


**Business
PATHWAYS**

Foundational Strategies for
Managing Bullying and
Harassment in Your Practice

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Workshop Plan

- Recognizing the Symptoms
- Legal Framework
 - WorkSafeBC – Bullying & Harassment
 - BC Human Rights Code - Discrimination
- When a report of B&H or Discrimination is made
- Investigations
- Alternative Dispute Resolution
- Other Processes
- Q&A



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Symptoms

- Inappropriate behaviour
- Unmanaged emotion
- Aggression, escalation, arguments
- Avoidance, tension, shutting down
- Microaggressions
- Biased behaviour
- Fear, shame, loss of confidence
- Gossip, chatter, rumours, shunning
- Communication breakdown
- Sick calls, turnover
- Complaints



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Legal Framework

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WorkSafeBC: Bullying & Harassment Definition

Bullying and harassment is:

- any inappropriate conduct or comment
- by a person
- towards a worker(s)
- that the person knew or reasonably ought to have known
- would cause that worker to be humiliated or intimidated

Excludes: reasonable action by supervisor or manager to manage and direct workers

Examine situation carefully, taking into account all the facts and context

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WorkSafeBC: Bullying & Harassment Definition

Examples:

- verbal aggression or insults; calling someone derogatory names
- vandalizing personal belongings
- sabotaging someone's work
- spreading malicious gossip or rumours
- harmful hazing or initiation practices
- physical or verbal threats
- personal attacks on someone's private life and/or personal traits
- aggressive or threatening gestures
- patterns of targeted social isolation

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WorkSafeBC: Bullying & Harassment Definition

Bullying & Harassment is Not:

- expressing differences of opinion
- offering constructive feedback, guidance, advice about work-related behaviour and performance
- making a legitimate complaint about someone's conduct through established procedures

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WorkSafeBC Employer Obligations: Reasonable Steps to Prevent or Minimize B&H

- **policy statement:** workplace B&H not acceptable or tolerated
- **take steps** to prevent or minimize B&H
- **reporting** procedures
- **procedures** for how employer will deal with B&H incidents/complaints and framework for investigations
- **inform workers** of the policy and above steps taken
- **train supervisors and workers** on:
 - recognizing potential for B&H
 - responding to B&H
 - procedures for reporting, and how the employer will deal with incidents/complaints of B&H
- **annual review** of policies and procedures
- **not engaging in B&H** of workers and supervisors
- **applying and complying** with policies and procedures on B&H

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WorkSafeBC: Employer Must

Develop and implement procedures for how employer will deal with incidents/complaints of workplace B&H including:

- how and when investigations conducted
- what included in investigation
- roles and responsibilities of employers, supervisors, workers & others
- follow-up to the investigation (corrective actions, timeframe, dealing with adverse symptoms, etc.)
- record keeping requirements

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WorkSafeBC: Workers' Duties

Worker's obligation to take reasonable care to protect the health and safety of themselves or others includes:

- **not engaging** in B&H of other workers, supervisors, employer or persons acting on behalf of the employer
- **reporting** if B&H observed or experienced in workplace
- **applying and complying** with employer's policies and procedures on B&H

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BC Human Rights Code 15 Protected Characteristics

- Indigenous identity
- race
- colour
- ancestry
- place of origin
- political belief
- religion
- marital status
- family status
- physical or mental disability
- sex
- sexual orientation
- gender identity or expression
- age
- convicted of a criminal or summary conviction offence unrelated to the person's employment or intended employment

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BC Human Rights Code: Discrimination in Employment

- **A person must not**
 - refuse to employ or refuse to continue to employ a person, or
 - discriminate against a person regarding employment or any term or condition of employment
- Because of the [protected characteristics] of that person.
- Except if with respect to a refusal, limitation, specification or preference based on a *bona fide occupational requirement*

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HR Code: Discriminatory Harassment

- Conduct that has a **negative effect on the complainant regarding their employment including harassment based on a personal characteristic that negatively affects the work environment or leads to negative job-related consequences**
- **Usually repeated** conduct is required. **One negative comment** not usually discriminatory harassment, unless egregious comment that negatively affected the work environment
- **One comment may be** discrimination depending on circumstances, such as:
 - nature of the comment (how bad is it?)
 - nature of the relationship between the involved parties
 - context in which the comment was made
 - whether apology offered
 - whether or not the recipient of the comment was a member of a group historically discriminated against

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HR Code: What is Discrimination?

prima facie discrimination:

- characteristic protected from discrimination under the *Code*;
- experienced an adverse impact regarding their employment; and
- protected characteristic was a *factor* in the adverse impact.

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HR Code: What is Discrimination?

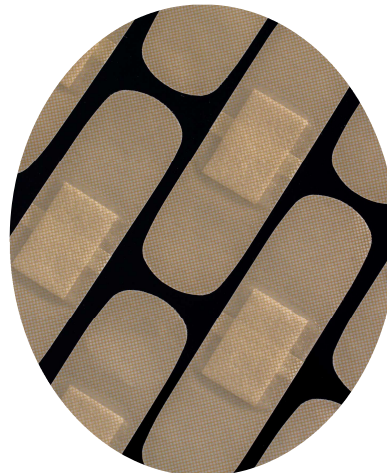
- Once test for *prima facie* discrimination met, burden shifts to respondent to justify the conduct or practice
- **Not relevant:**
 - Evidence Respondent didn't intend to discrimination or harass
 - Evidence Respondent is a person of good character
- If the protected characteristic remains even a partial factor in the conduct, the explanation does not justify the conduct
- If it cannot be justified, discrimination will be found to occur

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When Reported

- Recognize and identify it
- Take steps according to policy and procedures:
 - Gather basic facts
 - Assess whether could meet definitions of B&H or Discrimination
 - Confidential, timely, trauma-informed, impartial
 - Review procedural options to **"deal with"** per policy/procedures:
 - Investigation
 - Alternative Dispute Resolution
 - Other Process



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Investigation

- Take seriously
- Procedurally fair:
 - Clear allegations; Opportunity to respond meaningfully
 - Separate interviews of parties and witnesses
 - Gather and review relevant records and information
- Recordkeeping
- Written findings/report addressing:
 - Did the alleged conduct occur?
 - Does it meet elements of B&H or discrimination
- Follow up:
 - Communicate outcome to parties
 - Remedial steps (discipline, corrective action, restoration, training, etc.)



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Alternative Dispute Resolution

- Instead of investigation **or** post-investigation
- Confidential, voluntary, impartial
- Transparent, clear, structured process e.g. mediation, restorative circle
- *Potential goals:* sharing impact; insight & understanding; apology; relationship restoration; rules of engagement
- When suitable
- When not suitable



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Other Processes

- 1:1 Coaching: Education / behaviour-change
- Workplace Review / Environmental Scan
- Education and training
- Group facilitation
- Team charter/norm-setting
- Role clarification
- Setting expectations



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Resources

- [WorkSafeBC - Bullying & Harassment tools](https://www.worksafebc.com/en/health-safety/hazards-exposures/bullying-harassment): <https://www.worksafebc.com/en/health-safety/hazards-exposures/bullying-harassment>
- [BC Human Rights Tribunal - Human rights and duties in employment](https://www.bchrt.bc.ca/human-rights-duties/employment/): <https://www.bchrt.bc.ca/human-rights-duties/employment/>
- [Association of Workplace Investigators: Directory Search](https://www.awi.org/search/custom.asp?id=4717): <https://www.awi.org/search/custom.asp?id=4717>
- [The art of managing emotions during conflict \(C. Knapp\)](https://www.doctorsofbc.ca/business-corner/art-managing-emotions-during-conflict): <https://www.doctorsofbc.ca/business-corner/art-managing-emotions-during-conflict>
- [Recording - Conflict resolution foundations \(C. Knapp\)](https://www.doctorsofbc.ca/business-corner/recorded-webinar-now-available-conflict-resolution-foundations): <https://www.doctorsofbc.ca/business-corner/recorded-webinar-now-available-conflict-resolution-foundations>

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Thank you

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