

Workplace Harassment and Violence Framework

Executives will be well aware of the new [*TB Directive on Workplace Harassment and Violence*](#) following the Bill C-65 amendment to the [*Canada Labour Code*](#) and the coming into force of the new [*Work Place Harassment and Violence Regulations*](#) on January 1st, 2021. The Regulations and supporting TB Directive bring significant changes to how the Government of Canada prevents and resolves harassment issues, and reinforces its commitment to safe and respectful workplaces for all.

All federal workplaces are working on rolling out risk assessments, implementing preventive measures, mandatory training, as well as information and resources for all employees. At APEX, our core mandate is to support the public service executive community, and the Association is now identified explicitly in the new TB Workplace Harassment and Violence Directive as a support resource for executives.

In collaboration with TBS-OCHRO and ESDC, APEX has developed a **reference document for executives** with the essential facts of the new Workplace Harassment and Violence framework.

- The new framework focuses on **three main pillars** – and managers are accountable for each of these:
 - preventing incidents of harassment and violence from occurring;
 - responding effectively to these incidents when they do occur; and
 - supporting victims, survivors and employers in the process.
- The Canada Labour Code also contains the definition of workplace harassment and violence: “... means any action, conduct or comment, including of a sexual nature, that can reasonably be expected to cause offence, humiliation or other physical or psychological injury or illness to an employee, including any prescribed action, conduct or comment.”
- Executives – and all managers – are expected to be proactive in maintaining a respectful, harassment-free workplace and in preventing harassment and bullying from occurring. Responsive actions alone will not be sufficient.
- The obligation to respond effectively to harassment or violence occurrences is absolute, and managers will have a 7 day window to follow the steps set out in the

Regulations once a notice of an occurrence of harassment and violence has been received.

- In a significant change from the past, parties to a harassment or violence complaint must now make a reasonable effort to resolve the issue through an informal resolution process, such as, but not limited to, informal conflict mediation systems (ICMS). It is only if this process does not succeed, that the matter may move to either formal conciliation or an investigation.
- Investigations will focus on identifying factors in the workplace that contributed to harassment or violence and preventing reoccurrences; and recommendations will focus on the organization more broadly. There is no individual remedy or outcome from the process. Nonetheless, the delegated authority may still take corrective and preventive measures that they deem appropriate outside of the harassment and violence process, in the event individuals involved have violated the Values and Ethics Code or displayed inappropriate behaviours.
- Executives must take mandatory training determined by their respective organization, and should ensure their staff have done so as well. All managers should ensure they are familiar with all of the resources and tools at their disposal, including the role of the Ombuds or its equivalent (where applicable), how to access informal conflict management services, the use of Employee Assistance Program, and the support offered via bargaining agents for represented employees, or the APEX Advisory Service for Executives ([ASE](#)). Managers may also benefit from training on how to handle difficult conversations and related topics such as mental health, discrimination, values and ethics.
- Executives should also be aware of evolving accountabilities in their Performance Management Agreements.
- The new framework also allows for the possible application of administrative monetary penalties for organizations or individuals who fail to adhere to their obligations, under the new part IV of the Canada Labour Code. While this may be exceptional, executives can refer to the [Gazette](#) posting for more information on these provisions.

All executives should note that the new framework applies equally if an executive wishes to bring forward a workplace harassment or violence complaint on their own behalf. Executives have the same right to a safe and respectful workplace, and to have their complaints addressed in a fair and timely manner by senior management.

We want to remind all executives that the APEX Advisory Service for Executives ([ASE](#)) is a confidential, independent service that offers advice and support to all government executives, free of charge. Contact the ASE at johannel@apex.gc.ca or at 613.992.5592.

Essential resources:

TB Policy Instruments:

- [Directive on the Prevention and Resolution of Workplace Harassment and Violence – Canada.ca \(tbs-sct.gc.ca\)](#)

ESDC-Labour Program Guidance:

- Tools and Resources: [Requirements for employers to prevent harassment and violence in federally regulated workplaces – Canada.ca](#)
- Interpretation Policy Guideline (IPG) [Work place harassment and violence prevention \(HVP\) – 943-1-IPG-104](#)
- National Joint Council-Service-Wide Committee on Occupational Health and Safety (SWOHS) – [Guidance Material to Support the New Workplace Harassment and Violence Prevention Regulations 2021-1](#)
 - [*Investigator Qualification Assessment Tool](#)
 - [*Statement of Work for Investigators Template](#)