



**AFOA CANADA**

*Building a Community of Professionals*

## **PART 2**

# **RESPONDING TO CLAIMS**

*Of Harassment or  
Lateral Violence*

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## DISCLAIMER

**Each province or territory has its own guidelines and regulations in its respective employment standards legislation. This tool offers an overview of the general guidelines for common leave provisions, and you can check the specific regulations for your jurisdiction (province/territory/federal)**

## RESPONDING TO INAPPROPRIATE BEHAVIOUR


Keep in mind the four (4) overarching values that support and uphold wellness from (Part 1) Workplace Violence and Harassment-Setting the Stage: Respect, Wisdom, Responsibility, and Relationships. Your role as leadership, or as an HR professional, is to facilitate a report or claim through the policy and process, with the goal of positive resolution and restoration as an outcome. Your policy should include an initial step in the process that encourages the complainant (the person feeling harassed or violated) to identify their experience to the alleged harasser (respondent), as the respondent may not be aware that their actions are affecting someone in this manner. If the complainant does not feel confident, or even safe to do this, you must address the complaint through an investigation in accordance with your policy and procedure. Remember, this process is intended to understand the root of the issue and identify whether the act(s) meet the threshold of harassment, as defined by the legislation. The process may otherwise find that the act(s) in question are a violation of policy, or may identify a personal conflict that requires attention for resolution and restoration. An investigation may be triggered by a variety of factors that affect interpersonal and professional relationships in the workplace.

## RELATIONAL IMPACTS OF REPORTING WORKPLACE HARASSMENT OR VIOLENCE

Reporting incidents of harassment, bullying, or lateral violence can cause a lot of anxiety for people, mostly due to “the unknown” aftermath. The act of harassment can be very harmful to one’s wellness, and the act of reporting, can wield just as much anxiety and struggle. Inevitably, there will be hurt feelings and relationships will need repair. Defining clear pathways of what to expect after a report is made, including the intent of the investigation process, potential meetings or interviews that may take place, timelines, resources for parties to reach out to, and employee rights, can help those who are struggling with making the report. It can also provide reassurance of consistent and fair practice for the person being accused.

## HOW A WORKPLACE INVESTIGATION IS CONDUCTED

Workplace health and safety legislation requires that an employer investigate any complaint of harassment in the workplace. The investigation is often triggered by a complaint, or if the employer becomes aware that harassment may be taking place based on observation and experience with employees, or perhaps an anonymous tip, the employer is obligated to do its due diligence to protect workers from harm (including harassment) by conducting an investigation. The investigation must be appropriate to the circumstances, which vary in complexity but must always be thorough, fair, and timely.



Your Workplace Violence and Harassment Prevention policy(ies) should include a step-by-step process of how a workplace investigation will be conducted. This would be a useful tool for both managers and employees to ensure a clear understanding of the process, roles, responsibilities, and expectations if a report is made. It also contributes to relieving that “unknown” for the person making the report, and for anyone facing a claim against them, who will undoubtedly also be experiencing a great deal of anxiety. Furthermore, it contributes to fair and consistent application of the policy for all. But how do you know what to do, or where to start? Use this guide below to help you build your process for workplace investigations.

- STEP 1** A complaint is made. This may be in writing, verbally, or by observation.
- STEP 2** The investigator (should be someone trained in workplace investigation) will speak with the complainant, and the respondent(the person alleged to be harassing)separately, where the investigator will collect the names of any witnesses, request any documentation (emails, texts, etc), and record all pertinent details of the incident(s) in question. Advise the involved parties that the investigation is to remain confidential, and the involved parties shall not speak to anyone about it.
- STEP 3** If deemed warranted, the investigator will arrange to interview witnesses privately and confidentially. If there are many witnesses, you may wish to shorten your list to those who will be able to provide you with the most information to be able to make an informed finding of facts.
- STEP 4** The investigator will review the information gathered from all interviews and materials provided, assess it against the legislative definition of workplace harassment, as well as internal policies for contravention, and determine whether there is merit to the complaint of harassment, or other policy violations or personal conflict.
- STEP 5** The investigator will make a report of findings and recommendations to the employer. In many cases, the report does not have to be a formal, lengthy undertaking. However, in more complicated situations it may be necessary. The employer will make decisions about any corrective action to be taken, which may be harassment training, restorative work to deal with the fallout of the investigation, or other methods of repair to be able to acknowledge what happened, and rebuild relationships to work together positively and productively.

## HOW TO REPORT AN INCIDENT

Employees may find it difficult to express how an action/joke/comment or interaction has affected them on an emotional or spiritual level. It is important to provide a clear and concise report form to probe relevant information from the reporting party and help them to articulate their experience. It may include examples of identifying harassing behaviour and how to articulate feelings of being harassed, excluded, belittled, or otherwise. These examples should also identify all the components of a formal complaint to help put words to difficult situations that can be hard to define.



## SETTING HEALTHY BOUNDARIES

It is important for employees to feel empowered to speak up to their peers, or supervisors when they feel uncomfortable in the workplace because of someone else's behaviour, or commentary. Part of your training should include material to help employees identify boundaries for themselves, and even provide helpful scripts to which they may refer to help them share these boundaries with their coworkers when they feel the need. Recognizing that working in community often means working alongside extended family or respected community members, and the relationships outside of the workplace are intertwined with relationships inside the workplace. Creating safe spaces for employees to share concerns with you as a leader, or HR professional is vital to workplace and individual wellness.

## WHAT HAPPENS WHEN YOU REPORT

**Reporting harassment in the workplace can have several positive consequences:**

- 1 ENSURING A SAFE WORKPLACE**  
When employees report incidents of harassment, it promotes an environment where they feel secure, valued, and respected.
- 2 PREVENTING ESCALATION**  
Timely reporting prevents harassment from escalating by addressing issues promptly.
- 3 DEMONSTRATING ACCOUNTABILITY**  
Organizations that demonstrate commitment to accountability from their leadership, reinforce a culture of fairness and trust.
- 4 PROVIDING SUPPORT RESOURCE**  
Investing in external resources, such as private therapists or Employee Assistance Programs, helps victims cope with the emotional impact of harassment.

Remember that addressing workplace harassment is essential not only for legal compliance but also for fostering a positive workplace culture and supporting employee well-being. Encouraging reporting and taking appropriate action can lead to a more equitable and inclusive work environment.



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