

WORKPLACE BULLYING: WHAT EMPLOYERS NEED TO KNOW

12 April 2017

Today, April 12, marks the International Day of Pink - a day for communities across Canada and around the world to come together, wear pink and take a strong stance against all forms of bullying and discrimination, particularly against the LGBTQ community.

It's therefore an opportune time to examine the issues surrounding bullying in the workplace, and what employers are legally obligated to do to prevent harassment and respond to complaints.

Bullying isn't just something that happens on the school playground. It also has major impacts in the workplace, including significant turnover, reduced productivity and increased disability claims. The toll on employees is even more significant, including increased incidences of mental health and cardiac conditions. According to the Workplace Bullying Institute, approximately 81% of U.S. employers do nothing to address workplace bullying.

This isn't an option for workplaces in Canada, where employers are obligated under law to prevent harassment and respond to complaints of harassment promptly and efficiently.

Ontario was one of the first jurisdictions in the world to make discrimination and harassment on the basis of sexual orientation (2000) and gender identity and expression (2012) illegal. In addition, the Ontario Occupational Health and Safety Act ("OHSA") requires robust anti-harassment measures in the workplace.

For example, OHSA requires that employers have a Workplace Harassment Policy and Program. The Ontario law details specific requirements for workplace Policy. For more information, consult our recent article on [how to ensure compliance with Ontario's workplace harassment laws](#).

Most importantly, employers are expected to train all levels of employees about what types of behaviours can constitute harassment and bullying, how to make a complaint and how the employer will investigate. Companies who ignore the law face stiff penalties.

Recently, the Federal Force Protection Agency was assessed a fine of \$70,000 arising from its failure to comply with numerous orders, all relating to the workplace harassment and violence requirements of the Occupational Health and Safety Act.

In Merrifield v. The Attorney General, the Ontario Superior Court awarded \$100,000 for damages relating to harassment and intentional infliction of mental suffering. The allegations related to a pattern of bullying conversations, innuendo, unwarranted internal investigations and delayed promotions that devastated Peter Merrifield, who had previously been seen as a stellar performer.

On the Day of Pink, corporate Canada has a chance to stand in solidarity with the LGBTQ community against homophobic and transphobic bullying. It's also the perfect time to look at your workplace culture and reinforce the message that bullying and harassment on any grounds should never be tolerated.

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