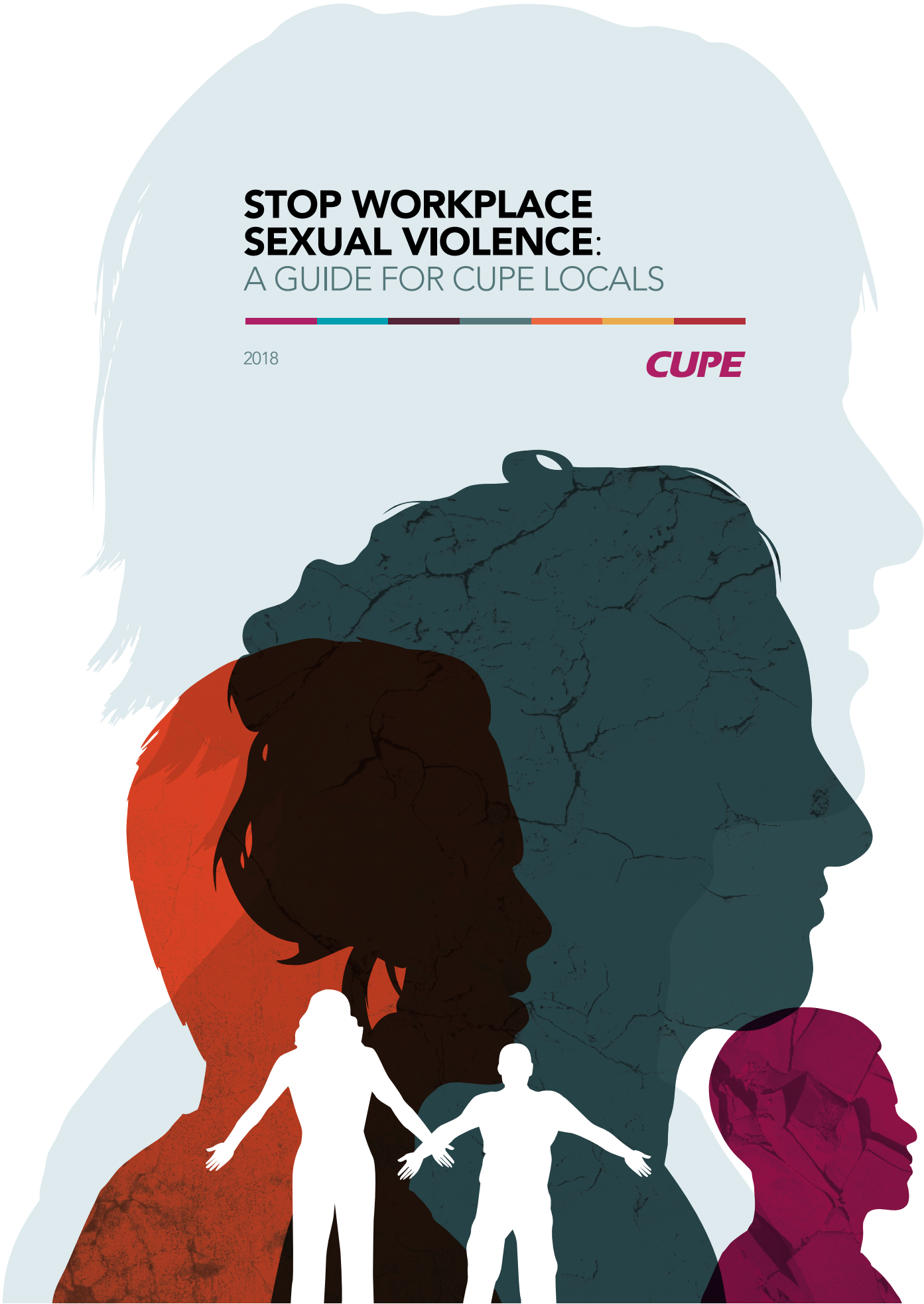


STOP WORKPLACE SEXUAL VIOLENCE: A GUIDE FOR CUPE LOCALS

2018

CUPE



CUPE is committed to addressing and preventing sexual violence at work and recognizes that everyone has a right to work in a safe environment. This guide is for local union stewards, health and safety representatives, elected officers and other activists.

Sexual violence at work is a serious matter and has an impact on all members of the workplace and the union. The employer is responsible for addressing and responding to workplace sexual violence. The union plays a critical role in making sure the employer meets their responsibilities.

cupe.ca/stopsexualviolence

TRIGGER AND CONTENT WARNING: The content in this guide may be triggering for some readers because the root causes and impacts of sexual violence and harassment are discussed. For support resources, please refer to the list at the end of this guide.



DEFINITIONS

Gender Identity: refers to the gender that an individual identifies with. People may identify as male or female, gender non-binary, gender non-conforming and/or gender fluid.

Gender-Based Violence: any form of behaviour - including psychological, physical and sexual behaviour - that is intended to control, humiliate or harm a person because of their gender. This may include emotional and verbal abuse, physical assault, sexual violence, sexual harassment, intimate partner violence, homophobia and transphobia.

Marginalized Identity: refers to people from various communities that have been historically and systematically oppressed, often resulting in systemic disadvantages and violence. This can include communities impacted by discrimination on the basis of race, gender, Indigeneity, sexual identity, disability, age and citizenship status, among others.

Perpetrator: refers to the person who has caused harm.

Survivor: refers to the person who has experienced sexual violence. Some people refer to themselves as survivor, while others prefer victim. It is important to respect the preferred terminology.

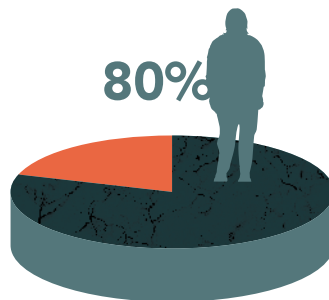
Trans or transgender: refers to people whose gender does not align with the gender they were assigned at birth. This can include a trans woman, a trans man, a non-binary individual or a gender non-conforming individual, just to name a few. It is important to respect a person's gender identity and use their chosen pronouns.



STATISTICS ON SEXUAL VIOLENCE



ONE IN THREE WOMEN WILL EXPERIENCE SOME FORM OF SEXUAL VIOLENCE IN THEIR LIFETIME



OVER **80 PER CENT** OF SEX CRIME SURVIVORS ARE WOMEN



THE MAJORITY OF PERPETRATORS **ARE KNOWN** TO SURVIVORS



SEXUAL ASSAULT IS THE ONLY VIOLENT CRIME IN CANADA THAT IS **NOT DECLINING**



SEXUAL ASSAULT **IS THE LEAST** LIKELY CRIME TO BE REPORTED TO POLICE



WHAT IS SEXUAL VIOLENCE AT WORK?

Sexual violence includes any act targeting a person's sexuality, gender expression or gender identity¹ that is committed, attempted or threatened against a person without their consent². It can be physical or psychological.

Workplace sexual violence occurs when a worker experiences any forced sexual acts or attempts to obtain them, or when they experience any unwanted sexual comments or advances. Sexual violence includes harassment, which is offensive behaviour that a reasonable person would consider unwelcome. Sexual violence at work has serious and negative impacts on the survivor's mental, emotional, physical and spiritual health and wellbeing.³

Sexual violence at work includes:⁴

- Unwelcome sexual remarks and jokes
- Unwanted advances from a person in a position of power
- Spreading sexual rumours
- Public display of sexual photos, drawings, comics, graffiti
- Repeated and unwanted invitations to socialize
- Offering benefits in exchange for sex
- Making threats if sexual advances are refused
- Unwanted touch
- Sexual assault and rape
- Stalking

All sexual violence at work is harmful and must be treated seriously.

Sexual violence is about power and control.

The perpetrator of sexual violence at work may be:

- A supervisor, manager, board member or other employer representative
- A co-worker
- A client, patient, student, parent or service user
- A contractor, member of the public, family member or intimate partner of the survivor

Sexual violence at work can occur:

- At a worksite
- At work-related functions, such as conferences, training sessions and work-related social gatherings
- While travelling for work
- While providing services outside of the office, for example, in a client's home
- Online and through social media

WHO IS IMPACTED BY WORKPLACE SEXUAL VIOLENCE?

Sexual violence can impact any worker regardless of sexuality, gender identity or gender expression.⁵ However, most perpetrators of sexual violence are men and most survivors are women.⁶ A recent poll found that 43 per cent of women reported being sexually harassed at work, and that women were twice as likely as men to experience unwanted sexual contact while at work.⁷

People who do not conform to male-female gender identities or who do not identify as heterosexual are also at greater risk. One study found that approximately 90 per cent of transgender and gender-variant employees reported experiencing workplace harassment or violence stemming from their gender identity and expression.⁸ Approximately 47 per cent of LGBTQ2+ workers have experienced workplace harassment or violence based on their sexual orientation.⁹

Women who are discriminated against because of race, Indigeneity, disability, class, immigration status and other marginalized identities may also experience higher rates of violence. For example, stereotypes about racialized women and Indigenous women can be used to justify violence against them.¹⁰ People from marginalized communities often work in precarious employment with little job security, low pay, and no benefits. These systemic forms of marginalization increase barriers to reporting, accessing support, and accountability measures.¹¹



CONSENT 101

PEOPLE **MUST CONSENT** TO SEXUAL ACTIVITY. CONSENT MEANS **GIVING PERMISSION** FOR SOMETHING TO HAPPEN OR AGREEING TO DO SOMETHING, **WITHOUT FORCE** OR COERCION. IF IT IS NOT A CLEAR, ENTHUSIASTIC "YES" **THEN IT IS A "NO"**.



Source: *Consent is Golden: Do you get it?* <https://www.consentisgolden.ca/faqs>

Consent:

- *Must be given freely by all people involved*
- *Must be a clear YES*
- *Must not be assumed or implied*
- *Is never silence or the absence of NO*
- *Is active and ongoing*
- *Can change if anyone changes their mind*
- *Cannot be given if someone is impaired or unconscious*
- *Cannot exist under threats or coercion*
- *Does not carry over from one activity to another. Consent for one sexual activity is not consent for other or future sexual activities*
- *Does not exist if someone abuses a position of trust, power or authority¹²*

Consent is required for any sexual activity. Physical exchanges in the workplace also require consent - for example, to hold someone's hand, give a hug, touch someone's hair, or touch a woman's pregnant belly. These actions may seem harmless, but they cross someone's personal space and boundaries. Always ask for consent before entering someone's personal space or touching their body.

WORKPLACE SEXUAL VIOLENCE IS A CRIME AND A SERIOUS HEALTH AND SAFETY ISSUE

Workplace sexual violence is illegal. It is a human rights violation and a violation of one's legal right to a safe work environment. Human rights law prohibits discrimination based on sex, gender, sexual orientation and other grounds. Depending on where you work and the form of sexual violence in the workplace, a range of other laws, rules and policies may apply:

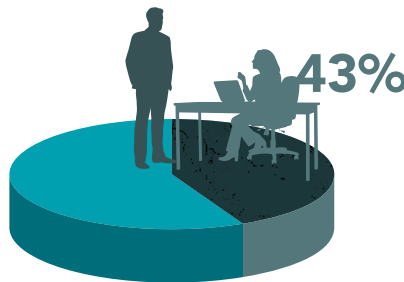
- Criminal law
- Human rights law
- The Canada Labour Code
- Occupational health and safety laws
- Employment standards legislation
- Labour relations laws
- The collective agreement
- Workplace policies
- Sector-specific regulations
- Workers' compensation law

Sexual violence can have significant mental, emotional, spiritual and physical impacts on survivors.

People may face:

- Loss of security and sense of control
- Anxiety and depression
- Anger
- Loss of relationships and community
- Physical injuries
- Sexual and reproductive health concerns, such as pregnancy and sexually transmitted infections
- Loss of economic resources, including job loss
- Substance use as a way of coping
- Suicidal thoughts and behaviour¹³

Sexual violence has consequences in the workplace and for the union. It can create a poisoned, hostile workplace where workers feel unsafe and silenced.¹⁴ It can divide workers and weaken the union. When a workplace is poisoned, it is the employer's responsibility to "[...] set the tone for the workplace and to clearly communicate that a sexualised workplace and discriminatory and harassing behaviour are inappropriate and unacceptable."¹⁵



IN A 2014 POLL, **43 PER CENT** OF WOMEN SAID THAT THEY WERE SEXUALLY HARASSED AT WORK

Source: Angus Reid, 2014



WOMEN ARE **TWICE** AS LIKELY AS MEN TO EXPERIENCE UNWANTED SEXUAL CONTACT WHILE AT WORK

Source: Angus Reid, 2014

CONTRIBUTING FACTORS FOR SEXUAL VIOLENCE IN THE WORKPLACE

Longstanding sexist attitudes, homophobia and transphobia contribute to sexual violence in the workplace and are embedded in institutions and practices. The response to address and end sexual violence must be an institutional and systemic one.

There are several other factors that make workers vulnerable to sexual violence:¹⁶

- Working in and with the public
- Working in health care, education and social services
- Working alone or in small numbers
- Working late at night
- Working without institutional support
- Workplaces that are male-dominated
- Workplaces with a high ratio of men in positions of power and authority
- Workplaces with a high ratio of women in subordinate positions
- Workplaces that support rigid gender roles and stereotypes
- Workplaces with a paramilitary culture
- Workplaces that do not actively challenge systems of oppression (sexism, racism, homophobia, transphobia, ableism and others)
- Weak policies, practices and training to promote gender equity in the workplace.¹⁷

Many of these contributing factors may be present in CUPE members' workplaces. Our members may work alone. Many deal with complex social interactions where they face intense emotions and violent behaviour from their employer, clients, members of the public and co-workers. Our members often provide direct care as nursing staff, personal care workers and health care aides. They provide support as education aides, custodial staff, bus drivers, flight attendants, caseworkers and clerical staff. They are guards, security officers, park rangers, orderlies and institutional attendants. They provide important public services in sectors confronted with cuts, privatization and understaffing.

Cuts, privatization and understaffing can lead to low worker morale, unrealistic workloads, increased stress and anxiety, as well as frustration from the public and clients.

Risk of sexual violence is amplified if workplace supervision is unsupportive and hostile, where management is overbearing and where co-worker communication is poor.

BARRIERS TO DISCLOSURE

Statistics underestimate the extent of sexual violence because workers are reluctant to report. While a 2014 poll found that 43 per cent of women said they had been sexually harassed at work, it also found that four out of five people who experienced sexual harassment did not report it to their employer.¹⁸

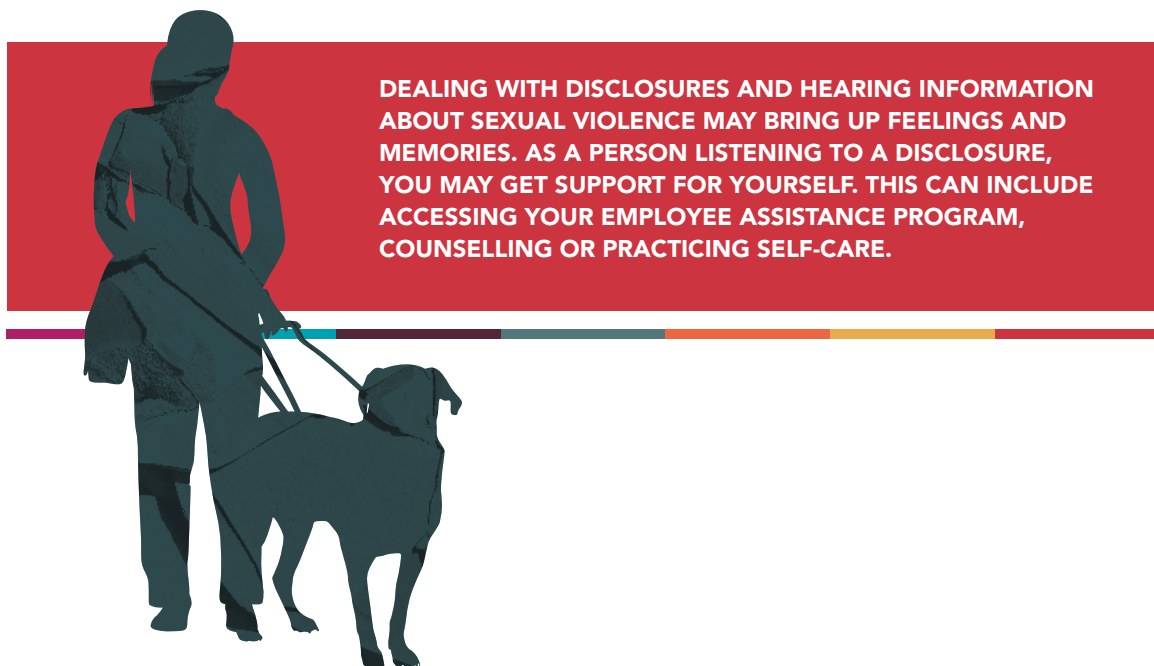
Some of the barriers to disclosure that workers may face include:

- Fear of reprisal from the employer (e.g., being passed over for work and career opportunities, or even losing their job outright)
- Shame, embarrassment and self-blame
- Not wanting to talk about or relive the experience
- Fear of retaliation from the perpetrator
- Fear of not being believed
- Social isolation
- Lack of awareness of supports and services
- Concerns about confidentiality and privacy

Precarious work can make workers even more vulnerable to sexual violence in their workplaces. People with insecure employment can be afraid to refuse advances and disclose sexual harassment and violence. This is compounded if a worker has precarious immigration status.

If someone discloses sexual violence in the workplace or elsewhere, they should not be pressured to report to the police. Not all survivors will want to involve the criminal legal system. It is important to put respect at the centre of the process and ensure that the survivor understands the options available to them and their agency to choose. As many options as possible should be made available for those who have experienced harm. This can include the help of a joint union-employer health and safety committee or a neutral third party, to conduct investigations.

There is more on disclosure and reporting later in the guide.



WHAT CAN THE LOCAL UNION DO?

The local union can play a leadership role in preventing workplace sexual violence and supporting survivors who choose to disclose. It can help foster a workplace that prevents and responds to sexual violence by providing appropriate training to help members know what to do as witnesses.

Trained stewards can help members understand their rights and the options for support. Stewards need training to create and implement workplace safety plans for people who have experienced violence. Along with health and safety representatives, stewards can play a critical role in reducing barriers to reporting and ensuring violence is addressed.

A joint union-employer health and safety committee, or a well-trained health and safety representative, with the capacity to receive complaints of sexual violence, is also important. Where there is a joint committee, the committee can play an effective role in addressing violence and preventing its reoccurrence. In consultation with the joint health and safety committee, the employer can create a workplace sexual violence program to ensure that investigations are effectively and appropriately conducted.



Some things you can do as a witness: interrupt, distract, engage peers, alert the authorities, and ensure safety first.

- *Interrupt by asking a question that's not related to what's going on. "Excuse me, where's the bathroom?"*
- *Distract by drawing attention to something else. "Hey, your car is getting towed!"*
- *Engage peers by involving a friend or someone else around you. "Let's do something"*
- *Alert the authorities – In some situations, authorities may be the best source for help, for example, health and safety committee/representatives, manager, supervisor, police.*
- *Ensure safety first – Keep your safety and the safety of others in mind. Let that determine how you respond.*
- *Call 911 .*

Adapted from IDEAS model (University of California, San Diego)
<https://students.ucsd.edu/sponsor/sarc/programs/ideas.html>

VIOLENCE PREVENTION

Preventing sexual violence requires employers to ensure that all employees have the tools and education to address it. The first step in preventing sexual violence in the workplace is to build an environment of consent at work.

Consent and respect must be practiced within the workplace. Some examples of how to practice consent can include:¹⁹

- *Obtaining consent before engaging in non-sexual forms of touch*
- *Not revealing a colleague's personal information without their consent*
- *Asking if it is an appropriate time to talk; not assuming your colleague is in a space to talk*
- *Obtaining consent before photographing others*

CONSIDER CONTRIBUTING FACTORS

Look around your workplace and assess if there are contributing factors for sexual violence.

- What's the make-up of your workplace - are women the majority?
- Who's in leadership positions?
- Are women dominant in certain occupations at your work?
- Is there a concentration of racialized women and other equity-seeking groups in specific departments and/or occupations?
- Do your members work with the public?
- Do your members work alone and/or late at night?
- Does your management team actively address health and safety in the workplace?
- Are worksites, exits and entrances, including parking lots, well-lit and accessible?
- Are there appropriate and visible institutional supports for members who may have experienced workplace sexual violence?
- Are there appropriate and visible prevention campaign material about sexual violence in the workplace?



MAKE SURE THE EMPLOYER CARRIES OUT THEIR RESPONSIBILITIES

It is the employer's legal responsibility to ensure that work is safe and healthy. In most, if not all, jurisdictions, employers are legally required to have a violence and harassment prevention policy in place. Some jurisdictions require that these policies reference sexual violence and harassment.

Regardless of legislation, the union should check to see if there is an existing violence and harassment prevention policy in the workplace and determine if it adequately addresses sexual violence. Your health and safety committee may have helpful resources.

A workplace violence prevention policy should include a general statement indicating that the employer shall provide a workplace free of sexual violence.

NEGOTIATE AND ENFORCE COLLECTIVE AGREEMENT LANGUAGE

The union bargains and enforces the collective agreement. Sometimes, locals can influence employer policies, but too often, unions are not consulted. We can bargain to make sure the collective agreement includes a clear definition of workplace sexual violence, prevention strategies, and a reporting and investigation process.

Language to address workplace sexual violence, along with procedures and training, can help create a safe and healthy workplace that thrives on respect and helps workers understand their rights, roles and responsibilities.

The goal of effective contract language should be to prevent and respond to instances of workplace sexual violence and to support survivors. It should be easy for members to report incidents of workplace sexual violence. Accountability and transparency are important, and prevention should be the goal.

There have also been some legislative changes by provincial and federal governments that include paid leave for survivors of sexual violence. Locals have negotiated paid leave language and other accommodations in their collective agreements.

Any contract language that locals create can also inform policies that employers create.

CONTRACT LANGUAGE CHECKLIST

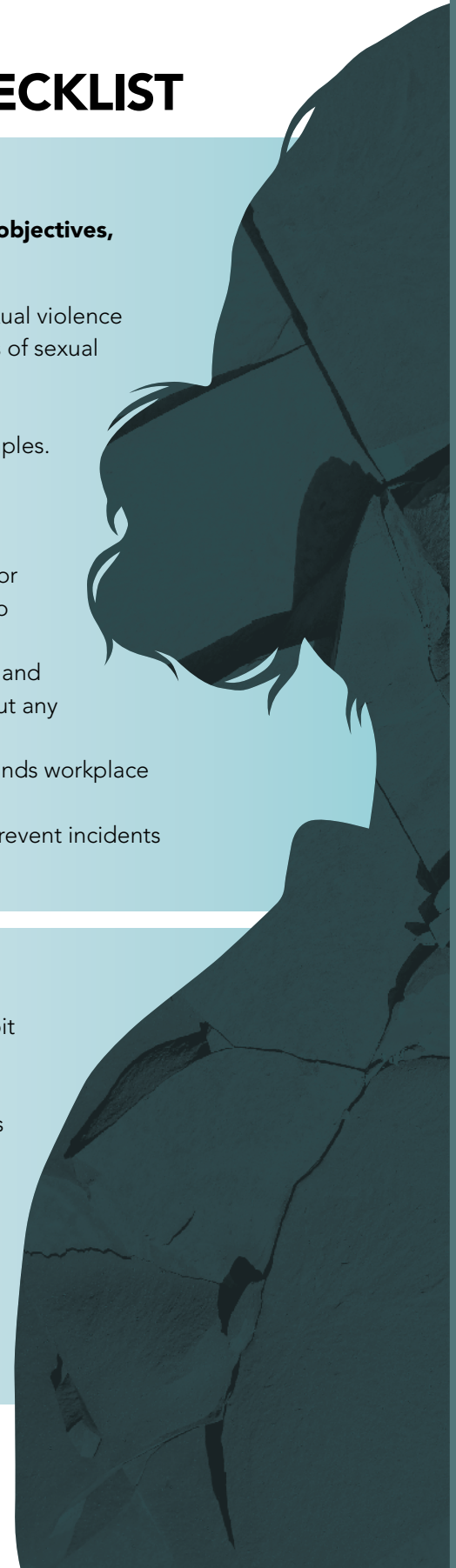
Here is a **checklist** of what should be included:


A strong statement clearly defining the language's purpose, objectives, responsibilities and scope:

- Strong statement of **commitment** to address violence and sexual violence in the workplace, including a commitment to support survivors of sexual violence.
- **Purpose** and objectives of the language.
- **Definition** of sexual violence in the workplace, including examples.
- Definition of **consent**.
- **Roles and responsibilities** of the employer, the union and the workers.
- **Scope** of the language and where it applies - e.g. one article for all worksites run by the employer or different articles specific to different work locations.
- Stated **commitment to survivors** as being active participants and taking up leadership in the process and a clear statement about any limits to this commitment.
- High-level commitment to **challenging the stigma** that surrounds workplace sexual violence.
- A zero-tolerance policy and **list of procedures** that helps to prevent incidents of workplace sexual violence.

A clear reporting and investigative process should include:

- Reporting, disclosure and investigative procedures that prohibit reprisal and retaliation, and that emphasize accountability and transparency.
- Stated confidentiality safeguards that include clear parameters and possible limits to confidentiality, for example, to ensure worker safety.
- Identification of who is expected to respond to workplace sexual violence. It may take an emotional toll on those tasked with responding, therefore a system of support should also be developed. This can include regular meetings and check-ins.



- 
- A review of other workplace policies and practices to ensure that they do not discriminate against those experiencing workplace sexual violence.
 - Procedures such as confidential employee surveys, audits and proactive workplace inspections to identify and control hazards that may lead to workplace sexual violence.
 - Policies and procedures for record keeping and accessing records.

Provisions for training and additional supports should include:

- Paid leave for survivors of sexual violence.
 - Early access to occupational health services and workplace supports.
 - Provision of an employee assistance program.
 - A mental health policy.
 - Other practical options for investigation and reporting such as the use of a neutral, third party, agreed upon by the union and the employer.
 - Training of all staff, including supervisors and managers, on workplace sexual violence and applicable procedures and policies (ideally jointly with the union). This should happen at the point of hire and should be ongoing.
 - Ongoing awareness and dissemination of new and updated legal and workplace policies and procedures to workers.
 - A list of community resources and supports for people who have been affected by sexual violence (see list at end of guide as a reference point).
- Information about financial coverage of support services for people who have been impacted by sexual violence in the workplace.



RESPONDING TO SEXUAL VIOLENCE IN THE WORKPLACE

Workers who have experienced sexual violence in the workplace need to understand their options and choices. Confidentiality and limits to confidentiality need to be made clear. The worker may report to a supervisor or other manager, a shop steward or other union representative, the health and safety committee or a specific representative designated to deal with reports of violence. The worker may also disclose to a co-worker without taking it further. Some workplaces may establish a confidential workplace hotline to assist with disclosures. The union should ensure that members have access to safe and supportive disclosure and reporting procedures.

People disclose experiences of sexual violence for many reasons. Some are looking for a formal resolution process. Others may want advice, resources or a listening ear. The survivor must be in control of their story. *Always ask what kind of support is being requested.* Remind members that disclosing will not automatically lead to a report being made. There is a difference between disclosing and reporting.

Your workplace might have specific limits to confidentiality which should be stated upfront to the person disclosing. There are two legal limits to confidentiality:

- a) If someone discloses that a minor under the age of 18 is being harmed, or
- b) If the individual, or someone they know, is in imminent fatal danger.²⁰

If you are unsure of the legal limits to confidentiality in a situation, please speak to your national servicing representative who can access legal advice from CUPE.

DISCLOSING	VS.	REPORTING
To make known to someone an incident of sexual violence. Disclosing does not require a person to file a formal complaint.*		To make a formal statement or complaint about someone or something to the necessary authority.
<small>* In certain circumstances, a person who receives a disclosure may be obliged to act to protect others from harm, as necessary. Source: <i>Consent Comes First</i>, Office of Sexual Violence Support and Education, Ryerson University.</small>		

RESPONDING TO DISCLOSURES

Develop your skills to support others

It is difficult for survivors to come forward and it is important to be prepared to respond in a way that creates a safe and supportive environment.

Here are some ways you can support a member who has chosen to disclose experiencing sexual violence in the workplace:²¹

- Follow the lead of the member and ask what their desired outcome is.
- Treat them with dignity and respect.
- Assist them in obtaining care for physical or mental injuries.
- Engage in emotional support and active listening:
 - > Be mindful of your body language
 - > Affirm what is being shared
 - > Make sure to not interrupt and rush the survivor as they are disclosing
 - > Ask what support is needed
 - > Listen with care
 - > Provide resources
- Be sure to limit questions you may have about their experience of violence – ask yourself *“am I asking this out of curiosity?”* or is knowing the answer critical for next steps?
- Allow the survivor to have control over their disclosure (e.g. if they want to disclose; what to disclose; how much to disclose; and to whom).
- Be sensitive of needs and experiences that may be based on race, gender, culture, religion, sexuality and disability.
- Be aware of your biases and assumptions and potential barriers to disclosure.
- Offer to help the survivor identify workplace resources and options on what to do next.

Taking notes can be helpful. Remember that notes taken throughout the process of supporting and investigating the incident can be subpoenaed by the courts if a legal proceeding follows from the incident.

Options for investigations and resolution

Be sure the member remains at the centre of the process. This means respecting their control over disclosure and the process that may follow. The union should engage with the member who has experienced harm. Listen for their needs and be transparent, honest and consistent about the roles and responsibilities of the employer and the union. Communication must be regular and ongoing to help build trust and confidence in the process, and trust and confidence of all members in the workplace.

Every situation is different, and it is critical that the survivor understands that they have choices. A resolution may take the form of an apology. It might involve mediation or an informal resolution. However, any resolution should involve the participation of everyone involved, especially the survivor.

It is important to recognize uneven power positions when engaging in informal processes. These processes can put pressure on the survivor, and sometimes cause intimidation. A worker may agree to resolutions that are not in their best interest or do not meet their needs, because the perpetrator is in a position of authority over them or has informal power at work. Check in with the survivor about their responses and choices during informal processes to make sure their needs and safety are met.

Some CUPE locals attempt to mediate incidents of conflict between union members, without employer involvement. Misunderstandings can be cleared up before they escalate, and no one will be disciplined by the employer. However, conflict resolution should not be undertaken in cases of violence. There is serious potential to make the situation worse and to create harm. People who have experienced violence and harassment should never be forced to confront the perpetrator unless they choose to do so, and only with appropriate supports and safety planning. They can also file a grievance or other complaints. Mediation is not recommended unless performed by a qualified person.

Before the local tries to resolve a dispute in the workplace between union members, without involving the employer, they should consider the following:

1. Do not try to set up a mediation of any type unless you are certain that both sides are interested in voluntarily participating and that this is a safe option for both participants.
2. A person who is qualified and experienced in mediation should be brought in to mediate the dispute and must speak independently with both members before the mediation process begins. The members must both agree to the choice of the mediator.
3. The most common practice for dispute mediation is that neither side has an outside advocate or outside representation during the mediation sessions. However, it is advisable that stewards and/or CUPE national representatives be used to represent and/or support each side. These and other details must be worked out before the mediation can begin.
4. Both parties must agree to the following:
 - > All discussions in the mediation process will remain confidential, without prejudice or precedent for either party.
 - > All communication will be done in a respectful manner.
 - > All parties will actively participate in the discussion and listen to what others are saying.
 - > Each participant considers what they are doing or not doing that might be contributing to the conflict.
 - > Each participant will assist in finding solutions to the conflict.

5. Some members opt for a group circle, or other forms of alternative dispute resolution. Sometimes a respected and trusted neutral person, either from within the local, a CUPE staff person or someone external, can act as facilitator for these sessions.
6. If the members can reach a resolution, they must ensure that all facts of the situation are agreed upon so that there are no residual misunderstandings.
7. Workers must be made aware that, if they agree to participate and are unable to reach a resolution and the situation continues, either party may still decide to use formal workplace avenues such as a grievance or complaint. Then the employer would get involved and the issue would no longer be dealt with solely by the local.
8. Until all sides have agreed that the dispute has been settled, always leave the opportunity to proceed formally with the employer as an option.

There are situations where mediation should not take place:

1. Do not force a survivor of sexual violence or harassment to confront the perpetrator or harasser. Confrontation or mediation may put the survivor at greater risk of harm.
2. If there has been any crime committed (for example, an assault), then the union must attempt to obtain the survivor's consent to notify the employer. In any case, the union should never attempt to hide evidence or cover-up for a member accused of a crime.
3. If the parties have not agreed to all the terms of the mediation, such as the items listed above, the mediation should not go forward.

It should be suggested that the survivor access their health and safety committee and use the grievance procedure to address workplace sexual violence. Even if there is no collective agreement language on workplace sexual violence, it can still be grieved.

The union has a legal duty to represent all members. If another member is the alleged perpetrator, the union should ensure that the employer conducts a fair and thorough investigation and disciplinary process. Remember, the union has the legal duty to represent all members in good faith, without discrimination and in a manner that is not arbitrary.



Different union representatives, for example the stewards, must be assigned to the person making the complaint and the respondent. The two union representatives should not communicate details of the complaint to any other member of the union. Information should only be shared on a “need to know” basis. This should be clearly outlined in the violence policy and collective agreement language and made clear to all parties involved.

The local may help a survivor:

- Secure sick leave or other leaves
- File a workers’ compensation claim
- Get a temporary work reassignment
- Access resources such as counselling, medical and legal support through workplace benefits, employee assistance programs, community agencies and services.

Police may become involved in some circumstances. Members may be reluctant to access the criminal justice system for many reasons. Provide members with support and information to help them decide whether they would like the police to become involved. If a worker believes that they or anyone is at immediate risk of violence, they should call the police. If others are at risk, including children and other workers, it may also be necessary for others (for example, a supervisor) to contact the police.

Many incidents are criminal, for example stalking, sexual assault or death threats. If these occur in the workplace, the employer has an obligation to report to the authorities such as the government departments for occupational health and safety, workers compensation boards or the police. If the employer does not do so, the union may make a report or assist the member to do so.

When taking notes, be aware that the police or arbitrator may compel the union to produce them if a legal proceeding follows the incident. If the police are involved and demand that the union turn over records, they must provide a subpoena. In this instance, the local should immediately seek legal advice. Contact your national servicing representative to help the local access legal advice.



MAINTAIN PRIVACY AND CONFIDENTIALITY

Managing privacy and confidentiality is critical. The employer and the union can only disclose information on a “need to know” basis. A clear outline of what is included in the term “need to know” should be provided in the workplace violence prevention policy. Trust and safety must be maintained. Members are less likely to come forward if respect for privacy and confidentiality is breached or if they believe it will be breached.

Workplace health and safety hinges on everyone in the workplace. Sometimes it is necessary to alert the employer and the union of a potential threat to safety. The union will work with the employer to establish processes and inform members of the ways incidents are reported and how their privacy will be maintained.

The employer should also communicate to members what practices and strategies are in place to protect their information. Information will need to be shared in emergency situations, for threat assessment, safety planning, and the effective implementation of protective orders.

- All personal information concerning workplace sexual violence should be kept confidential
- No information should be kept on the employee’s personnel file, unless necessary.
- The worker must provide express and written permission.
- The worker has the right to review and respond to their personnel file.
- If the worker feels that inappropriate or false information is included in their file, they can work with the union to have it removed.
- All notes and processed documents of an investigation must be stored separately from all personnel files.

PROMOTE A HARASSMENT AND VIOLENCE-FREE ENVIRONMENT IN THE UNION

Unions can develop their local’s sexual violence policies to guide union business and events. Procedures to prevent and address discrimination and sexual violence can be incorporated into local union bylaws. CUPE’s Equality Statement and the national Code of Conduct may be helpful references when amending or creating your own local bylaws and policy statements. *CUPE’s Guide to Preparing Local Union Bylaws* provides a sample code of conduct for locals.

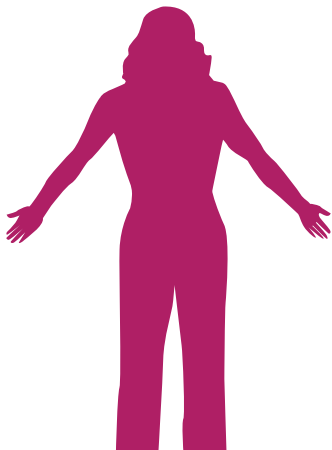
CUPE Education offers workshops on health and safety, stewarding and leadership that include training on preventing and responding to violence and harassment and building capacity to promote human rights. There are longer workshops on harassment, creating equality, human rights and being good allies. Speak to your steward, executive and national servicing and education representatives for more information on how to better train union leaders to recognize and confront sexual violence.

- Show your members that the union does not accept any form of sexual violence by having clear guidelines and policies for addressing it among members.
- Designate a trained steward or member to help lead work on addressing sexual violence.
- Encourage your members to write articles and create art and other forms of creative expression on the need to prevent and address sexual violence.
- Survey members about their experiences of sexual violence in the union.

Members may be reluctant to come forward with concerns about sexual violence. The union must be proactive to address it and build trust among members.

Locals can build connections with local front-line services and organizations who work to end violence and sexual violence, including rape crisis centres and women's shelters. Many of the workers in these agencies and organizations are CUPE members. Build your local's community outreach with patience, care, transparency and consistency.

- Identify organizations in your area and reach out to them with a clear ask or offer.
- Build relationships by meeting with staff and support workers to better understand the scope of their work.
- Discuss how to share resources, collaborate and exchange information.
- Provide fundraising support, information and training on workers' rights in exchange for training from shelter and support workers.
- Local members may choose to volunteer with rape crisis centres, shelters and distress centres.
- Join in anti-violence campaigns, initiatives and events to help address and end sexual and gender-based violence.
- Get involved in community events like Take Back the Night, December 6th commemorations, 16 Days of Activism, International Women's Day, PRIDE and Sexual Assault Awareness Month. Union members can use these opportunities to become better informed on the complexities of sexual violence and to become more involved in the movement to end violence and sexual violence.



Ending sexual violence requires all of us working together to build futures that are just and free of violence.

LIST OF RESOURCES

- Contact your assigned national staff representative for information about CUPE education and training, and legal and human rights resources. For CUPE Education, see cupe.ca/unioneducation.
- Check out CUPE's online violence prevention resources:
 - > *It's Not Part of the Job.* cupe.ca/notpartofthejob
 - > *Workplace Violence and Harassment Prevention Kit* cupe.ca/violence-prevention-kit
 - > *Guideline to Preventing Violence and Harassment in the Workplace* cupe.ca/sites/cupe/files/guideline_for_violence_prevention_in_the_workplace.pdf
 - > *Workplace harassment and mental injuries: examining root causes* cupe.ca/sites/cupe/files/harassment_and_mental_injuries.pdf
 - > *Stop Harassment: A Guide for CUPE Locals* cupe.ca/sites/cupe/files/stop_harassment_guide.pdf
 - > *Domestic Violence and the Workplace: A Bargaining Guide*, cupe.ca/sites/cupe/files/domestic_violence_english_lr.pdf
- Rape crisis centres, shelters, distress centres – check your area to see what rape crisis centres, shelters and distress lines are available. These services can provide survivor-centred, non-judgemental expert support to your members. Staff and volunteers at these places are trained to address a range of intersecting forms of violence.
- 211 – is a service that connects those living across Canada with information about a range of social services and includes a helpline (2-1-1) and website (211.ca) available 24 hours a day, 7 days a week in over 100 languages.
- Assaulted Women's Helpline, 1-866-863-0511 — A 24-hour telephone and TTY crisis line for women www.awhl.org.
- Fem'aide, 1-877-336-2433 – Crisis line for French speaking women femaide.ca.
- Barbra Schlifer Commemorative Clinic, schliferclinic.com – is a specialized clinic for women fleeing violence. The clinic provides legal help in family, immigration, criminal and sexual assault law including multi-lingual interpretation and translation services in over 200 languages.
- Canadian Association of Sexual Assault Centres – provides a list of anti-violence centres across Canada www.casac.ca/content/anti-violence-centres.
- Women's Shelters Canada, endvaw.ca – provides a national voice in the issue of violence against women and manages sheltersafe.ca, an online resource with a clickable map to assist women and their children who are fleeing violence.
- Women's Legal Education and Action Fund (LEAF), 1-888-824-5323 – intervenes in legal cases that have an effect on equality rights in Canada and provides education and other resources on equality issues, including issues faced in the workplace www.leaf.ca.
- Office of the Federal Ombudsman for Victims of Crime, 1-866-481-8429 – Information about victims' rights under federal law and available services www.victimfirst.gc.ca.
- White Ribbon Campaign, www.whiteribbon.ca – campaigns to build a movement of men and boys working to end violence against women and girls, promote gender equity, healthy relationships and a new vision of masculinity.
- LGBTQ2+ Supports
 - > Trans Lifeline, 1-877-330-6366, www.translifeline.org – trans-led organization dedicated to improving the quality of trans lives by responding to the critical needs of our community with direct service, material support, advocacy, and education.
 - > LGBT Youthline, 1-800-268-9688, www.youthline.ca – offers a toll-free peer-support phone line for lesbian, gay bisexual, transgender, transsexual, two-spirited, queer and questioning young people.
 - > Canadian Aids Society – provides a list of key transgender support resources at www.cdnaids.ca/key-transgender-support-resources.
- Indigenous Supports
 - > Check your area to see what services are available for Indigenous peoples who have experienced violence, which may include Friendship Centres, Indigenous Health Centres, Indigenous-based shelters and Indigenous specific crisis lines
 - > Talk4Healing, www.talk4healing.com – is a talk, chat and text service available to Indigenous women living in urban, rural and remote communities, both on and off reserve.
 - > Native Women's Association of Canada toolkit "You are Not Alone" www.nwac.ca/home/policy-areas/violence-prevention-and-safety/you-are-not-alone
 - > Ontario Federation of Indian Friendship Centres toolkit "Taking Care of Each Other's Spirit" www.kanawayhitowin.ca
 - > National Aboriginal Circle Against Family Violence, nacafv.ca – lists Indigenous women's shelters across Canada.
 - > Native Youth Sexual Health Network, www.nativeyouthsexualhealth.com – is an organization by and for Indigenous youth that works across issues of sexual and reproductive health, rights and justice throughout the United States and Canada.

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ENDNOTES

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- ² Ryerson University, *Sexual Violence Policy*, 2016. <https://www.ryerson.ca/policies/policy-list/sexual-violence-policy>
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- ⁴ Based on METRAC, *Presentation to CUPE's National Post-Secondary Task Force*, 2018.
- ⁵ METRAC, *Presentation to CUPE's National Post-Secondary Task Force*, 2018.
- ⁶ This paragraph is based on *Overcoming Barriers and Enhancing Supportive Responses: The Research on Sexual Violence against Women*, Centre for Research and Education on Violence Against Women and Children, Western University, May 2012, p. 3.
- ⁷ Angus Reid Institute, *Canadian Public Opinion Poll on Sexual Harassment at Work*, 2014. Available at <http://angusreid.org/wp-content/uploads/2014/12/2014.12.05-Sexual-Harassment-at-work.pdf>
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- ⁹ Ibid.
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- ¹¹ Ibid.
- ¹² Centre for Research and Education on *Violence Against Women and Children, Overcoming Barriers and Enhancing Supportive Responses: The Research on Sexual Violence against Women*, Western University, May 2012, p.10.
- ¹³ METRAC, *Presentation to CUPE's National Post-Secondary Task Force*, 2018.
- ¹⁴ A poisoned work environment occurs where the work environment has become toxic because of pervasive discrimination or harassment on a prohibited ground and becomes a part of a person's workplace, becoming a de facto condition of their employment; it can result from a single, egregious incident, or ongoing inappropriate behaviour that has gone uncorrected by management (*Crete v. Aqua-Drain Sewer Services Inc.*, 2017 HRTO 354 (CanLII) at paras. 49-55)
- ¹⁵ Government of Canada, *Harassment and Sexual Violence in the Workplace – Public Consultation What We Heard*, 2017; CUPE's Health Safety Guidelines: Preventing violence and harassment in the workplace https://cupe.ca/sites/cupe/files/guideline_for_violence_prevention_in_the_workplace.pdf.
- ¹⁶ Ibid.
- ¹⁷ Angus Reid Institute, *Canadian Public Opinion Poll on Sexual Harassment at Work*, 2014. Available at <http://angusreid.org/wp-content/uploads/2014/12/2014.12.05-Sexual-Harassment-at-work.pdf>
- ¹⁸ Suzannah Weiss, "7 Ways to Practice Consent Outside of the Bedroom," *Everyday Feminism Magazine*, 2015. Available at <https://everydayfeminism.com/2015/11/practice-consent-beyond-sex>
- ¹⁹ This is based on relevant provincial and territorial child welfare legislation, mandatory duty to report bylaws and regulations.
- ²⁰ Centre for Research and Education on Violence Against Women and Children, *Overcoming Barriers and Enhancing Supportive Responses: The Research on Sexual Violence against Women*, Western University, May 2012.
- ²¹ CUPE's *A Guide to Preparing Local Union Bylaws* can be found at https://cupe.ca/sites/cupe/files/guideline_for_violence_prevention_in_the_workplace.pdf.

