



# Health and Safety Guidelines

Preventing violence  
and harassment in the workplace



**CUPE** / *Canadian Union  
of Public Employees*

Health and Safety Branch

Disclaimer:

The information contained in this guideline is for reference purposes only and is not intended to serve as legal advice. The adoption of practices described in this guideline may not meet all needs, requirements, or obligations of individual workplaces. For further information, please contact your CUPE National Staff Representative, or Health and Safety Specialist Representative.

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## **PART I: OVERVIEW**

### **Introduction**

Workplace violence is a serious everyday health and safety issue for many workers in Canada, including CUPE members. Violence doesn't "just happen." It's not "just part of the job." Rather it's a workplace hazard with specific causes. By better understanding the root causes of violence in the workplace we can more effectively prevent violence and protect workers. No matter what the cause of violence in the workplace, **it is a requirement of employers to provide a healthy and safe workplace that is free from violence in all its forms.**

The purpose of the Violence Prevention Guidelines is to provide CUPE members with resources to help protect them against violence in the workplace. Far too often, employers develop policies and procedures that react to violence. This is not good enough. This guide focuses primarily on *preventing* violence, before it happens in the workplace. Through this guide members will gain an understanding of what is violence, the risk factors and consequences of violence, employer's requirements under legislation, and how workers, unions, and health and safety committees can work together to prevent workplace violence. Throughout the guide, we explore the potential underlying causes of violence and the steps and process that your employer and health and safety committee can take to prevent violence from happening

The Violence Prevention Guidelines booklet is the primary component of CUPE's Violence Prevention Kit. The Violence Prevention Kit provides additional information and materials you can refer to.

### **Definition of violence**

Contrary to the explicit definitions of many of the Canadian jurisdictions, CUPE believes that harassment is a form of violence. We define violence in the workplace as follows:

*Violence in the workplace is any incident(s) in which an employee is threatened, assaulted or abused during the course of their employment that may cause physical or psychological harm. This includes threats, attempted or actual assault, application of force, verbal abuse or harassment.*

This definition is stronger than most seen in violence legislation because many forms of violence can be subtle. Not all forms leave a clear physical injury, but they do cause psychological harm, which over time can lead to the development of additional mental health issues.

### **Sources of violence and workers at risk in the workplace**

There are many different people in the workplace that may act violently towards workers. Perpetrators can include clients<sup>1</sup>, members of the public<sup>2</sup>, co-workers or supervisors<sup>3</sup>.

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<sup>1</sup>For this document, client may also refer to patient, resident, student, but the intent is that there is a caregiver or service provider relationship as a result of the occupation of the worker.

Workplace violence is not limited to incidents that occur within traditional workplaces. Violence can occur in the workplace, but also at other functions and locations related to work, such as conferences, training sessions, social gatherings, while travelling for work, in a client's home, or in other work-related locations.

Many CUPE members have jobs working with clients or members of the public, putting them at a higher risk for being exposed to violence. CUPE members most likely to be exposed to physical attacks include:

- Workers involved in direct patient care, such as nursing staff, health care aides or personal care workers
- Admitting clerks in hospitals
- Case workers who provide social services or who work in child protection/welfare
- Clerical workers in social service offices
- Workers who handle cash
- Bus drivers
- Emergency attendants, such as paramedics and other first responders
- Orderlies or institutional attendants
- Workers in shelters for women and children
- Education assistants
- Unemployment insurance or compensation clerks
- Arena workers
- Guards, security officers, park rangers and police officers
- Any worker who must work alone (e.g. custodial workers)

The frequency of violence for each of these occupations is nearly impossible to accurately determine. Statistics are rarely kept unless there is a loss of time at work as a result of an injury. A significant number of incidents go unreported, especially if there was no lost work time as a result. More information on reporting is available in Part III of this guide. This is especially true for marginalized workers, i.e. women, workers with a disability and LGBTTI<sup>4</sup>, racialized and Aboriginal workers.

## **Types of violence in the workplace**

### **Physical and psychological violence**

People often think about physical violence (where a person's body is injured) and psychological violence (where a person's mental health is harmed), as separate entities. Because of the artificial separation that continues to exist in health and safety laws, this guide will examine the different aspects of physical and psychological violence. However it is important for readers to know that physical and psychological

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<sup>2</sup> Members of the public could also include people who the worker is familiar with, such as parents or children of clients in care, to random perpetrators of crime, but to whom they do not have a client relationship with.

<sup>3</sup> For this document, a supervisor refers to any person with authority over a worker and may include supervisor, manager, board member or other employer representative.

<sup>4</sup> LGBTTI is short for lesbian, gay, bisexual, transgender, transsexual and intersex.

violence are intrinsically linked and cannot be separated when we are looking for broader solutions and preventative measures. Physical forms of violence can result in mental or psychological injuries (e.g. Post-Traumatic Stress Disorder), just as psychological violence can cause physical injuries and illness (e.g. a worker commits suicide because of constant harassment at work).

Examples of physical violence include but are not limited to:

- Homicide
- Rape
- Robbery
- Wounding
- Battering
- Hitting
- Attack with any type of weapon
- Kicking
- Biting
- Punching
- Spitting
- Scratching
- Squeezing or pinching
- Contact of a sexual nature

Examples of psychological violence include but are not limited to:

- Stalking
- Intimidation
- Threats
- Verbal abuse
- Ostracism or shunning
- Leaving offensive messages
- Rude gestures
- Interfering with work tools or equipment
- Hostile behaviour
- Swearing/shouting in an offensive manner
- Innuendo/insinuation
- Sexual suggestions or unwanted advances

## Harassment

Harassment is a form of violence, and is against the law. Like all other forms of violence, employers must take all reasonable steps to prevent it from happening in the workplace.

**Harassment is defined as offensive behaviour that a reasonable person would consider unwelcome.** It may be physical, psychological, or a combination of the two. It may be based on a characteristic such as gender, race, ethnicity, sexual orientation, sexual identity, or another characteristic. It may also be a pattern of verbal comments. Harassment may be one incident which has a severe impact on the target or it may be repeated incidents. The unwelcomed behaviour may be direct or indirect, obvious or subtle, and can take place by written, verbal, physical, electronic, or any other means of expression.

The effect of offensive behavior- not the intent - makes it harassment. If a person considers the behaviour offensive and unwelcome, and a reasonable person should have anticipated that response, the behaviour is considered to be harassment.

Harassment can include but is not limited:

- Spreading malicious rumours or gossip about an individual or a group.
- Making offensive jokes or remarks, or playing unwanted practical jokes, including hazing and other pranks.

- Socially excluding or isolating someone.
- Tampering with a person's work equipment or personal belongings, or impeding a person's work in any deliberate way.
- Vandalizing or hiding personal belongings or work equipment.
- Persistently criticising, undermining, belittling demeaning or ridiculing a person.
- Intruding on a person's privacy.
- Using language that is inappropriate, or profane.
- Public ridiculing or discipline.
- Misusing authority, including:
  - Constantly changing work guidelines.
  - Restricting information or setting impossible deadlines that will lead to failure.
  - Blocking applications for leave, training, or promotion in an arbitrary manner.
- Verbal threats or abuse.
- Unwelcome physical contact.
- Unwelcome and inappropriate invitations or requests.
- Displaying offensive posters, cartoons, images or other visuals.
- Making aggressive or threatening gestures.

Harassment is not:

- Consensual workplace banter and interactions (unless the banter includes hurtful remarks about others, especially if they are covered under the protected grounds listed above).
- Reasonable management action carried out in a fair way, like day-to-day actions by a supervisor or manager related to performance, absenteeism, assignments, discipline and even dismissal – as long as it is not abusive or discriminatory and respects the collective agreement, workplace policies and legislation.
- Every workplace disagreement, though if a conflict is poorly handled or left unresolved, it can lead to harassment. Unlike harassment, healthy conflict can be a constructive rather than a destructive process.

Depending on where you work and the type of harassment experienced, harassment could be illegal or prohibited under one or more of the following:

- Occupational health and safety laws
- Human rights laws
- Employment standards laws
- The collective agreement
- Employer policies
- Labour relations laws
- Workers compensation laws
- Tort law
- Sector-specific regulation (e.g. education system laws that prohibit bullying)
- Criminal law (if the harassment involves physical or sexual threat, or assault)

## **How we understand harassment has changed over time**

The inclusion of harassment in the realm of health and safety is a recent change, but one that has been building for years. In the past, harassment was almost exclusively covered under human rights legislation. For harassment to be prohibited under that legislation, it has to be linked to a one or more “prohibited grounds” for discrimination<sup>5</sup>. Human rights harassment remains a huge problem, and fortunately now we can challenge it in other ways too. There is also a great deal of harassment in workplaces that is not easily visible, directly linked to one of the protected grounds. This type of harassment is commonly referred to as personal harassment or psychosocial violence. Protection from harassment started to move beyond human rights legislation when it was first defined in labour law in the Labour Standards Act of Quebec (2004). Several years later Saskatchewan became the first province to include specific harassment prevention measures in a *Health and Safety* act or related regulations. These changes to health and safety law shed light on the significance of the issue in the workplace. Since then it has become generally accepted that any harassment – whether related to human rights or any other reasons must be considered a workplace hazard and dealt with accordingly, even if it’s not specifically spelled out in the health and safety act or regulations.

## **A note on bullying**

In the last few years people have become very aware of bullying and its terrible consequences. However, with the exception of the Federal Health and Safety Regulations, the term bullying does not actually appear in health and safety legislation. When dealing with bullying behaviors in the workplace, CUPE members should use the general term harassment, and specify what the behaviors are in the complaint.

For more information specifically on harassment prevention, please see ***Stop harassment: A guide for CUPE locals, which is a part of this kit.***

## **Domestic violence**

Domestic violence is any form of physical, sexual, emotional, spiritual, financial or psychological abuse between intimate partners. The abuse can be a single act of violence, or a number of acts that form a pattern of abuse.

The partners may or may not be married, common law, or living together. They may be opposite or same sex partners. Domestic violence can continue to happen after a relationship has ended.

Domestic violence affects both men and women, but the vast majority of abusers are men and victims women. Men abusing women partners tend to carry out more extreme, prolonged and systematic acts

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<sup>5</sup> Depending on the jurisdiction of your workplace (provincial, territorial or federal), your list of “prohibited grounds” for discrimination can include the following:

age, sex, race, gender, colour, creed, religion, ethnicity, pregnancy, ancestry, political belief, marital status, family status, language, citizenship, civil status, nationality, place of origin, physical disability, mental disability, criminal conviction, aboriginal origin, social condition, sexual orientation, gender identity, gender expression, source of income, linguistic background or other grounds

of violence. Women marginalized by poverty, racism, homophobia, transphobia and ableism face the greatest risk.

Acts of domestic violence are crimes in Canada, under the federal Criminal Code and a number of provincial/territorial laws.<sup>i</sup> Some jurisdictions have specific requirements in their legislation for the prevention of domestic violence that takes place in the workplace. Regardless of what the regulations state, employers have a duty to protect workers from all forms of violence at work, including domestic violence.

### **How is domestic violence a workplace issue?**

Domestic violence seriously affects the work lives and workplaces of victims and abusers.

- One out of three women have experienced domestic violence, and for the majority, it follows them to work.
- For victims, employment can provide income security, physical safety, self-esteem, social connectedness and mental respite. It can be a key pathway to leaving a violent relationship.
- Abusers often sabotage victims' work as a way of keeping the partner economically dependent and socially isolated, for example by blocking them from getting to work and interfering with their work.
- Abusers may use work time or equipment to send abusive messages or otherwise plan and carry out violent acts.
- Abusers may target their partner at the workplace, through calls, stalking, harassment, assault and other abusive behaviour. At this point, the violence and risks posed by that violence usually escalate.
- Co-workers, clients and others connected with the victim or abuser's workplaces are also at risk for injury or some other form of trauma.

Many still believe domestic violence has nothing to do with the workplace. In fact, employers often inadvertently blame and even terminate the victim in response to the disruptions caused by the abuser. The union needs to remind employers of the seriousness of domestic violence as an occupational health and safety issue and ensure they eliminate the hazards and minimize the risks.

For additional information on domestic violence at work and how to bargain protections, please see CUPE Domestic Violence and the workplace: A bargaining guide.

### **Conditions that increase violence in the workplace**

The workplace itself can create additional hazards for workers. These hazards can be divided into five categories: client characteristics, work environment, workplace policy, workplace personnel, and government policies.

#### **Client characteristics**

Experience shows that working with people exhibiting certain characteristics puts workers at greater risk of violence. These characteristics include:

- Members of the public who are frustrated with the system, in shock, or angry (e.g., clients or their relatives) who may lash out at the closest person
- Clients with a history of violence
- People who are unable to control their behavior because of mental health conditions, emotional disorders, or a head injury
- People who have racist, sexist, homophobic, transphobic, ableist or otherwise discriminatory attitudes and behaviour
- People who may be under the influence of drugs or alcohol

### **Work environment**

In some instances, the way the workplace has been designed and the resulting tasks performed by the workers will create additional hazards that may lead to violence. Such instances include:

- Handling money, prescription medication or items of significant value.
- Working in high stress, low control work environments.
- Working in an environment that tolerates or promotes racist, sexist, homophobic, transphobic, ableist or otherwise discriminatory attitudes and behaviour.
- Privatization and restructuring, which studies have shown increase harassment (see CUPE booklet *Workplace Harassment and Mental Injuries: Examining Root Causes* included in this guide).
- Working alone (see the CUPE factsheet on working alone, included in the Violence Prevention kit)
- Overcrowding
- High noise levels
- Poorly designed patient or client areas, such as cramped rooms or poor visibility of clients

### **Workplace policies and procedures**

The policies and procedures in a workplace can have a significant effect on the frequency of violent incidents. The following are common policies or procedures that often *increase* the likelihood of violence:

- Patients with a history of violence are not identified to workers.
- Management are persistently or purposefully not scheduling enough staff, resulting in people working alone or excessive workload
- Management maintains inflexible rules, policies or attitudes towards staff

- Confusion, conflict or a lack of clarity around jobs or roles
- Inadequate or a complete lack of a violence prevention plan in the workplace. Or a reactive plan to violence (such as a Code White procedure) that the employer confuses with a proper prevention plan
- Policies that reflect an organizational attitude that violence is "part of the job."
- Management has a history of tolerating offensive language, hostile behaviour or otherwise signals that harassment and violence are acceptable
- Workers lack control over how work is done
- Supervisors fail to recognize work being done by workers
- Reluctance from management to invest in employee development
- Supervisors and managers take a hostile position because they are intimidated by workers' knowledge about the workplace<sup>ii</sup>
- A lack of or insufficient education, training, or information provided on recognizing and defusing pre-violent situations. This situation is worsened where there is rapid staff turnover or increasing casual, contract and part-time workers

### **Workplace personnel**

In some workplaces, the way that staff relate to each other and their environment will be observed by clients, and may increase the likelihood of violence. The following are a list of behaviours that should be minimized in order to reduce violence:

- Poor management or the prevention of violence or aggression;
- Bigoted or discriminatory attitudes and behavior towards marginalized groups;
- Negative or aggressive behavior of staff towards clients and other staff including body language and tone.

### **Government policies**

Cuts and privatization in sectors like health care and social services and education have contributed to workplace violence. When violent patients wind up in care facilities like nursing homes that are not setup to properly care for them, workers are put in a potentially dangerous situation. Research shows that underfunding and downloading of health care has led to higher patient acuity and violence levels<sup>iii</sup>. Now, in areas where there have been cuts, the majority of clients need more care, and are far more likely to suffer from dementia. The same government policies that close special care facilities also ensure that few (if any) additional staff have been hired over this time. The increased workload and changing patient population has made it far more likely that CUPE members in these care facilities will be exposed to violence. A similar intensification of work has taken place in social services, education and other parts of the public sector.<sup>iv</sup>

## The effects of violence in the workplace

In addition to the obvious effect of an injury as a result of a physical attack, targets of violence can experience a wide range of effects including but not limited to:

- Anger, anxiety, and shock
- Post-traumatic stress disorder
- Feelings of isolation and helplessness
- Loss of motivation, morale, and desire to be productive
- Loss of confidence
- Interference in social and family life
- Substance abuse
- Difficulty returning to work
- Apathy about the job
- Decreased job performance
- Negative changes in relationships with co-workers
- Feelings of helplessness, disbelief or self-blame for the event
- Fear of clients or members of the public
- Fear of returning to the place where the violence occurred
- Sleep pattern disturbances
- Headaches
- Heart disease and digestive disorders (potential outcomes of ongoing anxiety related to violence)

If the injury to the worker is serious enough, the worker may have to leave the workplace and miss out on training, promotion or transfer opportunities. They may lose income or even their job. The employer is legally required to “accommodate” workers under human rights legislation. For more information, see CUPE’s fact sheet on duty to accommodate, included in this kit.

Workers who witness violence can suffer many of the same effects listed above, but may also suffer stress from guilt for not helping, or fear that they will also become a target. In workplaces where management does not readily provide backup for absent workers, the remaining workers have to deal with a higher workload, which may lead to additional injuries. Workplace morale can be further degraded if some blame the absent worker for their higher workload.

Employers should recognize that beyond injured workers, there is a significant cost for allowing violence to occur in the workplace. Clients may experience a lower quality of service when there is high turnover, absenteeism or a poisoned environment caused by violence. There are also increase costs to conducting business as a result of:

- High turnover, absenteeism, use of sick leave, and long-term disability costs
- Increased risk of errors and accidents
- Decreased morale, productivity and motivation
- Recruitment problems and training costs
- Expensive investigations, arbitration, court costs, and potential liability

For more information on the effect of harassment on mental health, please refer to *Workplace Harassment and Mental Injuries: Examining Root Causes* at [cupe.ca](http://cupe.ca).

## **Relevant violence prevention legislation**

In all jurisdictions the employer has the primary responsibility to provide a workplace that removes and controls hazards so that all workers have a healthy and safe workplace. Employers have a positive legal duty to protect workers from violence in all of its forms, meaning they are legally required to take all reasonable precautions, to prevent injuries in the workplace.

All workers have a right to know about all hazards in their workplace, including the potential of violence. Employers often try to hide behind imagined confidentiality rules that they claim prevent them from sharing information related to violence in the workplace. The fact is there is no law that supersedes a worker's right to know about hazards in the workplace, meaning that all employers need to make all employees aware of any hazard that may lead to a violent occurrence in the workplace.

At a minimum, protecting workers from violence falls under the "general duty clause" found in all health and safety legislation in Canada, which states that an employer must provide a healthy and safe workplace. Due to pressure from the labour movement, led by CUPE and others, all provinces, with the exception of New Brunswick, have specific violence prevention language in their occupational health and safety act or related regulations. Harassment language is changing rapidly. As of March, 2015 three provinces -- Ontario, BC and Manitoba -- have recently added harassment prevention language to their health and safety laws. Quebec and Saskatchewan already have language.

For a complete list of legislative language and references to violence and harassment prevention legislation, see the legislative summary please refer to the legislative summary page, which is part of the violence prevention kit.

Beyond health and safety legislation, violence is prohibited under the Criminal Code of Canada while harassment is prohibited under human rights, employment standards and labour relations laws. Contact your local union health and safety representative or your CUPE national servicing representative for more information.

Legislation provides only a minimum standard. Laws often describe the least an employer must do to comply. Where the laws are weak, or do not provide enough guidance as to how to keep your workplace safe, workers must push their employers to take further measures. Statements like "this is all we need to do to comply with the law" should not be taken to mean that the workplace will be safe or free from violence. The following sections will discuss what employers can and should be doing to prevent violence in the workplace.

## **PART II: PREVENTION STRATEGY**

## Violence prevention strategy overview

Violence prevention should occur in three ways:

- Primary prevention is a strategy that stops violence before it occurs. The intent is to reduce the factors that put people at risk of facing violence. Violence prevention involves hazard identification and removal before someone gets hurt.
- Secondary prevention focuses on the immediate response to violence. These efforts may include emergency response services or medical care for workers who are injured.
- Tertiary prevention involves long-term approaches that occur in the aftermath of violence. It includes investigations to determine the cause of the incident and remove hazards.

Prevention is often confused with reducing severity of an incident by controlling violence once it has started. Secondary and tertiary strategies do not actually prevent incidents from occurring. Primary prevention strategies address the root causes of violence.

Violence prevention can best be achieved through consultation and coordination with workers. Employers should consult and involve the health and safety committee<sup>6</sup> or health and safety representative<sup>7</sup> in the creation, implementation, and evaluation of a workplace violence and harassment prevention policy; the identification of risk; and most importantly, the selection and implementation of controls. Committee members (both employer and employee representatives) must understand what constitutes workplace violence; the relevant legislative requirements; be able to identify factors that may contribute to workplace violence; and understand the issues of privacy concerning workplace violence complaints.

## Workplace violence prevention policy and employer support

One of the most important steps in preventing workplace violence is to ensure that your employer is committed to developing and maintaining a workplace culture where workers are treated with respect by managers, co-workers, clients, and members of the public, and where incidents of violence are dealt with promptly and effectively as they arise. This culture must be reflected in the employer's workplace violence prevention policy.

Many CUPE worksites have an existing policy. Many of these policies offer only bare minimum protection, developed to meet the lowest legal standards. Employers should be encouraged to do more. For example, in workplaces that are more prone to violence, the policy must recognize this fact, and acknowledge the need for additional preventative measures.

Having a policy is not enough on its own. Effective communications and training about the policy for all levels of the organization are critical for uptake of the policy. Consistent enforcement of the policy,

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<sup>6</sup> For this guideline, health and safety committee will refer to the legislatively required committees **or** committees required by collective agreements. Other names for these committees include Joint Occupational Health and Safety committees (JOHS) or workplace committees (WPC)

<sup>7</sup> Health and safety representative refers to the person who has been chosen by the local to bring health and safety-related concerns to the employer in locations where there is no health and safety committee. Where only the committee is mentioned in this guide, it should be expected that the health and safety representative would be the person to carry out the work where no committee exists.

ongoing efforts to evaluate the workplace environment and the effectiveness of the policy, are also critical to maintaining a violence-free workplace.

The Violence Prevention Kit includes a handout with language that should be included in a violence prevention policy.

## **Workplace violence hazard identification**

Violence prevention is an issue that should be dealt with by the workplace health and safety committee or health and safety representative. The first step to violence prevention is the identification of hazards. See **CONDITIONS THAT INCREASE VIOLENCE IN THE WORKPLACE** for a list of hazards that may lead to violence. The identification of hazards should be carried out by the committee with participation from workers at all levels of the organization.

An excellent place to find data on violence in the workplace is in incident reports. It's a good idea to review all incident reports from the past several years (as far back as you have records) to try and determine if there are patterns to the reports, such as a common location, time of day, activities being performed, or even the gender of the caregiver.

The health and safety committee should also consider hazards for which control measures have already been implemented (perhaps some time ago). The committee should re-evaluate these control measures to assess their effectiveness and ensure that new hazards have not been created as a result.

The next phase is to do inspections to find hazards that may lead to violence in the workplace. The identification of hazards should be included as part of every health and safety inspection or audit of the workplace. A sample form for workplace inspections has been included as part of the Violence Prevention Kit. It should be stressed that incidents where no injuries are actually sustained are no less important than other workplace injuries, so it is important to ensure that near misses are reported and investigated as well. The committee should investigate all areas of the workplace, including offsite locations and spaces like parking garages or vehicles used to transport clients.

Once all the hazards have been identified the committee must determine the order in which they will deal with the hazards. Prioritizing hazards is done so that the most important hazards are dealt with quickly, without losing sight of the final objective, which is to remove or control all hazards.

## **Surveys**

Workplace surveys are useful tools to help identify workplace hazards. The Violence Prevention Kit contains tips for survey development, as well as a sample survey that can be modified to suit your needs.

## **Communicate hazard information**

Workers must know about the hazards in the workplace. If the inspections or surveys have discovered hazards in the workplace that were previously unknown, or have not been communicated to the workers, then this information should be disseminated as quickly as possible. There is no need to wait for control measures to be in place before workers are warned about the hazards.

Workers should be informed about the hazards, as well as the fact that the committee is working with management to develop solutions, which will be communicated as they are developed. As always, it is preferable to communicate this information in conjunction with the employer. However, if the employer is unwilling to get the information out to the workforce, the union can take the initiative to inform their members. Also, while the committee has the right to share information about hazards, some information may be confidential, and should not be released to the general membership. If you have any questions about what can or cannot be released to the members, check with your local executive or your CUPE National Representative.

## **Workplace violence prevention and control planning**

Once all of the hazards have been identified through the inspections, a workplace survey, and a review of past incidents, the health and safety committee must set priorities to address and then discuss the best means of eliminating or mitigating the identified hazards. It is possible that the committee will develop a great number of recommendations. If so, the committee should also be clear as to which recommendations are the most critical to implement right away. While it needs to be clear that *all* hazards that relate to violence will need to be removed or controlled as soon as possible, it may not be feasible to tackle every idea at once. Sometimes *temporary* measures to protect workers may be needed until the full solution can be put in place.

When deciding on control measures to be implemented, workplace violence hazards should be approached in the same way as any other health and safety hazards. The hierarchy of hazard control can be used when discussing what control measures can be put in place:

1. *Elimination*: Removing the hazard is the most effective control measure. It may include barring members of the public who have made threats or arranging for the removal of patients in facilities which are not designed to treat them or reassigning clients who've hurled epithets at a marginalized worker.
2. *Engineering controls*: Hazards are not eliminated, but workers are isolated from them. Controls may include installing locks, barriers such as plexiglass walls, or high counters.
3. *Administrative controls*: The way people work is changed through workplace policies, procedures and processes. Examples of administrative controls include rules or policies about minimum staffing levels, employment equity, which entrances are used after hours, or ensuring that guards are assigned to walk with workers as they go to their cars, or even reassignment in some cases. Sample policies on how to react to violence in the workplace have been included as part of this kit
4. *Personal Protective Equipment*: Additional equipment worn by workers can reduce the effect of a hazard, but it is the least effective control measure. Personal protective equipment should only be considered as a protective measure when other measures are not possible. An example of personal protective equipment would be body armour.

## **Workplace violence prevention control implementation and review**

Once solutions have been selected by the committee and approved by the employer, they should be implemented as soon as possible. While changes are taking place, be sure to update workers on the progress and provide reasons for the changes to the workplace.

After the employer has removed the hazards or implemented control measures recommended by the committee, the work is not done. The employer, in consultation with the committee, must regularly review the effectiveness of the workplace violence prevention measures and update them when necessary. If there is a change in the workplace that compromises the effectiveness of violence prevention measures, these changes must be reviewed and adjusted accordingly. It is important to ensure that the controls implemented do not create additional risk.

The following is a useful list of questions the committee can ask when reviewing the effectiveness of the control measures<sup>v</sup>:

- Have the controls solved the problem?
- Is the risk posed by the original hazard contained?
- Have any new hazards been created?
- Are new hazards appropriately controlled?
- Are monitoring processes adequate?
- Have workers been adequately informed about the situation?
- Have orientation and training programs been modified to deal with the new situation?
- Are any other measures required?
- Has the effectiveness of hazard controls been documented in your committee minutes?
- What else can be done?

## **Education and training of workers**

It is crucial, and in many cases legislated, that employers provide training for workers on issues of health and safety. Specific training for members who may be exposed to violence forms part of this obligation. The training program should cover, at a minimum, the causes of violence; recognition of warning signs; preventive measures; controlling and defusing violent situations; and rights and obligations under laws, the collective agreement and workplace policies – and avenues to enforce those rights. Anti-discrimination training should be included, given the prevalence and complexity of human rights-related harassment and violence.

Employers should be prepared to offer training programs to everyone who works in a setting where they may encounter potentially violent persons. The intent is not to frighten workers, but to equip them to deal with violence should they encounter it.

All new workers must be trained. Senior employees should be retrained on a regular basis.

People with specialized education and experience in the recognition and control of violent situations should provide the training. Training may involve bringing in outside consultants with their own

appropriate training material and methods to provide seminars. The health and safety committee should be consulted on the type of training that will be provided to members. If you have difficulty locating appropriate training for your local, your servicing representative can contact your regional CUPE health and safety representative for assistance.

Both management and workers should be trained using methods that give everyone a strong understanding of what a potentially violent situation looks like. Roleplaying and case studies can be useful tools for this education.

## **General principles of workplace violence prevention**

Listed below are some common solutions to consider when making changes to your workplaces that will reduce the likelihood of violence. These suggestions reduce violence by redesigning certain aspects of the workplace.

### **General security recommendations**

These are some examples of security measures that will help prevent violence at work:

- Limit access to workplaces
- Ensure that staff entrances are located in well-lit areas
- Ensure that entrances and exits are equipped with alarm systems that warn workers if unauthorized people attempt to gain access
- Post clear signs to direct traffic for clients and visitors
- Provide good lighting for interiors, corridors and tunnels
- Place light fixtures sensitive to sound or movement in strategic outdoor locations
- Ensure that windows are secured from the interior
- Provide identity badges for visitors<sup>8</sup>
- Ensure building landscape eliminates possible hiding places
- Install perimeter fencing
- Carry or wear personal alarms that can alert a central alarm system or signal passers-by. Note that a disadvantage is that there may not be time to activate an alarm, or help may not be readily available. False alarms should not be punished.

Finally, employers should not assume that a two-way communication device (e.g., a radio) will provide protection from violence. Two-way communication devices should only be used to provide a lifeline to a central security location or to the police. If a worker is assaulted, they most likely will not be able to use their device during the assault, and if they are left incapacitated, they will be unable to call for help.

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<sup>8</sup> If ID badges are issued to staff, they should not feature information that could be used to identify workers, like their telephone number or address, or full name

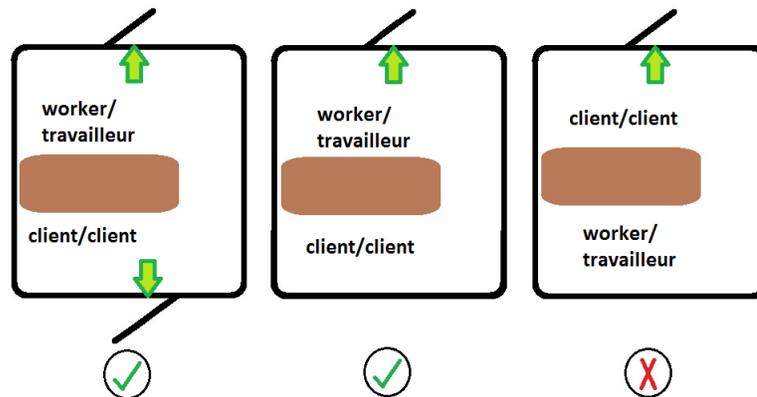
## Workspace design

In addition to security measures, changes in the physical design of the workplace may help to reduce or eliminate violence. Consider the following examples:

- Change counters or desks to provide adequate distance between workers and potential assailants; this change can be made by increasing widths, or increasing the heights of counters and tables in offices.
- Design offices and waiting areas to minimize crowding; crowded rooms tend to irritate people, making them more likely to grow angry or lash out.
- Set up work areas to be large enough so that "personal space" is not invaded.
- Reduce noise in the work area to help to reduce aggression; noisy PA systems, carts, phones, loud TVs and radios can provoke aggression in anxious clients, patients and residents with specific conditions; sound-absorbing surfaces and materials can help to reduce noise.
- Use subdued colours in wall coverings, surface finishes and floors; pictures and plants can help to relax aggressive people.
- Avoid furniture and decorations that can be easily picked up or used as a weapon.
- Arrange furniture so that workers can be seen by co-workers in the event that assistance is required.

### Workplace design example #1: Interview rooms

Where possible, equip interview rooms with two doors and alarm buttons. Larger spaces are also better than smaller ones. In some cases it may be advisable to put in two-way mirrors, and in some areas where the potential for violence is high closed-circuit TVs could be used. If two exits are not feasible, ensure that the client does not sit between you and the door.



### Workplace design example #2: Parking lots and garages

Parking lots should be well lit and close to the building. Where possible, parking lots used by staff should be in central locations, or workers should be assigned the closest parking spots to their work. Security personnel should accompany night staff to their vehicle and monitor lots and garages. Garage walls should be painted white to ensure maximum visibility, and corners where intruders could hide should be boarded up or covered. Also, install around-the-corner mirrors to increase visibility where there are sharp turns. Be sure to provide proper signage.

## **Behavioural observation, client characteristics and environmental conditions**

In some workplaces, violence, especially physical violence, can be prevented by recognizing triggers that set off a series of events that lead to violence. Recognizing a client's violent behaviour before it occurs is the last resort in violence prevention. Careful observations and records of previous incidents can help workers recognize triggers. Observations can be made for individual clients, or for the broader worksite. While observation is a useful prevention measure, CUPE members must remember that the employer should be taking steps to prevent clients from getting to the point where they lash out. Employers should not rely on recognition of the triggers as a significant part of a violence prevention program.

Below are lists of violence-linked behaviours, characteristics, and environmental conditions. Please note that these are only very general examples. They may not be applicable to all workplaces, and will not apply equally to all clients.

### **Behaviours**

If the following individual behaviours are observed, a person *may* act out in a violent manner, and any steps available to de-escalate should be taken:

- The person is threatening violence.
- The person is verbally abusive, and the abuse is escalating.
- The person starts shouting nonsensical or random loud noises, including growling, etc.
- Some people react with *non-verbal behaviors* when they perceive their personal space is being violated, and may make one or more of the following actions just before striking out:
  - Maintaining eye contact for a long period of time so that the situation becomes uncomfortable.
  - Engaging in rapid unpredictable arm movements, especially pointing and clenching and unclenching fists.
  - Gritting or grinding teeth.
- Some people will display *psychological* signs of discomfort, excitement, fear or stimulation. Though vague, and difficult to detect, such clues include:
  - Flushed skin reflecting raised blood pressure.
  - Perspiration.
  - Increased muscle tension, like clenched jaws or fists.
  - Fast respiration.
  - Some individuals experience nausea, while others have a loss of skin colour, and become very still.
- In the case of harassment, and especially domestic violence, when the abuser starts to control his target's work, for example by stalking, repeatedly calling or sabotaging her work, the violence is escalating.

### **Client characteristics**

Generally the likelihood of violence is greater if the client has the following characteristics:

- A history of violence.
- Lost inhibitions due to the influence of alcohol, drugs, a medical condition, or injury.

### **Social and environmental conditions**

The likelihood of violence will increase if the following environmental conditions are present in the workplace:

- There is pressure being put on the individual to be violent.
- The client expects violence to be rewarded, either materially (by gaining an item) or by gaining social approval of their peers or from someone they perceive to be in a position of power.
- Clients are forced to live under conditions which demean, degrade or antagonize. For example, people with dementia may lash out when they are rushed through a bath, forced to sit in soiled clothing, or woken long before breakfast. Short-staffing creates these conditions, but the problems are often blamed on stressed patients or workers.
- A weapon is available.
- Someone else is already being violent.

### **Conditions leading to co-worker violence**

Co-worker violence is more likely when:

- The work environment is characterized by work overload, assignments with high demand and low control, role conflict and confusion, insecure and precarious employment, or autocratic management.
- Labour stratification, where groups are concentrated in certain jobs. For example, research shows that traditionally masculine jobs or jobs where women are gender pioneers pose a higher risk for sexual harassment for women.
- There is poor management of harassment complaints.
- The aggressor believes that they will receive benefits by acting violently towards another worker they perceive to be disliked by management.

### **Bargaining for special training and protection for the use of force to control violence**

Sometimes, despite precautionary measures, violence occurs. Some CUPE members have jobs (eg. security guards) that require them to intervene, to protect members of the public or other workers from that violence. For these members, special training and additional protections must be in place.

Many employers respond to requests for training by only providing sessions on "physical intervention techniques" or basic self-defence training based on subduing a violent client. While these sessions may be valuable skills to some workers, especially those whose job it is to protect other workers, it is imperative that locals negotiate collective agreement protection for members who are taught these techniques, and are expected to use them. Locals should push for collective agreement language specifying the required training and equipment as well as protections against reprisals for reacting to a violent client or member of the public. Examples of this language can be found in the sample collective agreement language handout that is a part of this kit.

## Leading by example: the role of your local in violence prevention

The union can do two things internally to help in the prevention of violence (including harassment) between the members: lead by example and education.

A local union can establish an internal (union) anti-harassment policy, code of conduct and equality statement to provide a harassment-free union environment. Include anti-discrimination and anti-harassment language in the local bylaws. CUPE's National Code of Conduct and Equality Statement (both are found in this kit) may be helpful in formulating policies and bylaws. More information can be found in ***Stop harassment: A guide for CUPE locals***, which is a part of this kit.

The local can also help prevent violence in the workplace by:

- Training union leaders and stewards to recognize and challenge harassment. CUPE offers workshops on violence, harassment, human rights, and health and safety. Find out more from your servicing representative.
- Talking openly at union meetings about the effects of violence on each other in the workplace, and the underlying causes for violence and harassment being on the rise at your workplace.
- Writing articles for your website or newsletter about members' rights, and ways to stop or prevent harassment.
- Ensuring that union activities such as local meetings are free from harassment and inappropriate behavior. Demonstrate that the union doesn't accept harassment.
- Situations of workplace violence and harassment should be reported to the union executive who can help decide what the best course of action to take is. If it is one or more union executive members that are causing the harassment, then a report should be made to your CUPE servicing representative.

It is important to remember the union's actions on violence and harassment send an important message. While some members may be reluctant to come forward with concerns about harassment, those who trust the union to challenge harassment and advocate for a harassment-free workplace are more likely to come forward.

## Preventing violence through collective bargaining

We depend on laws to set the minimum standards for health and safety in our work. But sometimes laws don't go far enough, or politicians make them less effective. That's why CUPE encourages locals to bargain health and safety language into collective agreements—it gives us a direct path to protecting the health and safety of our members. Some sample collective agreement language pertaining to violence in the workplace has been provided as part of this kit. Additional resources, for example on bargaining domestic violence protections and anti-discrimination language, can be found at [cupe.ca/bargaining-equality](http://cupe.ca/bargaining-equality). Members wanting to include health and safety language in their collective agreement should work with their local executive, bargaining committee, CUPE National Servicing Representative, human rights committees and their regional CUPE Health and Safety Representative to develop appropriate language for their particular workplace.

To bargain violence-related language, the local will need information on prior incidences of violence and harassment. A local survey by the union can also provide useful background and statistics to assist the development of contract proposals.

Some issues that could be covered in a collective agreement include:

- A clause that reaffirms the employer's responsibility to provide sufficient workers to perform jobs safely, and specifically to prevent abuse or violence.
- A clause that reaffirms the workers' right to refuse unsafe work and deals with the employer's responsibility to provide alternatives to a dangerous situation.
- A joint policy on violence addressing all necessary issues (see previous section on policies).
- The right to alternative work following an incident.
- The right to time off as a result of abuse which is compensated at the worker's normal rate of pay.
- Prohibition of working alone and provisions for situations where workers must work alone (see CUPE's fact sheet on working alone).

## **PART III: RESPONDING TO AN INCIDENT**

### **Reacting to an incident**

When controls fail and violence happens, many people will be affected, and some may have a role in the immediate follow-up. Targets of violence should receive proper support, and proper control measures should be put in place. The following sections will identify actions those involved in the process may consider taking.

### **What to do if you're faced with violence in the workplace**

As mentioned earlier, violence may appear in the workplace in many forms. Ultimately, the decision about what to do when faced with violence and harassment lies with the worker, however, CUPE strongly encourages all workers to take the required steps to protect their health and safety. While it is impossible to cover all situations where CUPE members may face violence, the following are a few recommendations for how to deal with violence if you are the target:

- If you feel that the danger to your health and safety is imminent, take steps to remove yourself from the violent situation.
- If your life is in danger, or you are being assaulted, call the police.
- If you do not feel an imminent danger to your health and safety, and you feel safe confronting the perpetrator, inform the perpetrator that their actions are both unwanted and unwelcomed, and to cease immediately.

- If the violence continues, and you are unable to resolve the issue through the steps mentioned above, contact the government's health and safety inspectors and request an investigation. Speak to your local health and safety committee, local executive, National CUPE Servicing Representative, or your National Health and Safety representative for more information on the best way to work with government's health and safety inspectors.
- CUPE's document *Stop harassment: A guide for CUPE locals* (which is part of this kit) describes the steps members and the union can take when harassment occurs.

## **Can you use the right to refuse?**

You can invoke your right to refuse work in dangerous situations as long as you are acting in good faith and have a reasonable belief that performing a job or task (that you are refusing) is likely to endanger your health or safety or the health or safety of any other person.

While procedures and circumstances around the right to refuse may vary from province to province, just about all workers have the legal right to a healthy and safe workplace that allows (and in some provinces obligates) them to protect their own safety by refusing to perform work that they believe has the potential to harm themselves or others at the worksite. Locals should take an active role in monitoring work refusal processes to ensure workers' rights are upheld and that the process results in changes that will make our workplaces safer. For additional information on work refusals, see CUPE's fact sheet on the right to refuse.

Also note that disciplinary action against a worker who has exercised their rights under the Act is strictly prohibited. If you feel that you are facing repercussion for using their right to refuse, you should document everything and have their local executive contact their CUPE National Servicing Representative.

## **Reporting incidents**

Reporting incidents is important to make employers aware of problems so that they can implement control measures.

There are many reasons why workers may be reluctant to report incidents. Many employers have long and complex reporting forms that discourage workers from reporting every incident. Often, when there has been an incident, workers are made to feel as though they did something wrong, despite having no responsibility over the actions of others. This reaction is especially common for workers who are marginalized (eg. women, workers with a disability and LGBTTI, racialized and Aboriginal workers). It is important that all workers know that reporting every incident of violence is important to ensure proper investigation and future prevention. A workplace policy on violence prevention can address reporting and a procedure for reporting can be developed by the joint health and safety committee.

It's important to develop an incident reporting form that includes sufficient detail to help identify preventive measures. An example of an incident report form is provided as part of the Violence Prevention Kit. This form can be used as is, or modified for your particular workplace.

A reporting form should include:

- Where the incident took place, including a description of the physical environment
- The circumstances (activities and situational factors) specific to the event.
- The date and time.
- Details of the perpetrator, such as name, age and gender.
- The relationship between the perpetrator and the victim (eg client/caregiver, student/Education Assistant, or no relation).
- An account of what happened; what was said and done.
- Names and accounts of witnesses.
- The effects of the incident up to this point.
- Description of the outcome; were the police called? What happened after the incident?

Other relevant information should also be attached to the reporting form, such as emails, notes, photos or other physical evidence related to the incident.

Employers should ensure that there are no barriers to filling out the form, such as needless excessive length or complication, or a requirement to use computers. Workers should feel comfortable asking a co-worker or union representative to help fill out the form if they are having difficulty.

Separate paperwork may need to be filed for Workers' Compensation Board (WCB) claims, which should be filed when any members is injured, either physically or mentally.

### **Police involvement**

If a worker believes that their life is at immediate risk due to violence, they should call the police if they are able to do so. Many violent incidents have a criminal element (for example sexual assault or death threats), but are over before the police become involved. If this type of incident occurs in the workplace, the employer should take the lead in calling the police. The union may need to go up the chain of command if the manager who is approached doesn't act.

However, if the employer is unwilling to call the police, the member may need to do so and should have the union's support. If a crime has been committed, it should be reported to the police. If the police are involved and demand that the union turn over records, they are required to provide a warrant. In this instance the local should seek specific legal advice immediately. Contact your servicing representative, who can access CUPE's legal services.

Also, there are special considerations when members face criminal charges, but the union still has a duty to investigate the incident and take appropriate steps. Consult your CUPE National Servicing Representative about getting specific legal advice.

### **The role of the union in reacting to an incident**

When a violent incident occurs, your employer will need to conduct an investigation, and many people in the union have a role. The health and safety committee members should take the lead in participating

in the investigation (investigations are discussed below) but other union representatives also play a crucial role, especially in cases of human rights-related harassment and violence. A checklist on the steps to take after a violent incident has been included as part of this kit. If your employer does not take actions, this kit includes a sample letter that can be given to the employer to prompt them to begin the investigation.

### **Local rank and file members**

For those who witness a violent act or situation:

- If there is a serious injury, call for help.
- If you feel safe, tell the perpetrator to stop the behavior.
- Keep a written record of all observations and details, regardless of how trivial they may seem at the time. This information can help in an investigation.
- If the behaviour is harassment, don't take part and support your co-workers who are harassed.

### **Shop steward**

A shop steward is likely the first point of contact for a CUPE member seeking the union's help to deal with harassment or violence. Some members may want to speak to a particular steward (for example, a woman who was assaulted may prefer to speak to a woman about the assault, and stewards must be sensitive to the needs of equity seeking members). As a steward you should make every effort to accommodate the request.

If an incident of violence is reported to a steward, the steward should take careful notes in case there is a grievance or follow-up investigation. The steward should clarify the facts of the member's report. Often, clarification is best done by reading back the notes to make sure that the steward has the facts correct. The steward should also ensure the incident has been reported using the required reporting forms from the employer. The steward should encourage the member to keep a record of all incidents, tracking the details specified above. Evidence of the incident should also be kept. Evidence might include emails, handwritten notes, photographs or physical evidence like vandalized personal belongings.

Although stewards are often the first line of reporting, a steward may not feel they have the necessary experience or background to properly assist the member dealing with a violent incident. Health and safety issues are often dealt with most effectively by the health and safety committee. A steward may encourage a member to speak with joint health and safety committee members. The steward can also assist in contacting and relaying information to the committee members, with the originating member's consent.

If the member is hesitant about taking their report further, or making a formal complaint, the steward should explain to the member that for most complaints to be resolved, a formal complaint is necessary.

However, maintaining the confidence of the member who has brought the complaint is the most important aspect of the interaction. A steward should not discuss any incidents reported to them with

anyone who is not part of the ongoing investigation, or does not have a legitimate need to know. This confidentiality is especially relevant in situations where multiple workers within the union may be involved.

Finally, everyone must disclose information when there is a clear threat to safety. The union should ensure that employers provide mechanisms for workers to report incidents and risks violence. The union and employer should not disclose more personal information than is reasonably necessary to protect workers from injury. Information should be shared:

- in emergency situations
- for threat assessment
- for safety planning
- for the effective implementation of protective orders

In these cases, privacy and confidentiality should be maintained to the extent possible. This means sharing only reasonably necessary information and only with those who need to know. All personal information concerning domestic violence should be kept confidential and no information should be kept on the employee's personnel file without their express written permission.

### **Local executive**

The role of the local executive will depend on the situation. First and foremost, the union executive should support the person making the complaint. Allegations of violence should never be taken lightly. When there has been an act against a member emotions often run high, but it is important to consider each step before it is taken. The steps to take and roles of the executive can become complicated if the reported incident is between two or more members of the union. CUPE locals in the past have been sued for defamation and charged with failure to represent. So if a local has never dealt with these types of issues, it is important that an executive plan accordingly, and ask for advice from their CUPE servicing representative before proceeding. If the members are partners or related, please refer to CUPE Domestic Violence and the workplace: A bargaining guide

As leaders in the local, there are several measures the executive can take (in conjunction with the health and safety committee) to ensure CUPE members are protected and that targets of violence receive the proper support and assistance.

- **Determine who is going to take the lead in dealing with a situation.** An engaged executive is great, but if different executive members are all giving the member different advice, it can make matters worse. When a situation arises, decide who will be the lead on working with the member to resolve the issue.
- **Provide a wide range of support for the target.** Support the target by encouraging them to seek proper medical, psychological, or legal assistance. Assist them with contacting the authorities if the incident warrants it, and the employer will not act (see section on police involvement above). Protect the target from isolation, demotion, forced transfer, increased workload or other negative repercussions from co-workers or the employer.

- **Compile all reports.** Encourage targets and witnesses to document and file all incidents of violence with the union, the health and safety committee, and the employer. Reports can include photographs, incident reports, body maps, etc.
- **Respond in a timely manner.** When a local executive receives a complaint of violence, they must react promptly. To determine the appropriate reaction, there will need to be an investigation of the circumstances leading to the complaint. They must take all reasonable measures available to conduct an objective and serious investigation of the facts that are presented.

A delayed investigation may:

- Reduce the effectiveness of the union's intervention.
- Have negative effects on the target's physical and psychological state, as well as on the workplace and the work environment.
- Have undesirable judicial repercussions (a local may miss the deadline for submitting a grievance, etc.)

### **The Health and Safety Committee**

This guideline refers frequently to the roles of the health and safety committee. In summary, the roles of a health and safety committee member who is made aware of an incident of violence include:

- Taking reports from targets of violence and stewards
- In conjunction with the stewards and the executive, ensure that members who are hurt are directed to the proper resources, such as an Employee Assistance Program, medical practitioner, psychologist, community outreach program, etc.
- Participating in the investigation
- Ensuring the investigation is focused on determining the root cause and making recommendations to the employer, rather than determining who should be disciplined.

### **Resolving a situation between union members without the employer**

Some CUPE locals have attempted to mediate incidents of conflict or violence between union members without employer involvement. There are potential upsides if a situation is caught early; misunderstandings can be cleared up before they escalate, and no one gets disciplined by the employer. However, there is also serious potential to make the situation worse. People who have been harassed should never be forced to confront their harasser, and mediation would not be an acceptable process. In this situation, they can directly file a grievance or other complaint. Furthermore, this approach is generally not recommended unless a qualified person is performing the mediation. Before the local tries to resolve a dispute without the employer they should consider the following:

1. Do not try set up to set up a mediation of any type unless you are completely sure 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 mediator.
3. The most common practice for dispute mediation is that neither side has an advocate or representation during the mediation sessions, however it is possible that stewards will represent or support both sides. These and other details must be worked out before the mediation can begin.
4. Both parties should agree to the following:
  - All discussions in this mediation process will remain confidential.
  - 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 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 are able to reach a resolution, they must ensure that all facts of the situation are agreed upon so that there are no leftover 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 might 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 the dispute has been settled, always leave opportunity to proceed formally with the employer as an option.

There are situations where mediation should not take place:

- 1.) Do not force someone who has been harassed to confront their harasser. Confrontation or mediation may put the target at greater risk.
- 2.) If there has been any crime committed (i.e. an assault), then the union must notify the employer and 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.

## **Investigations**

The primary objective of any health and safety investigation is to find the root cause of an incident, and prevent it from happening again. Investigations by the joint health and safety committee must never be about assigning blame or punishment. Health and safety committee members must be impartial. The committee determines the facts of the case, and puts forth suggestions for how it can be prevented. The committee should never be involved in discussions about punishment.

When dealing with violence, there are other considerations that should be taken into account by the investigation team:

- Was the complaint founded, that is, did violence take place?
- Did the employer take prescribed measures to cease and prevent the violence?
- Have others been affected by the similar violent incidents?
- Has the work environment been compromised or poisoned as a result of the violence?

While a few suggestions around the investigation process are discussed below, readers should consult the CUPE Guidelines *Investigating Incidents and Occupational Diseases* for more detailed explanations.

## **Investigation preparation**

There are many aspects of investigating incidents that should be decided upon long before an incident ever takes place. Part of the employer's policy on violence prevention should include a process for investigation, including who should take part in it. Members of the health and safety committee should receive training on how to conduct investigations on violence, including harassment. Investigator training is important to ensure that they are familiar and comfortable with investigation techniques, and capable of posing questions without intimidating the witnesses, alleged targets or alleged aggressors. Investigators must also be able to react properly to strong and probably emotionally charged responses from interviewees, and be well versed in the collective agreement, the employer's violence prevention policy, and relevant legislation.

A good investigator should demonstrate the following qualities:

- Tact and discretion
- Empathy
- Credibility and impartiality
- Detail-oriented
- Analytical skills
- Competence (has received training, knowledge of legislation and collective agreement, experience)
- Knowledge of the workplace and violence prevention policy
- Communication skills
- Non-judgmental attitude
- Sensitivity to cultural differences
- Sensitivity to non-verbal communication
- Understanding of discrimination and competence in handling human rights harassment or violence (or a sense of when to refer a case to someone with expertise in this area)

In complex investigations (for example domestic violence or human rights harassment), the committee may not have the expertise to do an appropriate investigation. Lived experience of oppression is sometimes required in order to fully understand the complaint and be trusted by the target. It is important for the union members to question the committee's ability to do an investigation if they feel

that committee members – union or management - are not equipped to adequately deal with a situation. If the employer decides that the investigation should be done by an external investigator, the members of the health and safety committee should be involved in such a manner as to ensure that the investigation has been performed correctly, and without bias. The committee's involvement is not only important for the protection of our members, but also in the aftermath of the investigation. If there are doubts that the people performing the investigation were not impartial or not sincerely interested in finding root causes to the incident, then the healing process for the entire workplace may be jeopardized, and the atmosphere of the work environment could erode further.

It is always important to ensure there are a wide range of views available on the investigation team. For example, an investigation of sexual harassment against a woman should not be carried out entirely by a team of men.

### **Member on member violence investigation**

When an investigation focuses on the actions of a CUPE member, union members should not take a leadership role. A union-side committee member's role in this investigation should be to ensure that the investigation proceeds properly, and that the committee is focused on root causes and prevention. If the employer is considering disciplinary action, they should proceed with their own investigation outside of the structure of the committee.

Unions have a duty of fair representation, which holds them accountable to represent their members. If the person accused of violence is one of our members, that person will need union representation to ensure fair proceedings. For investigations of conflicts between co-workers, ensure different union representatives are assigned to the complainant and the respondent. Establish a "firewall" between them; the two representatives should not communicate about the complaint. It is important to explain that the union has the duty to represent all sides so that the person who made the complaint does not assume the union is taking sides against them.

The health and safety committee member engaged in the investigation should not also act as a union representative for any of the members involved.

### **Confidentiality**

Confidentiality during the investigation process is extremely important. The investigator, union, employer and all parties involved must ensure that all matters pertaining to the investigation remain confidential.

The union should take measures to prevent gossip and protect members' privacy. However, for a formal complaint to proceed, the target must self-identify to the employer and name the alleged perpetrator in a complaint. The target should know that if the complaint goes to formal adjudication, what they say to the employer cannot be confidential, and details will become public in a formal hearing setting.

The only exception for when information gathered in an investigation should be released is when an investigation finds hazards at the workplace that were not previously identified. In this instance, the investigation team needs to immediately inform the employer so that all workers in the workplace can

be made aware of the new hazard and a safety plan implemented. Any information released must be only about the hazard itself, and not include unnecessary details that may identify the confidential aspects of the investigation.

## **Information gathering**

There are many potential sources of information when conducting an investigation. For incidents of violence, the most common sources of information will be interviews with the parties involved and witnesses. However, the investigation team should also consider documentation such as (but not limited to) past policies, training records, incident reports, investigation reports and previous health and safety committee meeting minutes.

### **The interview plan**

While they need to be present, worker members of the health and safety committee should carefully consider whether they want to conduct the interview of our members. The goal of the investigation is to get to the truth of what happened. There may be significant difference in the stories, and some members may interpret a union rep asking hard questions as the union taking sides against them. The employer is responsible for ensuring that an investigation is conducted, and as such should be responsible for conducting the interview. However, the entire investigation team should contribute to the development of an interview plan.

The interview plan is a preparation tool for conducting a series of interviews. The first section of the plan is a summary of the information collected. The second part of the plan is more elaborate – it contains the complete coordinates of those to be interviewed and implicated, statements and additional documents such as graphs, pictures, receipts, etc. All other information related to the complaint is recorded. The interview plan also ensures that no pertinent facts are forgotten or overlooked. It's a valuable tool in developing the interview grid, conducting interviews as it will aid the investigator in pin-pointing pertinent information.

### **Interview grid**

An interview grid is a tool to help conduct an interview. A small sample interview grid is below. The interview grid features a list of questions to ask interviewees, and acts as an outline of important questions to be asked, with possible follow-ups. While union members should not be conducting an interview, an agreed upon interview grid will ensure that both the employer and union representatives avoid conflict over the interviews.

Also, when interviewing witnesses, questions should be carefully planned in advance so as to ensure the information that the witness has regarding the matters in question are asked without providing the witness with more information about the situation than he or she had before the interview.

Open-ended questions are recommended. Open-ended questions lead to meaningful answers as opposed to yes or no answers. Open-ended questions tend to be more objective and less leading. Non-

judgmental questions, free of stereotypes and other biases, are also important. Examples of good and bad questions are below:

<b>Good interview questions</b>	<b>Poorly worded interview questions (lead to speculation)</b>
Describe your relationship with the client. Do you know if the client ever acted violently in the past?	Have you experienced problems with this client in the past?
What did you see at the time of the incident? Who else was in the area at the time of the incidents? Describe the scene. Where were the people when the attack happened? What did you hear? Describe the actions that you were able to observe each person take.	What happened?
How did each person react?	Did she react emotionally? Was he sensitive about PC language?
Tell me about the incidents that took place leading up to your complaint.	Why do you think they did that?
What is your name and position at the workplace?	Tell me about yourself.
Tell me about other specific incidents of violence that have happened in the workplace?	Has anything happened before?
Have you talked with anyone about the incident, and if so who, and what did you tell them?	Did you tell anyone about the incident?

In many investigations, you will have to perform more than one round of interviews, and additional interview grids may need to be developed.

**Complainant unavailable**

As a result of an incident, the complainant may not be available at the workplace (ex. they are on sick leave). Whenever an investigation team is communicating with a complainant, they should recognize that disrupting a complainant’s time away from work while recovering may slow or counteract the recovery process. As a result, communications should be limited to very important times, or avoided altogether if at all possible. The complainant should have as much control over the process as possible, be supported to feel safe, and not be re-traumatized by the investigation.

If on the initial discussion the complainant indicates that they can participate in the investigation interview, but cannot come to workplace, the investigation team should be flexible:

- If the complainant is on medical leave but agrees to be interviewed, meet them outside of the workplace (with union representation).
- If a face-to-face meeting is not possible, and the person on a medical leave agrees, conduct a telephone interview or request a written statement outlining the events.

If the complainant has indicated that they want to be left alone while recovering, the investigators must respect the fact the complainant may be unavailable for some time. In these cases, there are a few options available to the investigation team:

- Inform the union and the employer that the investigation must be put on hold to respect the rights of the person on leave.
- Even though the main complainant is away, other aspects of the investigation may continue. Meet with the person whom the complaint has been made against to begin compiling information.

Sometimes a delay in information gathering can affect the amount of detail and precision provided during the interview.

## Conclusion

Workplace violence and harassment is now recognized as a health and safety hazard in the workplace. It is a serious, multi-faceted problem that affects not only the intended targets, but colleagues and the workplace as a whole. Resolving the issues that lead to violence in the workplace may be difficult, but CUPE members all over the country are having success when they engage with their health and safety committees to work on the problem. If you have additional questions, contact your CUPE servicing representative, regional equality specialist, or your regional health and safety specialist.

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<sup>i</sup> Department of Justice Canada. 2015. Family Violence Laws. <http://www.justice.gc.ca/eng/cj-jp/fv-vf/laws-lois.html> - accessed September 22, 2015

<sup>ii</sup> Nathanael J. Fast, N.J., and Serena Chen S., (2009F), When the boss feels inadequate: power, incompetence, and aggression., *Psychological Science*. Nov;20(11):1406-13  
Nathanael J. Fast, N.J., Halevy, N., Galinsky, A.D (2012) *Journal of Experimental Social Psychology*, Vol 48(1)

<sup>iii</sup> Irene Jansen, and Janice Murphy. 2009. "Residential Long-Term Care in Canada: Our Vision for Better Seniors' Care." Canadian Union of Public Employees. <http://cupe.ca/privatization-watch-february-2010/our-vision-research-paper>.

<sup>iv</sup> Yuriko Cowper-Smith, and Leah Levac. Forthcoming. "Women and Public Sector Precarity: Causes, Conditions and Consequences." Canadian Research Institute for the Advancement of Women.

<sup>v</sup> Modified from Occupational Health and Safety Committee Manual <http://www.lrws.gov.sk.ca/ohs-committee-manual> - accessed Aug 25, 2014