employer. The employer should identify the specific person(s), position, or department within the organization that receives complaints of harassment. An external third party must be identified for the complainant to contact when the respondent (alleged harasser) is the employer or supervisor.

Include clear contact information for the external third party, and a brief procedure for reporting to them, where necessary.

Employers are encouraged to make appropriate arrangements with their external contact such that their role and expectations are well established and understood in advance.

Timelines for reporting should be outlined (e.g. report as soon as possible). It is recommended that harassment be reported as soon as possible, but no later than 12 months after the most recent incident.

Complaints of harassment may also be dealt with on an informal basis between the complainant and the respondent, if they feel it is safe to do so. They may also choose to have their manager or supervisor approach the respondent to notify them that their behaviour is unwelcome.

A Workplace Harassment Report Form should be developed to ensure all relevant information is collected (See page 11 for a sample). A sample Report Form should be included in the Plan, including direction on where one can be located for use as needed.

### Develop procedures to investigate a complaint

When a formal complaint of workplace harassment is made, the employer must ensure that an investigation appropriate in the circumstances is conducted. The investigation begins once a complaint of harassment has been received by the employer or supervisor, or the external third party if the respondent is the employer or supervisor. (See page 13 for investigation guidelines).

Consideration should be given to the training and background of anyone in-house who is assigned the task of investigating complaints of harassment. It is not recommended to perform harassment investigations without at least a basic knowledge of how they should be performed, as some complaints of harassment are complex and require an experienced investigator.

### An investigation procedure outlines:

- The purpose of the investigation and how it will be investigated.
- The person who conducts the investigation.
- The information that is collected, including:
  - o Names
  - o Date of the complaint
  - o Details of the incident(s)
  - o Names of witnesses and information gathered from them
  - o Notes from interviews and meetings
  - o Associated documents or evidence
  - o Actions taken as a result of the incident or complaint and investigation

### It is important that the procedure references:

- Confidentiality requirements in accordance with the legislation.
- Timelines for responding to a harassment complaint.
- Timelines for completion of the process as determined by the employer.
- The need to document actions in the file, reasons for any delays (where outlined timelines cannot be met), and the projected new date of completion.
- Workers' obligation to consult with the collective agreements for further direction, as required.



**Timeline Example:** Timelines may vary depending on an organization's needs. The following is an example only and the employer is required to develop their own timeline.



- When a complaint is received by the organization or the external third party, a meeting will be scheduled with the complainant within five days to begin the investigation process.



- Interviews with the complainant, the respondent and any witnesses will be conducted to confirm the details of the alleged harassment within 15 days.
- A summary of the investigation findings will be made available to the complainant and the respondent within 10 days after the completion of the investigation.



- Both parties will have 14 days to respond to the report. After this time period has expired, corrective actions may be taken.

Where this timeline cannot be met, reasons for the delay and the projected new date of completion must be documented for the file. Notice of the delay will be provided to the complainant and the respondent.

## Develop procedures for notification

When the investigation is finished, a report shall be written detailing the findings of the investigation and the individuals involved must be notified of the results. The report must state whether each of the complainant's allegations were founded or unfounded. The allegations must also be considered as a whole, as a possible pattern of behaviour.

The employer must develop a procedure for how the parties will be notified of the outcome of the investigation, and any actions to be taken as a result of the investigation. The procedure can include the specifics of how the parties will be informed of the investigation results, what information will be provided and to whom.

## Outline corrective actions

If it is confirmed that harassment has taken place, there must be corrective actions put in place for the individual(s) who has been found to have engaged in workplace harassment. The employer is responsible for deciding on which corrective actions should be used. This is not a recommendation which is usually made by the investigator.

Examples of corrective actions may include:

- Education and training in:
  - o Conflict resolution
  - o Assertiveness
  - o Internal Harassment Prevention Plan and procedures
  - o Respectful workplace
- Reprimand
- Suspension
- Termination

Any corrective action taken should be done in accordance with the disciplinary procedures of the organization.

## Outline support for workers

This may include: employee assistance program (EAP), debriefing, and peer-to-peer support.

## Outline requirements for documentation and record keeping

The employer must maintain accurate records of the information collected relating to harassment reports and investigations.

This information should be kept in a secure location and access limited to the person responsible for managing complaints of harassment. This will vary depending on the structure of the organization.

## Protection of privacy

An external third party provider engaged in the investigation process must maintain confidentiality and follow documentation and record keeping practices of the employer, on behalf of the employer, and according to privacy requirements.





## 2. Implement a Harassment Prevention Plan

Implementing the Plan means putting it into action and ensuring outlined procedures are followed. The Plan must be available at all times to all workers as a paper or electronic copy (see page 18 for sample).

Implementing the Plan includes training, communication and enforcement.

### Train everyone

Everyone must participate in training relating to harassment prevention in general and training specifically on their workplace's Harassment Prevention Plan.

It is the employer's responsibility to ensure that training meets the requirements under the OHS legislation. General harassment prevention training may include:

- Harassment – definition and types
- Respectful and professional behaviour

For additional information on training requirements, please see the document "[Harassment Prevention Education: OHS Requirements](#)" available on the WorkplaceNL website.

Training must include details of the Harassment Prevention Plan specific to the workplace, including:

- Roles and responsibilities.
- Procedures for how to report harassment, investigating harassment and notification of results.
- Where the plan is located.
- Where forms and other relevant documentation is located, etc.
- Confidentiality and privacy.

Providing a copy of the Harassment Prevention Plan for someone to read and sign off on is not considered training.

Employers must train managers and supervisors in their specific roles and responsibilities in harassment prevention.

If an organization plans to appoint someone in-house to perform harassment investigations, they should receive training in the organization's harassment prevention plan and how to follow it effectively to perform their role.

Harassment prevention education could also be included in other training sessions, such as management training, orientation programs for new workers, courses for labour-management committees, social skills training for workers, safety shares.

### Communicate the plan

Employers should ensure regular communication of the Plan to all workers and supervisors. This could be achieved through:

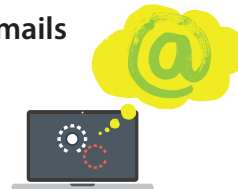
#### Orientation or information sessions



#### Staff meetings



#### Emails



#### Videos



#### Posters and brochures



## Enforce corrective actions

Ensure that corrective actions which were identified following an investigation are implemented and documented. In addition, follow-up on corrective actions in a timely manner to ensure they are effective and working as intended. If the harassment continues, further action is necessary.



## 3. Maintain a Harassment Prevention Plan

The employer is required to review and revise the Plan as necessary, but at least annually, to ensure it is effective. This review determines if procedures are sufficient and if there are any shortcomings or gaps that need updating.

This review may include:

- Requesting feedback from managers and workers.
- Being open to, and encouraging worker feedback and comments.
- Reviewing the number of complaints made in the previous year, their nature, and how they were dealt with to identify trends or indications of successes or challenges.
- Conducting exit interviews with personnel leaving the organization.
- Contacting the external third party to ensure that the arrangements with them are still current and effective, and to ask for feedback on experiences to date.
- Adjusting policy and procedures as needed.

There may be circumstances where a Plan must be reviewed and updated before the annual review is due. Whenever any changes are made to the Plan they should be communicated to all workers.



## SAMPLE - HARASSMENT COMPLAINT REPORT FORM

This form may be completed to report alleged harassment which has been experienced or observed in the workplace.

Complainant information	
Name:	Department:
Position Title:	Contact information:

Respondent Information	
Name:	Department:
Position Title:	Contact information:

Description of the Complaint
<p><b>Please describe, in as much detail as possible, the alleged incident(s) or patterns of behaviour in the harassment complaint. Attach additional sheets if required.</b></p> <p><b>Please include:</b></p> <ul style="list-style-type: none"><li>• Who was involved?</li><li>• What was specifically said or done (words, tone, actions, etc.)?</li><li>• When did the behaviour begin?</li><li>• When did it happen (dates and times)?</li><li>• Where did it happen?</li><li>• Were there any witnesses to the incident(s) (name and contact information, if possible)?</li><li>• How did it impact you?</li></ul> <p>If it was previously reported to management, please provide the following details:</p> <ul style="list-style-type: none"><li>○ Name of manager/supervisor.</li><li>○ Date and time of report.</li><li>○ Actions taken by management.</li><li>○ Other relevant details.</li></ul>
<p style="text-align: center; font-size: 48px; opacity: 0.5; transform: rotate(-30deg);">SAMPLE</p>

**Temporary measures**

Do you believe the employer needs to take any immediate action (temporary measures) to prevent harassment from continuing while the incident is under investigation?

Yes\_\_\_\_\_ No\_\_\_\_\_

If yes, please describe what temporary measures you think are necessary and how they will help.

SAMPLE

**Long term measures**

Are there any long term measures that you believe would help to improve the situation?  
(If yes, please describe)

**When completed, send to:**  
**(Insert the department and name of person to whom the report should be submitted).**

## Guidelines for Investigations (sample)

### Starting the investigation

Once a complaint or allegation of harassment is received, the investigator should plan a meeting to review and listen to the complainant's concerns. The investigator must then document those concerns. If a report form was used, add information to it as appropriate with the complainant. If no report form was used, the complaint must be recorded in writing with the help of the investigator.

This will allow everyone involved to be clear about the details of the allegation.

### Once the allegations are documented, it is important to establish if the conduct in question meets the definition of harassment.

If the investigator determines that the conduct does not meet the definition, the complainant must be informed of the decision and advised that there will be no further action on the matter under the Harassment Prevention Plan. Such complaints however, at the discretion of the employer, could be subject to further attention outside of the scope of the Harassment Prevention Plan.

If the investigator determines that the conduct in question does meet the definition of harassment, it must be determined if any immediate action is required (temporary measures) to protect the complainant or other persons from further harassment, reprisal or retaliation while they wait for the investigation and resolution of the complaint.

### Preparation for the investigation process may include:

- Creating a list of persons to be interviewed (e.g. complainant(s), respondent(s), witnesses, supervisor, others with relevant information).
- Reviewing documents or other evidence (e.g. video surveillance, graphics, pictures) related to the complaint.
- Creating a list of other evidence needed and not yet obtained.
- Creating a list of interview questions.



### Interview basics

- Interviews should be conducted individually in a private area.
- Review the investigation process with each person being interviewed (interviewee). Inform them of the steps in the investigation and the steps which the company will be taking.
- Inform them why they are being interviewed, what will be done with the information and who may receive a copy. It is important to remind all interviewees that confidentiality must be maintained.
- Ask for any information the interviewee may have. Ask them to give as much detail as possible. Inform the interviewee that you are looking for facts. If they are unsure about a matter, they should say so.
- At the end of the interview, review the information gathered with each interviewee. This will help to confirm the accuracy of the information gathered and allow for the interviewee to add any additional information.



Respondents are entitled to be informed of all allegations made against them and are allowed to defend against these allegations. This does not mean they are entitled to see or receive copies of statements. However, they are entitled to see or receive a summary of the evidence.

### Documenting the interview

- Whenever possible, have the interviewee document their information (e.g. details of events). The investigator can ask for more details during the interview, and may take notes during the interview as well.
- All notes must be legible and written in blue or black pen. If a mistake is made, cross it out with one line and initial.
- Include the following information in the notes:
  - o Name of person being interviewed
  - o Date and time of the interview
  - o Who was present for the interview
  - o Questions asked and the corresponding answers
- Ask the interviewee to sign and date the documented statement once complete.
- Attach all interview documents or notes to the final report.

### Whom to interview:

The complainant(s), the respondent(s) and any relevant witnesses should be interviewed.



Character witnesses are not considered witnesses.

### The interview:

- Follow the steps outlined in “interview basics”.
- Ask the interviewee to provide detailed information about the incident(s), according to their own observations. Inform the interviewee that the interview is not meant to find information which the interviewee has received from someone else (i.e. hearsay). Remind the interviewee that where they do not have a factual answer for a question, they should say so.
- Ask for the names of any other potential witnesses that the interviewee believes should be interviewed as part of the investigation, and why.

### Questions to ask include:

- o When did the conduct occur? How often did it occur?
- o Where did the conduct occur?
- o Who was involved?
- o Who did and said what to whom?
- o What is the relationship between the complainant and respondent?
- o Was there an isolated incident, or is there a pattern of behaviour?
- o Was there a pattern of similar behaviour witnessed towards other worker(s)?



- o What (if anything) did the complainant say or do to indicate to the respondent that the conduct was unwelcome?
- o Did the interviewee make any notes about what happened?
- o Ask for the names of any other potential witnesses that the interviewee believes should be interviewed as part of the investigation, and why.

### 1. Interview the complainant

- Inform the complainant that the respondent will be provided with a summary of the allegations, for their review and response.
- Provide the names of those who will receive information about the allegation, the names of those who will be interviewed and the steps to be taken once the investigation is concluded.
- Ask the complainant to tell you in detail about the incident(s) (as outlined in “The interview”).

Ask the complainant the following additional questions as well:

- What are the complainant’s current interactions with the respondent?
- How did the complainant feel about the behaviour at the time it occurred? How did the complainant respond to the behaviour?
- Did the complainant tell any other workers or supervisors about what happened. If not, why not?
- Were there any witnesses? If so, what are their names?

- What action(s) would the complainant consider to be reasonable to resolve the matter.
- Explore any time lapse that might exist between the alleged act of harassment and reporting it to the employer.

### 2. Interview the respondent

- Explain the allegation(s) in detail and confirm that the organization takes these types of complaints seriously.
- Provide the names of those who will receive information about the allegation, the names of those who will be interviewed and the steps to be taken once the investigation is concluded.
- Obtain the respondent’s reply to the allegation(s). The response should be obtained in writing in a timely manner (either during the interview or soon thereafter).
- Ask the respondent to provide detail about the incident(s) (as outlined in “The interview”).

Ask the respondent the following additional questions as well:

- o Did the complainant(s) initiate or participate in any inappropriate discussions, jokes, gestures.
- o Did complainant(s) ever object to any of the respondent’s actions, and how did they respond to the objection?

- Ask the respondent why they believe the complainant has made the complaint (e.g. any motives to fabricate the story?).
- Ask for the names of all witnesses the respondent believes should be interviewed as part of the investigation.
- Explain that the organization will not permit any retaliation against the complainant and that if the respondent, or another person, tries to do so, there will be disciplinary action.

### 3. Interview witnesses

- Using the questions from “Questions to ask an interviewee”, ask the witness to explain what they heard or saw. Get the details.

### The Investigation Report

The headings and layout of workplace harassment investigation reports vary, however they should all contain the same minimum information. The following is one suggested layout for an investigation report, with the minimum information that should be included in any report. Detailed information such as copies of the allegations or other documents should be included in Annexes, and referenced in the report itself.

#### Begin with the following information

- Investigation date (could be a range, e.g. Dec 1, 2020 to Dec 18, 2020).
- Name of the investigator(s) (whether in-house or external, include the investigator’s organization, and their position held in the organization).

- Name of the organization initiating or requesting the investigation.
- Name of the Complainant(s).
- Name of the Respondent(s).
- Overview of the allegations (very brief description of the type of harassment, as well as date or range of dates, location etc). A more detailed description will be included in the next section.

#### In the body of the report, the following information should be included

- Introduction (describe what prompted the investigation).
- A detailed description of the allegations.
- The full mandate as provided by the organization (or whatever mandate/ scope was provided) to the investigator.
- An outline of the investigation process including information such as:
  - o Name of the complainant(s), location and date of the interview(s).
  - o Name, title and organization of any person accompanying the complainant or respondent (where applicable).
  - o Name of the respondent(s), location and date of the interview(s).
  - o Name, title and organization of the person accompanying the respondent where applicable, and
  - o Names, titles and organizations of the witnesses (if any).
  - o The definition of harassment being referenced (i.e. NL OHS Regulations definition).



This section clearly and concisely outlines what steps were taken by the investigator to obtain information, what types of evidence was obtained and reviewed (e.g. company policies, training records, photographs), and timelines for actions taken throughout the investigation.

A **“Finding of Facts”** includes comments on credibility and information that substantiates the investigator’s findings.

An **“Analysis”** brings together all of the relevant evidence and facts identified for analysis.

It is important to describe how the analysis was made. Each allegation must be identified and analyzed separately, and they must then also be considered as a whole, to establish whether there is a pattern of repetitive harassing behaviour over time.

A **“Conclusion”** is based upon the analysis in the preceding section. Except in rare cases, a result of “Inconclusive” is not an acceptable conclusion.

This section should clearly state:

- a) Whether the alleged behaviour does or does not constitute “harassment”.
- b) Whether on the balance of probabilities, the evidence does (or does not) support the allegation(s) that the behaviour took place (i.e. the allegations are “founded” or “unfounded”).
- c) Whether a breach of the organization’s Harassment Prevention Plan has, or has not, taken place.

**Recommendations** (as per the mandate provided to the investigator) may or may not be provided in the report.

Once the report is completed, the employer has the responsibility to decide on the corrective actions to be taken, based on the conclusion of the investigation. The organization’s disciplinary procedures, or the Plan can be followed.

**The investigator’s final report should include their printed name and signature, and the date of the report.**

### **Sources:**

- SAFE Work Manitoba
- Government of Alberta (Occupational Health and Safety)
- Government of Newfoundland and Labrador

# HARASSMENT

Sample Prevention Plan

**WorkplaceNL**

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# Sample Harassment Prevention Plan

The following example of a Harassment Prevention Plan will provide basic practical guidance on developing a plan for your workplace. It includes minimum requirements and other suggested information. Your plan can be more robust. The document should be clearly dated.

**Be sure to add, remove or change information as needed to make the sample specific to your needs.**

Harassment Prevention Plan for: \_\_\_\_\_ **Company Name** \_\_\_\_\_

Implementation date: \_\_\_\_\_ **Insert Date** \_\_\_\_\_

Management at \_\_\_\_\_ **Company Name** \_\_\_\_\_ is committed to providing a safe, respectful and harassment free work environment for all staff and customers. No one has the right to harass anyone, at work or in any situation related to employment with this organization.

## Definitions

**Complainant:** A person who lodges a complaint. In this case, the complaint is of workplace harassment.

**Respondent:** A person who is called upon to issue a response to a complaint made by another (in this case the complainant). In the case of harassment allegations, the respondent (i.e. "alleged harasser") is the person(s) who is accused of having engaged in harassing behaviour.

**Worker:** All persons engaged in an occupation with the employer, including staff, supervisors, managers and owners.

**Impartial:** Treating everyone equally, making decisions based on objective criteria, rather than based on bias or prejudice.

**Harassment:** Inappropriate vexatious conduct or comment by a person to a worker that the person knew or ought to have known would cause the worker to be humiliated, offended or intimidated.

**Procedural Fairness:** Includes the right to be heard, the right to be treated without bias, the right to be informed of allegations being made and to be provided with an opportunity to respond to them, and the right to information regarding the status of the complaint.

## What is harassment?

Harassment can take place at work or in a situation connected to work; typically a pattern of behaviour that can happen repeatedly or only once; be intended or unintended; and can be written, verbal, physical, a gesture or display, or any combination of these. It can include electronic messages to a person or social media posts. Examples of harassing behaviour include:

- Unwelcome conduct, comments, gestures or contact which causes offense or humiliation.
- Misusing power or authority.
- Referring to a person using terms or pronouns that do not align with the person's affirmed gender.
- Physical or psychological bullying which creates fear or mistrust, or which ridicules or devalues the individual.
- Excluding, intimidating or isolating individuals.
- Making inappropriate gestures or comments.
- Making inappropriate sexual advances.
- Discriminating based on gender or any other personal characteristic.
- Cyberbullying, such as posting offensive or intimidating messages through social media or email.
- Deliberately setting the individual up to fail.

Reasonable and fair actions taken by an employer or supervisor, in a respectful manner, to manage and direct workers is NOT harassment. Examples of this include:

- Changing work assignments.
- Scheduling, assessing and evaluating work performance.
- Inspecting workplaces.
- Implementing health and safety measures.
- Taking disciplinary action such as dismissing, suspending, demoting, or reprimanding with just cause.

Section 24.1 of the OHS Regulations requires every workplace to develop, implement and maintain a harassment prevention plan.

## Everyone's rights and responsibilities

Everyone at the workplace (including all levels of management) are entitled to work free of harassment at \_\_\_\_\_ **Company Name** \_\_\_\_\_.

Everyone has the responsibility to treat each other with respect and not engage in bullying or workplace harassment. Anyone who experiences harassment or sees another person harassed is expected to report it to \_\_\_\_\_ **Individual Name/Position** \_\_\_\_\_.

Everyone in the organization is responsible to:

- Not engage in bullying or workplace harassment
- Report observations or experiences of bullying or harassment
- Participate in education and training
- Comply with the prevention plan and associated procedures

## Employer/Supervisor responsibilities

Management at \_\_\_\_\_ **Company Name** \_\_\_\_\_ is committed to eliminating where possible, or otherwise, minimizing the hazard of workplace harassment.

In addition to the basic rights and responsibilities outlined above, managers and supervisors are responsible for a healthy and safe work environment, free of harassment.

The employer, supervisors and managers are required to apply and comply with the harassment prevention plan and associated procedures.

Reported incidents of workplace harassment will be investigated in accordance with the procedure outlined in this harassment prevention plan.

\_\_\_\_\_ **Company Name** \_\_\_\_\_ will protect workers from retaliation and provide support to workers when workplace harassment occurs \_\_\_\_\_

\_\_\_\_\_ **Insert example(s) of support which your organization could provide** \_\_\_\_\_

## Confidentiality and Workers' rights under various laws

The company and its managers will not identify a complainant, a respondent, or any circumstances about a complaint, including personal information, to anyone, unless, it is necessary:

- For the purpose of the investigation
- For corrective action relating to the complaint
- Where required by law

This plan is not intended to discourage a worker from exercising their rights under the Human Rights Act, 2010, the Criminal Code (Canada) or any other law of the province or of Canada.

### The prohibited grounds for discrimination as outlined in the Human Rights Act, 2010 includes:

- Race
- Colour
- Nationality
- Ethnic origin
- Social origin
- Religious creed
- Religion
- Disability or disfigurement
- Age
- Sex (including pregnancy)
- Sexual orientation
- Gender identity
- Gender expression
- Marital status
- Family status
- Source of income
- Political opinion
- Conviction for an offence (employment only)
- Association with people who have certain personal characteristics

Harassment that is not considered discrimination under one of the prohibited grounds according to Human Rights, is still prohibited at the workplace.

## Reporting procedures

If you believe you are being harassed, tell the person harassing you to stop, if it is safe and you feel comfortable to do so. You can do this in person or in writing. If you cannot deal with them directly, or if your request is unsuccessful, continue to follow this procedure for reporting harassment.

Make a formal complaint of harassment following these steps:

- A) Complete the Harassment Report Form (Appendix A - sample) which can be obtained from/at Fill in location of the form for your organization
- B) Report the incident or situation to Identify a specific manager or designated person for harassment complaints with the completed Report Form. If you are unable to use the Report Form, make your complaint verbally to the designated person, who will provide assistance to complete the report form.

## Reporting Harassment by the Employer/Supervisor

Report the incident or situation to Specific name of an individual or company that will be the external third party for reporting harassment

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### Using the following process:

- A) Contact the external third party Include specific contact information here such as telephone number and / or email address
- B) Provide the external third party with the harassment complaint either verbally by phone or by emailing the Report Form.
- C) You can expect a response from the external party either by phone or email within Insert number working days of having received the complaint.

Incidents of harassment should be reported as soon as possible, but no later than 12 months after the most recent incident.

## Investigation

The purpose of an investigation is to gather additional information related to the reported harassment and to determine whether or not harassment has occurred. All workplace harassment investigations must incorporate procedural fairness. It respects and provides for the rights of parties involved in the harassment investigation process.

Once the complaint has been received, it will be investigated thoroughly and promptly by Identify investigator name or department within the following timelines:

- When a complaint is received by the designated person or the external third party, a meeting will be scheduled with the complainant within five days to begin the investigation process.
- The allegations will be clarified and documented, and a determination will be made as to whether the conduct in question meets the definition of harassment.
- Interviews with the complainant, the alleged harasser and any witnesses will be conducted to confirm the details of the alleged harassment within Insert number days.
- The investigator must collect and review any relevant documents and evidence (e.g. video, photos, emails).

- The investigation will be completed within           **Insert number**           days of receipt of the complaint.

Where this timeline cannot be met, reasons for the delay and the projected new date of completion must be documented for the file. Notice of the delay must be provided to the complainant and the respondent.

**Notification of results**

- A summary of the results of the investigation will be available in writing to the complainant and respondent within           **Insert number of days**           days from the conclusion of the investigation.
- Both parties will have           **Insert number of days**           days to respond to the report. After this time period has expired, corrective actions may be taken.

The complainant and respondent will be informed in writing of the corrective actions to be taken, while adhering to applicable privacy or other requirements.

**Corrective action**

Employees who harass another person will be subject to corrective action by the employer. Corrective actions may include:

- **Identify a range of possible corrective actions here**

**Support for workers**

Employees who have been affected by workplace harassment may be supported through:

- **Identify supports available here**

**Education and training**

  **Company Name**   commits to making sure all of its employees, supervisors and managers are trained in harassment prevention and the company’s harassment prevention plan.

**Monitoring**

  **Identify position in the organization responsible for monitoring**   will ensure the monitoring of the plan, by reviewing it at least annually, or more often when needed and make adjustments where necessary.

The           **OHS Committee / Representative / Designate (please select the one applicable to your workplace)**           will be involved in the review process. If you have any concerns with this plan, please bring them to the attention of   **Identify the appropriate manager**  

Title    Signature   

Date of Signature   

Note: The Harassment Prevention Plan must be signed by the highest ranking official either in the organization or locally.

## Harassment prevention plan

Occupational Health and Safety Legislation outlines the requirements for employers to develop, implement and maintain a written harassment prevention plan. This plan includes the obligations of workers, supervisors, and employers to prevent and address bullying and harassment.



Workplace harassment means inappropriate vexatious conduct or comment by a person to a worker that the person knew or ought to have known would cause the worker to be humiliated, offended or intimidated.

For additional information, please refer to WorkplaceNL Harassment Prevention Guide

### Contact us

WorkplaceNL t 1.800.563.9000 w [workplacnl.ca](http://workplacnl.ca)

## Checklist of Duties

### Workers must

- Not engage in bullying and harassment
- Report observations or experiences of bullying and workplace harassment
- Comply with the employer's harassment prevention plan
- Participate in training

### Supervisors must

- Not engage in bullying and harassment
- Ensure the health and safety of workers
- Apply and comply with the employer's harassment prevention plan
- Participate in training

### Employers must

- Not engage in bullying and harassment
- Develop a harassment prevention plan in consultation with OHS Committee, Representative, or Designate
- Take steps to eliminate or minimize the hazard of workplace harassment
- Develop and implement procedures for reporting instances of harassment
- Develop and implement procedures for reporting harassment by management to an external, third party
- Develop and implement procedures for investigating complaints of harassment
- Protect workers from retaliation and provide support when workplace harassment occurs
- Set out procedures for notification of investigation results and any corrective actions
- Participate in harassment prevention training
- Train employees in harassment prevention and the harassment prevention plan
- Make the Harassment Prevention Plan available at all times.
- Review the Harassment Prevention Plan as necessary but at least annually, and revise.



# Quick facts:

The role of Digital Government and Service NL Occupational Health and Safety Officers in workplace violence and harassment is to:

1. Assess the employer's compliance with the Occupational Health and Safety (OHS) Act and Regulations during inspections, including workplace violence and harassment provisions
2. Require the production of documents and to speak to employees individually
3. Follow up with an employer to ensure the employer is compliant with the legislation

The employer is responsible for investigating complaints of harassment. OHS Officers do NOT investigate harassment itself, however they do enforce the employer's obligations to investigate or have an external party investigate complaints of harassment.

## When to call Digital Government and Service NL

The Newfoundland and Labrador OHS Regulations include workplace harassment prevention requirements.

Employers shall develop, implement and maintain a written harassment prevention plan in consultation with the OHS committee, worker representative or workplace health and safety designate, participate in harassment prevention training and provide the training to employees.

The harassment prevention plan must include:

- Procedures for workers to report observations or experiences of workplace bullying and harassment.
- Procedures to follow after a complaint of workplace harassment is received and the manner in which the complaint is investigated.



The employer is responsible for ensuring that allegations are investigated. This can be performed by the employer internally, however, procedures for accessing an external third-party must be developed. This addresses instances where the employer or supervisor is the alleged harasser. The cost of the third-party investigation is the responsibility of the employer.

If you believe an employer has not complied with the OHS legislation, you can contact an OHS Officer by calling **709.729.2706** or **1.800.563.5471**

### Contact us

WorkplaceNL t 1.800.563.9000 w [workplacnl.ca](http://workplacnl.ca)

**WorkplaceNL**

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# Workplace Violence and Harassment Due Diligence CHECKLIST

## Conduct a Workplace Violence Risk Assessment

### Consider:

- Previous experience in the workplace
- Occupational experience in similar workplaces
- The location and circumstances in which work may take place
- Workplace characteristics including demographics, culture and the presence of new workers
- Issues raised by the occupational health and safety committee, or the worker health and safety representative/designate
- Personal information will be kept confidential and shall not be disclosed except for the purpose of an investigation or where required by law

## Develop and Implement a Harassment Prevention Plan

### Include:

- Every worker is entitled to employment free from workplace harassment
- Employer is committed to eliminating, where possible, or otherwise, minimizing the hazard of workplace harassment
- Worker's obligation to take reasonable care to not engage in bullying or workplace harassment, report observations or experiences of bullying and workplace harassment, and comply with the harassment prevention plan

- Supervisor's obligation to ensure the health and safety of workers, including the supervisor's obligation to apply and comply with the harassment prevention plan
- A statement that any information obtained relating to workplace harassment, including personal information, will not be disclosed unless it is necessary for the purpose of an investigation, corrective action relating to the complaint or where required by law
- Procedures for reporting, investigation and notification of results
  - Procedures for workers to report instances of harassment to an employer or supervisor or where the employer or supervisor is the alleged harasser, the procedures to report harassment to an external third party
  - Procedures to be followed after a complaint of workplace harassment is received and the manner in which a complaint is investigated. An employer shall investigate complaints of workplace harassment
  - Procedures regarding notification of results of investigations and any actions to be taken as a result of an investigation
- A statement that the harassment prevention plan is not intended to discourage a worker from exercising his or her rights under the Human Rights Act, 2010, the Criminal Code (Canada) or any other law of the province or of Canada
- Include a statement that the employer shall protect workers from retaliation and provide support to workers when workplace harassment occurs
- Training on harassment prevention and the harassment prevention plan

### The harassment prevention plan shall be:

- Accessible to all workers in the workplace
- Reviewed as necessary, but at least annually

## Contact us

WorkplaceNL t 1.800.563.9000 w [workplacenl.ca](http://workplacenl.ca)

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# WorkplaceNL

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## St. John's Office

146-148 Forest Road, P.O. Box 9000, St. John's, NL A1A 3B8

t 709.778.1000 f 709.738.1714 tf 1.800.563.9000

## Grand Falls-Windsor Office

26 High Street, P.O. Box 850, Grand Falls-Windsor, NL A2A 2P7

t 709.489.1600 f 709.489.1616 tf 1.800.563.3448

## Corner Brook Office

Suite 201B, Millbrook Mall, 2 Herald Avenue, P.O. Box 474, Corner Brook, NL A2H 6E6

t 709.637.2700 f 709.639.1018 tf 1.800.563.2772

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