

## Member's Quarterly

Winter 2019 Edition

## Feature

## New OHS Legislation in Alberta: More Obligations for Employers

*Time to update your Harassment Policy*

**A**s previously reported, Alberta's new OHS legislation places new obligations upon employers. One of the more significant changes affecting all employers is the express recognition of "harassment" as a workplace hazard, and the requirement for employers to protect their employees from harassment under OHS legislation. While employers have always been the primary party responsible for ensuring the health and safety of workers, this now specifically includes the requirement to protect not only their physical, but also their psychological and social well-being.

In general terms, this means that employers and supervisors must ensure workers are not subject to, and do not participate in, violence or harassment at the work site. More specifically, Part 27 of the OHS Code has now been revamped to require employers to take the following steps to prevent workplace violence and harassment:

**Address** both violence and harassment as potential "hazards" when carrying out hazard assessments and implementing measures to eliminate or control those hazards, as required by Part 2 of the OHS Code;

**Develop** and implement violence and harassment prevention plans (consisting of prevention policies and procedures) in consultation with their joint work site health and safety committee, health and safety representative or affected workers, as applicable;

**Ensure** that their violence and harassment prevention policies include, among other things, statements outlining that the employer:

- is committed to eliminating (where reasonably practicable) and controlling these hazards;
- will investigate and take corrective action to address any incidents of violence and harassment; and
- will not disclose personal information relating to incidents of violence and harassment (except where necessary to investigate, take corrective action or inform the parties involved of the results of the investigation into an incident, or to inform workers of a threat of violence or potential violence);

**Ensure** that their violence and harassment prevention procedures include, among other things:

- measures the employer will take to eliminate or control the hazard of violence;
- information about the nature and extent of the hazard of violence (including information related to threats of violence or potential violence), and the procedures to be followed by the employer when disclosing this information;
- the procedure to be followed by workers to obtain immediate assistance when an incident of violence occurs;
- the procedure to be followed by workers when reporting violence or harassment;
- the procedure to be followed by the employer when documenting, investigating and implementing corrective measures to address incidents of violence or harassment;
- the procedure to be followed by the employer when informing the parties involved of the results of an investigation and any corrective action taken;



**Tom Ross**  
LL.B.  
Partner,  
McLennan Ross LLP



**James Lingwood**  
LL.B.  
Associate,  
McLennan Ross LLP

## Member's Quarterly

Winter 2019 Edition

### Feature continued

**Provide** training to workers with respect to recognizing, preventing and responding to violence and harassment;

**Review** (in consultation with their joint work site health and safety committee, health and safety representative or affected workers, as applicable) and update their violence and harassment prevention plans:

- each time an incident occurs;
- when their joint work site health and safety committee or health and safety representative (if applicable) recommends a review; and
- at a minimum, once every three years;

**Advise** workers who have reported an injury or adverse symptom resulting from an incident of violence or harassment to consult with a health professional (of the worker's choosing) for treatment or referral, and if necessary provide workers with paid time off to attend such a consultation session; and

**Take** reasonable precautions to protect persons at the worksite against domestic violence (if aware that a worker is or is likely to be exposed to domestic violence at a work site).

These are only some of the key responsibilities of employers in addressing workplace violence and harassment under Alberta's newly revised OHS legislation. Employers will need to carefully review their existing policies and procedures (in consultation with their joint work site health and safety committee, health and safety representative or affected workers, as applicable) and make the necessary revisions to ensure compliance with Alberta's new OHS Act and revised OHS Code. Where appropriate, legal guidance should be considered in this process.

*Tom Ross (Partner) and James Lingwood (Associate) practice Employment Law at McLennan Ross LLP. Tom Ross can be reached via email at [tross@mross.com](mailto:tross@mross.com).*