

Taking the Work Out of Bill 168

Key Tasks to Complete Before June 15th

At first glance, implementing Bill 168 in the workplace may seem like an overwhelming task. When you break down the duties, however, you will see there is a very commonsense approach for employers to protect their workers from all forms of workplace violence. Below we have outlined the key steps to follow:

1. Conduct a risk assessment:

The legislation requires employers carry out a risk assessment of the workplace. Work with your Joint Health and Safety Committee, managers, employees and other key stakeholders to assess the risks in your workplace and any offsite locations. Simply put, consider what you do, and how you do it, and ask if this can expose any of your employees to the threat of violence.

2. Prepare Your Program:

Following the assessment, the legislation requires that you create a Workplace Violence Prevention Program that addresses both workplace violence and harassment. The program should address:

- How you will control the risks identified during the assessment
- Emergency contact information

- How employees will be able to report incidents or threats in the workplace to an employer or supervisor
- How claims will be investigated
- Details of your training program for employees

3. Post Policies and Conduct

Training: Bill 168 requires that written policies for both workplace violence and workplace harassment be posted in the workplace. You are also required to have contact numbers in place for immediate assistance if someone feels they are in a situation of threatened violence. (Please note: If your workplace consists of five or fewer employees, the policies do not have to be posted. This is found in Section 32.01(3) of the legislation).

4. Training: Proper training is essential. A policy and procedure is only as good as the training behind it. Be sure to include an emergency contact list in employee training. Employers should also identify how often instruction or training will take place – For all new hires? On a

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regular basis? When the policies and procedures change? When new risks become apparent? These are just some of the questions to consider.

5. Reassess and Monitor: In addition to the initial assessment, Bill 168 requires ongoing monitoring and assessment of the risks of violence and harassment. We recommend you establish a protocol for reassessment, perhaps annually.

We can help you through these steps, and are happy to answer any questions you might have. Please contact your Cowan consultant for more information.

Addressing Domestic Violence

Domestic violence is specifically mentioned in Bill 168 as a risk to workplace safety. "Domestic violence may put the targeted worker at risk, and may also pose a threat to co-workers," says the website for the Ontario Ministry of Labour.

The legislation requires that employers take "reasonable precautions" to protect workers from domestic violence in the workplace. They must also be prepared to investigate any reports by concerned employees who feel that the domestic violence may enter the workplace.

How to Manage the Risks

So, as an employer you have done your risk assessments, put your workplace violence and harassment policies in place, and trained all of your employees. You have a competent person for employees to contact when at risk, and someone of the same level of competence leading the investigations.

You then find that you have an employee that has a tendency to act violently, or an employee is being abused by their partner at home, or you have a manager that has been abusing an employee. Where do you go from here?

It is an unfortunate reality these days, but as health and disability management specialists, Cowan receives several calls from Human Resource professionals, employees, supervisors and managers about threats of violence in the workplace.

In any situation, it is important to identify the threat and react quickly. Below we have provided some recommendations on actions to take

in a variety of situations. This is the same advice and action that we would follow when helping a client.

Key Steps

1. If there is a perceived or a questionable threat of violence or aggression in the workplace, our recommendation is to inform the employee that their behavior is unacceptable. An investigation should occur immediately.
2. When there is an actual verbal or physical threat or act of violence, we encourage employers to send the employee home (by taxi or with a family member) to remove the threat from the workplace. When appropriate, police should be called. While some employers may find it daunting to call the police on one of their own employees, this deals with the immediate threat, and ensures the safety of the rest of the employees.
3. In cases where actual violence has occurred to someone in the workplace, or domestic violence has occurred to someone in the workplace, Cowan

recommends a Critical Incident Stress Debriefing (CISD). These types of situations have a profound impact on coworkers. Professionals go on site and meet with employees as a group.

We have had a lot of success with CISD sessions in allowing employees to discuss their reactions to critical and unexpected events. It gives your employees a forum to vent, discusses normal reactions, and gives resources if ongoing reactions occur.

Returning to Work

So what happens when an employee who acted violently is off of work? A note from their doctor stating they can return may not be sufficient. The employee should be referred to an objective medical professional for assistance and follow up. The appropriate steps need to be followed to assess the employee, as the priority is the safety of all employees. The employer has a responsibility to provide a safe work environment for their employees.

Within 24 to 48 hours after receiving a report of violence, it is important to assess the needs of the employee in order to refer him/her to the appropriate medical professionals. This can range from a psychiatric referral, to a referral to their existing medical professional.

If you do not have a medical department on site, a third party health and wellness provider, such as Cowan, can help with this. Cowan can also help with the full range of workplace violence and harassment issues, and can link employees with an Employee Assistance Program.

Give your workplace the support it needs, to not only be proactive in this area, but to have a reactive process in place.

Did You Know...

Workplace violence means:

- The exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker
- An attempt to exercise physical force against a worker, in a workplace, that could cause physical injury to the worker
- 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.

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.

Workplace harassment may include bullying, intimidating or offensive jokes or innuendos, displaying or circulating offensive pictures or materials, or offensive or intimidating phone calls.

Source: Ontario Ministry of Labour

Bill 168 – A Timeline

On November 12, 2005, nurse Lori Dupont, 36, arrived for her shift at the Hotel-Dieu Grace Hospital. Ex-boyfriend, Dr. Marc Daniel, a 50-year-old anesthesiologist, was also working that day. Their volatile relationship had ended in early 2005, after which Daniel attempted suicide and was admitted to Hotel-Dieu's psychiatric ward. This would be their first shift working together since that suicide attempt.

In a report in the Windsor Star, it says that on that day, Dupont began to prepare the receiving bays in the post-anesthetic care unit. To get to the supplies of syringes, suction catheters and other medical items, she had to pass two supporting pillars in the middle of the recovery room.

As she passed the second pillar, Daniel jumped out and began to stab her with a military-style dagger. In just seconds, he stabbed her seven times. Daniel ran off, leaving the weapon sticking out of her body. Dozens of doctors and nurses attempted to save her, but the knife had cut her heart and almost severed her aorta. A few hours later, police found Daniel dead in his car near the Detroit River. He had died of a self-administered drug overdose.

The Inquiry

Following Dupont's killing, hospital administrators admitted to knowing that Daniel had been stalking Dupont and harassing her, according to the CBC. They were also aware of his suicide attempt.

A coroner's inquest into Dupont's murder was held in 2007. Among its 26 recommendations were that Ontario's Occupational Health and Safety Act (OHSA), which protects workers against health and safety hazards on the job, be expanded to include harassment and abuse as grounds to refuse to work.

The Registered Nurses' Association of Ontario also called on the federal and provincial governments in December 2008 to enact and enforce legislation promoting a violence-free workplace, says a CBC report.

In April 2009, the Ontario government introduced Bill 168, which amends the OHSA to define workplace violence and harassment, and describe employer duties. The bill was passed by the Ontario legislature on December 9, 2009, and will come into effect on June 15, 2010.

Key Duties of Bill 168

- Prepare and post policies
- Assess the risks of violence
- Re-assess the risks of violence
- Implement a workplace violence prevention program
- Address domestic violence
- Consider disclosing persons with a history of violence
- Review work refusal policy
- Establish a clear procedure for reporting and recording of incidents



Website Links

Protecting Workers From Workplace Violence and Workplace Harassment:

www.labour.gov.on.ca/english/hs/sawo/pubs/fs_workplaceviolence.php

Workplace Violence and Harassment:

Understanding the Law: www.labour.gov.on.ca/english/hs/pubs/wpvh/

Health and Safety:

www.labour.gov.on.ca/english/hs/

Backgrounder on Bill 168:

news.ontario.ca/mol/en/2009/12/protecting-people-at-work.html

WSIB Resources: Prevention of Workplace Violence

www.wsib.on.ca/wsib/wsibsite.nsf/public/ViolencePreventionResources#checklists

ABC's - 26 Tips for Maintaining a Safe Workplace

Appoint a staff member to lead the implementation of Bill 168 to ensure that all of the requirements are met. Don't assume a requirement has been met.

Be aware of your responsibilities under Ontario's Human Rights Code and privacy legislation (ie. PIPEDA) when you are developing your violence and harassment policies and program. If in doubt, contact your lawyer.

Check in with employees that work in the field by using established periodic contact procedures. Don't forget about your mobile workers. Their safety is your responsibility.

Develop a checklist for the requirements of Bill 168. Tick off the boxes as each one is completed.

Entrances that allow non-employees access to your workplace need to be locked from the outside. Instruct employees to keep them locked at all times. Propping open doors should not be allowed.

For compliance with the Act, your policies need to be in written form and "posted in a conspicuous place in the workplace".

Give your employees the training they require to keep them safe. Don't forget to include employees who work alone, work off-site, travel, etc. They may require different forms of training, i.e. staying safe in hotel rooms, airports, on client premises, etc.

How often employee training should take place depends on whether or not the risks within the workplace have changed. Train your employees as soon as new risks emerge or changes are made to your policies and program. If there are no changes, then implement a training schedule on a regular basis.

Include all workers in the development of your policies and procedures. If they have input they will take ownership.

Joint health and safety committees should be consulted in the development of workplace violence and harassment policies and programs. Remember – they have the same powers and responsibilities for violence and harassment as they do for other occupational hazards.

Keep in mind that "workplace" includes all places where your employees are directed or paid to visit.

Legal counsel should be consulted regarding the type of personal information that should and should not be disclosed to employees regarding a co-worker.

Make sure all of your workers understand your policies and procedures and their obligations under them.

Never ignore a worker's concern. Investigate and record all complaints.

Organize or ask your employees to organize a "buddy system" especially those employees who work after hours.

Policies for workplace violence and harassment must be reviewed annually according to Section 32.0.1 of the Act.

Question anyone that you don't recognize in your workplace.

Recognizing the warning signs of potential violence should be included in your training program. Most employees don't know what they are.

Security devices such as external cameras, card key access systems, panic-bar doors locked from the outside, etc. can make your premises safer.

There's no need to reinvent the wheel when developing your policies. There are many templates out there. Use them as your starting point.

Use community resources to help educate staff, i.e. your local police.

Visibility and lighting are important environmental design considerations that can make your premises safer for your employees.

Workplace violence incident reports should be analyzed to determine patterns and emerging risks. These are valuable risk management documents.

Xamine your workplace and identify "safe areas" where workers can go if they feel threatened. Make sure these areas are accessible by all employees and have communications capabilities.

Your workplace assessment should be specific to each of your locations. Your locations have both common and unique risks. Know them and address them.

Zero tolerance for workplace violence and harassment will minimize the risks.



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