

Targeting Workplace Bullies

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The first anti-bullying law in North America came into effect on June 1, 2004. Quebec has amended its Labour Standards Act to deal with psychological harassment in the workplace.

The new Quebec law defines psychological harassment as: "any vexatious behaviour in the form of repeated and hostile or unwanted conduct, verbal comments, actions or gestures that affect an employee's dignity or psychological or physical integrity and that results in a harmful work environment for the employee."

According to the Commission des normes du travail, surveys show up to one in 10 Quebec workers has been the subject of harmful bullying, intimidation or belittlement by a boss or co-worker. Officials emphasize that they want to prevent rather than prosecute. Systems are in place to settle most claims by negotiation.

A similar amendment has been proposed to the Canada Labour Code, which applies to all federal government employees. The Workplace Psychological Harassment Prevention Act would impose fines of up to \$10,000 for hostile, inappropriate and unwanted conduct, verbal comments or gestures . . ." as well as "any abuse of authority, including intimidation, threats, blackmail or coercion." When the June 2004 election was called, the bill died.

Laws Against Bullies

In April, 1999, a bullied worker went on a shooting rampage at OC Transpo in Ottawa, leaving five people dead. The coroner's inquest into that tragedy recommended that federal and provincial governments enact legislation to prevent workplace violence, and that employers develop policies to address violence and harassment. In January 2001, the Canada Safety Council urged jurisdictions across Canada to act on the recommendations of that inquest.

Whether or not other provinces and territories follow the lead of Quebec and the federal government, case law has started to address the issue. A recent Ontario Superior Court decision recognized that an employer owes a duty to its employees to provide a decent, civil and respectful workplace.

Over the past decade, workplace bullying has become an internationally recognized occupational health and safety issue. Prevention of bullying is one of the objectives in the European Commission's strategy for health and safety at work. Many European and Scandinavian countries, including France, Germany, Italy, Sweden, Spain, the Netherlands, and Norway, have introduced various regulatory responses to the problem. In the United Kingdom, Ireland and Australia, the courts currently address bullying under existing legislation. In the United States, workplace bullying is not yet recognized by the legal system although a few states have initiated bills.

The Business Side of Bullying

Quebec's new legislation responds to concerns that poor workplace morale is bad for business. The government wants to improve productivity and reduce stress-related sick leave.

Indeed, the business case for a bully-free workplace is compelling. A 2003 survey of self-described bullying victims by the Workplace Bullying & Trauma Institute found:

- Victims suffered stress effects such as severe anxiety (76 per cent),

disrupted sleep (71 per cent), and post-traumatic stress disorder (39 per cent).

- In 70 per cent of cases, the bullying only stopped when the victim quit or was let go. In a further 17 per cent, the victim was transferred.
- The bully suffered consequences in only 13 per cent of cases.

Workplace bullies create a tremendous liability for the employer by causing stress-related health and safety problems and driving good employees out of the organization. Employee turnover and stress leave are costly.

Whether or not anti-bullying policies are required by law, they make good business sense. For example, the Australian state of Victoria estimates that in 2001-2002, businesses lost over \$57 million due to workplace bullying.

Bullying, or general harassment, is far more common than sexual harassment or racial discrimination, both of which are illegal. Workplace policies already required to address those behaviors could be extended to cover bullying.

Government Must Take the Lead

A recent article in the Ivey Business Journal recommends that the employer should establish a values-based policy, enforce it with credibility, put into place restorative intervention, and support their commitment with education and training. The European Agency for Safety and Health at Work also offers guidance to develop an organizational culture with standards and values against bullying.

The Victorian WorkCover Authority, which manages Victoria's workplace safety system, has launched a major educational campaign in response to workplace bullying. A booklet in 13 languages informs workers on their rights, and how to deal with workplace bullying. As well, a guidance document advises employers how to prevent bullying and violence at work.

Legislation is long overdue and badly needed. To start, a legal definition of bullying would help employers develop policies. However, rules and regulations alone will not solve the problem. An effective strategy must also include education, conflict resolution mechanisms, and a commitment from employers that is based on good business practice.