

Sexual Harassment Policies in the Era of #MeToo

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Why Hollywood, politicians and your business have more in common than you think

Right now, the daily news is filled with the latest allegations of sexual harassment by well-known people. And, while the #MeToo movement has certainly shed the light on just how pervasive this behaviour is in the entertainment and political spheres, it can also strike a lot closer to us, in workplaces of all sizes right here in Alberta.

Sexual harassment in the workplace can be very costly, and not just as a number on a spreadsheet. A toxic work culture lowers morale, reducing productivity and increasing turnover. And, should it become public knowledge that your company has dealt poorly with a complaint, you can lose in the court of public opinion too, driving customers away and damaging your brand.

If you haven't already considered this issue, it's wise to do so now. In a 2017 Government of Canada online survey, 30% of respondents reported experiencing sexual harassment at work.^[1] You can reduce your risk by promoting a positive work culture, educating employees on harassment, communicating the policies you have in place and clearly outlining the procedures for dealing with complaints.

Defining Sexual Harassment: What does the Law Say?

The Alberta Human Rights Commission defines sexual harassment as:

“any unwelcome sexual behaviour that adversely affects, or threatens to affect, directly or indirectly, a person's job security, working conditions or prospects for promotion or earnings; or prevents a person from getting a job, living accommodations or any kind of public service.

Sexual harassment is unwanted, often coercive, sexual behaviour directed by one person toward another. It is emotionally abusive and creates an unhealthy, unproductive atmosphere in the workplace. Sexual harassment is usually an attempt by one person to exert power over another person. It can be perpetrated by a supervisor, a co-worker, a landlord or a service provider.”

The Commission goes on to state that sexual harassment can range from leering or suggestive remarks to unwanted physical contact to demands for sexual favours and physical assault.

Alberta employers have an obligation to keep employees, customers and clients safe from harassment. They are also required to follow up on a complaint of sexual harassment. And finally, when investigating, they have a duty to conduct a fair investigation and not rush to judgement.

Proactive Strategies to Prevent Sexual Harassment in your Workplace

Start by **educating your staff**. Make sure they understand what constitutes sexual harassment, not just with a definition, but by providing concrete examples. You can find these online at the [Alberta Human Rights Commission](#). Include this training for all new hires, re-train employees on a regular basis and post information about sexual harassment in places where it is easily seen by everyone on staff. This will help employees identify the behaviour and encourage them to report and support their colleagues if they witness an issue.

Lead by example. Ensure that company leadership takes sexual harassment and abuse of power issues seriously and communicate this to the staff. Your leadership sets the tone. Make sure that it's clear that your company does not tolerate harassment of any kind.

Have a policy in place. Clearly explain the behaviour that's inappropriate—at the office, at work related events, such as holiday parties, and off-site while performing work related tasks. Outline the steps that you will take if someone makes a complaint, and the consequences for employees that break the rules. Finally, make sure that people know who to speak to if they encounter sexual harassment.

Managing Complaints: A Compassionate, Fair and Balanced Response

Take all complaints seriously. Know that it is difficult for an employee to come forward with a complaint and they may fear negative repercussions. Notify the alleged harasser about the complaint as soon as possible and give him/her the opportunity to respond to the complaint. As you investigate allegations, document the meetings and conversations you have with the complainant and the alleged harasser.

You may also consider conducting an independent investigation. Few managers are experienced at investigating complaints, and both employees may feel more comfortable with this process. This approach may also reduce your risk should the issue or the response to it wind up in court.

Needless to say, sexual harassment in the workplace is a complicated subject and you'll want to take positive steps to approach it appropriately for your business and your staff. The [employment law group](#) at Duncan Craig LLP is here to help employers proactively plan and deliver policies, training and communication programs and advise on the steps to take should a complaint be made.

[Ron Smith](#) and [Tara Matheson](#)

[1] Harassment and sexual violence in the workplace consultations – what we heard 2017
[Government of Canada](#)

