



International  
Labour  
Organization

## ► Violence and harassment at work: A practical guide for employers



- ▶ **Violence and harassment at work:  
A practical guide for employers**

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First published 2022



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*Violence and harassment at work: A practical guide for employers*  
Geneva: International Labour Office, 2022

ISBN: 978-92-2-037595-2 (web PDF)

Also available in French:

*Violence et harcèlement au travail : Un guide pratique pour les employeurs*, ISBN 978-92-2-038068-0 (pdf web);

and in Spanish:

*Violencia y acoso en el trabajo: Guía práctica para las empresas*, ISBN 978-92-2-038069-7 (pdf web).

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Produced by the Document and Publications Production,  
Printing and Distribution Unit (PRODOC) of the ILO.

*Graphic and typographic design, layout and composition,  
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## ▶ How to use this guide

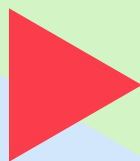
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This guide has been developed by the [NAME OF EMPLOYER AND BUSINESS MEMBERSHIP ORGANIZATION] with the support of the International Labour Office (ILO) Bureau for Employers' Activities (ACT/EMP), Gender, Equality, Diversity and Inclusion Branch (GEDI) and the Labour Administration, Labour Inspection and Occupational Safety and Health Branch (LABADMIN/OSH), to provide practical guidance to member companies on how to address, prevent and respond to violence and harassment in the world of work.

This guide focuses on the general principles in the prevention and management of violence and harassment at work, with reference to the ILO Violence and Harassment Convention (No. 190) and its accompanying Recommendation (No. 206), 2019. It aims to enable enterprises to better control the risks and minimize the negative impacts that violence and harassment brings to the workplace. It includes, among others, guidance on what is considered violence and harassment in the world of work, examples of common violence and harassment at work, legal framework and employers' responsibilities, why employers need to take action, how to address, prevent and respond to violence and harassment including by developing and implementing enterprise-level policy, as well as risk management with sharing of good practices and examples.

The guide is designed to be easily adapted to national circumstances, and reflect local legislations, policies and realities. It is particularly useful for staff in human resources, occupational safety and health (OSH), or employee relations and well-being that have responsibilities in managing hazards and risks and ensuring the workforce is safe and healthy.

For further information and guidance, you may refer to Appendix 1 for lists of selected tools, resources and guidance materials relevant for violence and harassment in the world of work, particularly two ILO publications: [Violence and harassment in the world of work: A guide on Convention No. 190 and Recommendation No. 206 \(2021\)](#); and [Safe and healthy working environments free from violence and harassment \(2020\)](#). The publications provide comprehensive guidance on Convention No. 190 and Recommendation No. 206 and how violence and harassment in the world of work can be managed through OSH measures, with extensive examples of legal provisions addressing violence and harassment in national laws and regulations, and guidance materials relevant for violence and harassment at work. Both publications were heavily referred to in the guide.



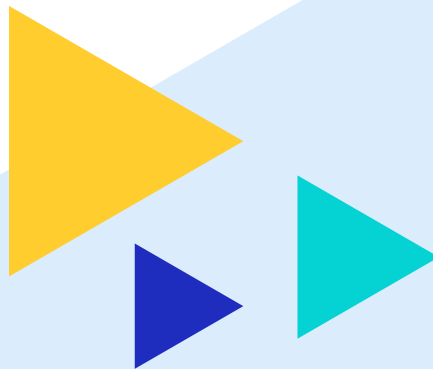
## ► Acknowledgements

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We thank Miaw Tiang Tang for drafting the guide and for her contributions, expertise and thoughtful collaboration.

We extend our thanks to ILO colleagues who provided peer review and made technical contributions. From ILO-ACT/EMP, Wade Bromley, Maria Victoria Giulietti and Dong-Eung Lee supported this effort. Additionally, Chidi King, Valentina Beghini and Emanuela Pozzan from ILO-GEDI and Manal Azzi, Dafne Papandrea and Ana Catalina Ramirez from ILO-LABADMIN/OSH offered invaluable support by reviewing the guide and sharing their technical insights and expertise.

Finally, Jae-Hee Chang, Senior Programme and Operations Officer, from ILO-ACT/EMP led the coordination and development of this guide.



## ► Foreword by the President

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Violence and harassment in the world of work remains a grave unacceptable challenge that too many people continue to be exposed to, and its eradication should unite all employers in [NAME OF COUNTRY]. It constitutes situations where workers, employers and other people are threatened, bullied, attacked or assaulted at work. Any form of violence and harassment challenges the safety, health and well-being of all persons and can bring physical and mental harm. As employers, we have not only the duty of care towards the workforce but a vested interest to create a world of work free from violence and harassment, as our company's productivity, reputation and overall performance can be negatively impacted if we do not address it.

While the frequency, intensity and severity of violence and harassment vary from one workplace and one sector to another, we are all too familiar with it in [NAME OF COUNTRY]. During the coronavirus disease (COVID-19) pandemic, we experienced an increased risk of violence and harassment in our society and workplaces, and exposure to violence was heightened in certain sectors, occupations, and working arrangements. The crisis has been a solemn reminder for us, as employers, to centralize and prioritize our duty of care for the well-being for our people. Now is the time for us to recommit our business practices to making workplaces more inclusive and creating working conditions in which individuals can perform at their best.

[NAME OF EMPLOYER AND BUSINESS MEMBERSHIP ORGANIZATION, EBMO] is the [NAME OF COUNTRY]'s leading business organization, speaking on behalf of [NUMBER OF ENTERPRISE MEMBERS]. Our mission is to help businesses create a more prosperous society. We do not tolerate violence and harassment in any form, whether direct or indirect, and we encourage all businesses to adopt and implement zero-tolerance policies and measures on violence and harassment to create respectful workplaces. This guide is part of our key efforts to help our members to identify, prevent and manage inappropriate behaviour that brings harm to our people and businesses. It provides practical guidance which can be tailored to the unique demands of each workplace. [NAME OF EBMO] will continue to provide information, technical guidance and assistance to our members to ensure our workplaces are free from any form of violence and harassment.

[NAME OF EBMO] participated in the adoption of the ILO Violence and Harassment Convention (No. 190) and Recommendation (No. 206), 2019.<sup>1</sup> Convention No. 190 places obligations on governments to develop national laws prohibiting violence and harassment in the world of work and on employers to take proactive steps to prevent violence and harassment. At both national and international levels, [NAME OF EBMO] will continue to be engaged to address negative cultures where they exist and be champions of respectful and inclusive workplaces.

Finally, I would like to thank the ILO for their technical assistance in developing this guide.

Yours sincerely,

[NAME OF PRESIDENT/SECRETARY-GENERAL]

[NAME OF EMPLOYER AND BUSINESS MEMBERSHIP ORGANIZATION]

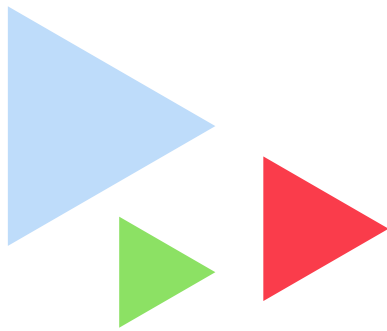
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<sup>1</sup> This sentence may need to be modified by the EBMO localizing the guide as some employers voted against or recorded an abstention against Convention No. 190 and Recommendation No. 206. See final record vote on the adoption of [Convention No. 190](#) and [Recommendation No. 206](#).

## ▶ Abbreviations and acronyms

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COVID-19	coronavirus disease
EBMO	employer and business membership organizations
ESG	environment, social and governance
IFC	International Finance Corporation
ILO	International Labour Organization
OSH	occupational safety and health



## ► Table of contents

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How to use this guide .....	3
Acknowledgements .....	4
Foreword by the President.....	5
Abbreviations and acronyms.....	6
<b>Introduction</b> .....	<b>10</b>
<b>Chapter 1: What is violence and harassment at work?</b> .....	<b>11</b>
1.1 Elements and examples of violence and harassment and how it can happen.....	12
1.2 Domestic violence and its impact on the world of work .....	14
1.3 What is not considered violence and harassment at work?.....	16
<b>Chapter 2: The business case of addressing and preventing violence and harassment at work</b> .....	<b>17</b>
2.1 Employers' perspectives on violence and harassment at work .....	17
2.2 Why must employers take action against violence and harassment at work? .....	18
<b>Chapter 3: The legal framework and employers' responsibilities to prevent violence and harassment</b> .....	<b>22</b>
3.1 Violence and Harassment Convention, 2019 (No. 190).....	22
3.2 Employers' responsibilities to prevent violence and harassment at work.....	23
<b>Chapter 4: Employers' action and good practices in addressing and preventing violence and harassment at work</b> .....	<b>26</b>
4.1 Employers' commitment and statement .....	27
4.2 Developing enterprise policy on violence and harassment at work.....	28
4.3 Implementing the policy .....	29
4.4 Managing, assessing and mitigating risks .....	32
4.5 Complaint and reporting procedures.....	38
4.6 The duty of workers and their representatives to collaborate.....	46
<b>Chapter 5: The role of employer and business membership organizations in preventing and eliminating violence and harassment at work</b> .....	<b>47</b>
5.1. Providing information and advice .....	48
5.2. Raising awareness and providing training .....	48
5.3. Promoting good practices and compliance with laws and regulations.....	49
5.4. Consulting and legal representation .....	50
5.5. Policy influence .....	50
5.6. Social dialogue.....	51





References .....	52
Appendix 1: Lists of selected tools, resources and guidance materials relevant for violence and harassment in the world of work .....	54
Appendix 2: List of International Labour standards protecting workers against situations in which violence and harassment may exist .....	56
Appendix 3: Sample template for violence and harassment enterprise policy.....	59

## List of boxes

<b>Box 1.</b> Examples of violence and harassment defined in national legislation .....	11
<b>Box 2.</b> Expanded scope of the workplace in Australia to cover locations or situations where violence and harassment may occur .....	12
<b>Box 3.</b> Examples of common violence and harassment at work .....	13
<b>Box 4.</b> A shift in employers' views on domestic violence .....	14
<b>Box 5.</b> National labour and employment provisions on domestic violence in the world of work .....	15
<b>Box 6.</b> Examples of reasonable management .....	16
<b>Box 7.</b> National laws or regulations obliging employers to protect workers and prohibit violence and harassment at work.....	18
<b>Box 8.</b> Examples of work-related legislation and regulations prohibiting violence and harassment .....	23
<b>Box 9.</b> Convention No. 190, Article 9 on employers' responsibilities .....	24
<b>Box 10.</b> Examples of employers' responsibilities on violence and harassment in national law and regulations .....	25
<b>Box 11.</b> Examples of national legislation and regulations requiring employers to establish workplace policies on violence and harassment .....	26
<b>Box 12.</b> Examples of enterprise statements against workplace violence and harassment.....	27
<b>Box 13.</b> Elements to consider when developing an enterprise policy on violence and harassment.....	28
<b>Box 14.</b> Examples of regulations on employers' responsibilities for violence and harassment training .....	29
<b>Box 15.</b> Examples of supplier codes of conduct, including anti-discrimination and anti-harassment .....	31
<b>Box 16.</b> Mandatory risk assessment of violence and harassment: An example from France .....	32
<b>Box 17.</b> Common hazards that give rise to work-related violence and harassment .....	33
<b>Box 18.</b> Examples of preventive measures against the risk of third-party violence and harassment for public transport drivers .....	37
<b>Box 19.</b> Examples of reporting procedures on violence and harassment in legislation or national guidance .....	38



<b>Box 20.</b> Well-established complaints procedure as part of enterprise efforts to create a safe workplace: An example from HBL, Pakistan and Indonesia.....	39
<b>Box 21.</b> Examples of legislation requiring employers to respect confidentiality when a complaint is lodged .....	41
<b>Box 22.</b> Examples of legislation and regulations providing protection against retaliation .....	42
<b>Box 23.</b> Gender-based violence support services provided by enterprise: Bioparques de Occidente Agribusiness and Forestry, Mexico.....	43
<b>Box 24.</b> Examples of legislation and regulations providing support services and remedies to victims of violence and harassment .....	43
<b>Box 25.</b> Examples of legislation or regulations requiring employers to take action on violence and harassment .....	44
<b>Box 26.</b> Examples of legislation and policy prohibiting workers from committing acts of violence and harassment .....	46
<b>Box 27.</b> Examples of EBMO actions on preventing violence and harassment .....	49
<b>Box 28.</b> Advocacy of Convention No. 190 by the Employers Confederation of the Philippines .....	50
<b>Box 29.</b> Examples of collective agreements addressing violence and harassment in the world of work .....	51

## List of tables

<b>Table 1:</b> Example survey questions related to the risk of violence and harassment .....	36
<b>Table 2.</b> Good practices for responding to violence and harassment at work.....	45

## ► Introduction

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Violence and harassment in the world of work is a persistent and significant challenge faced by enterprises worldwide. Failure to recognize, prevent and respond to inappropriate conduct and illegal behaviour in workplaces create organization-wide distrust, individually and collectively lowers morale and ultimately impedes enterprise performance. Heightened social awareness and public conversation about the prevalence of unacceptable behaviours and practices have opened up in recent years, pushing up the importance for enterprises to proactively address violence and harassment at work and revisit the adequacy and fitness of workplace policies and practices.

Regardless of the location, size, sector or type of enterprise, anyone and any workplace can be subject to the display or threats of unacceptable behaviours and practices. Violence and harassment, be it physical, psychological, sexual or psychosocial, creates a risk to the safety and health of individuals at work and imposes a range of costs that impact workers, enterprises, the government and society. These costs include the loss of productivity, higher workforce turnover and increased absenteeism, time and money spent on healthcare, filing complaints and pursuing investigations, and most importantly the victims' loss of well-being. Due to the complex nature and multiplicity of impact that violence and harassment has on the workforce, quantifying the cost in monetary terms is not straight-forward. However, the bottom line is clear: violence and harassment significantly reduces the ability of enterprises to fully optimize its talent pool.

**EBMO to insert** examples that enumerate violence and harassment at the country level.

The adoption of the ILO Violence and Harassment Convention, 2019 (No. 190), which came into force on 25 June 2021, clearly spells out in international law the right of everyone to a world of work free from violence and harassment, along with the State's obligation to respect, promote and realize this right. Convention No. 190 and its accompanying Recommendation No. 206 lay down the basic principles to be implemented by countries by bringing together equality and non-discrimination with safety and health at work in one instrument, and they offer a broad personal scope of protection. While some countries have provisions on violence and harassment in work-related legislation, the adoption of Convention No. 190 and Recommendation No. 206 by governments and employers' and workers' representatives has reinforced the commitment of actors in the world of work to put in place comprehensive laws and policy measures to shape a future of work based on dignity and respect for all.

While the government consults **[NAME OF EBMO]**, representative workers' organizations and relevant authorities on the possible ratification of Convention No. 190, employers can take steps to strengthen policies and practices to eliminate violence and harassment and fulfill their duty of care towards the workforce.<sup>2</sup>

**EBMO to insert** brief description about status of ratification of Convention No. 190 or information on consultation(s) held with government, workers' organizations and other stakeholders.

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<sup>2</sup> This sentence should be modified depending on the ratification status of Convention No. 190 where the EBMO is situated. As of September 2022, Convention No. 190 has 20 ratifications: Albania, Antigua and Barbuda, Argentina, Central Africa Republic, Ecuador, El Salvador, Fiji, Greece, Italy, Mauritius, Mexico, Namibia, Peru, San Marino, Somalia, South Africa, Spain, United Kingdom and Uruguay.

## ► Chapter 1: What is violence and harassment at work?

Convention No. 190 broadly defines violence and harassment as follows:

“The term “violence and harassment” in the world of work refers to a range of unacceptable behaviours and practices, or threats thereof, whether a single occurrence or repeated, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm, and includes gender-based violence and harassment.”

The definition covers all forms of violence and harassment – verbal, physical, social or psychological – including gender-based violence and harassment, regardless of the intent and source. It focuses on the unacceptability of the conduct, practices or threats, and their effect on victims.

The Convention applies to violence and harassment that occurs anytime and anywhere in all places and circumstances related to work, including in offices, homes, public places, employer-provided accommodations, during meals or breaks, social events, online and while commuting to and from work. It covers the formal and informal economy, both the public and private sectors, and any worker and persons working irrespective of their contractual status, including jobseekers, volunteers, interns, apprentices and individuals exercising the authority, duties and responsibilities of an employer.

Existing national legislation on violence and harassment varies depending on the regulatory environment, and national legislation related to violence and harassment at work covers some aspects of Convention No. 190. Different terms are used across jurisdictions, reflecting different national contexts and practices. Common terms include “violence”, “harassment”, “bullying”, “mobbing”, “aggression” and “abusive behaviour”.

### ► Box 1. Examples of violence and harassment defined in national legislation

In **Canada**, the definition of “harassment and violence” includes “any action, conduct or comment, including of a sexual nature that can reasonably be expected to cause offence, humiliation or other physical or psychological injury or illness to an employee, including any prescribed action, conduct or comment” (Canada Labour Code (as amended in 2018), subsection 122(1)).

In the **Republic of Korea**, the definition of “workplace harassment” states that it is “an act of an employer (or business owner) or employee (or worker) that causes physical or mental suffering or worsens the working environment of another employee/worker by taking advantage of his/her status or relationship within the workplace beyond the appropriate scope of work.” (Labour Standards Act (as amended in 2018), art. 76(2)).

In **Mexico**, the definition of “workplace violence” includes “acts of harassment, bullying or ill-treatment against workers, which may harm their integrity or health” (Official Mexican Standard NOM-035-STPS-2018, Occupational, psychosocial risk factors – identification, analysis and prevention, art. 4.12).

In **Ireland**, bullying at work can involve people in many different work situations and at all levels, according to the Code of Practice to Address Bullying in the Workplace:

- manager/supervisor to employee;
- employee to supervisor/manager;
- one employee to another (or group to group);
- customer/supervisor/manager to business contact;
- client/customer to employee.

Source: ILO, 2021a.

**EBMO to insert** definitions related to violence and harassment in national legislation, if any.

Some countries have recently undertaken legislative reform that expands the definition and scope to spell out different places or instances where violence and harassment at work can occur beyond the traditional physical workplace.

▶ **Box 2. Expanded scope of the workplace in Australia to cover locations or situations where violence and harassment may occur**

Safe Work Australia released guidance materials to assist employers to ensure that the workplace is free from sexual harassment, workplace violence and aggression. The guides provide that, under occupational safety and health laws, a workplace means a place where work is carried out for a business or undertaking, which includes any place where a worker goes or is likely to be while at work. The guide on sexual harassment further states that sexual harassment can happen:

- ▶ at a worker's usual workplace;
- ▶ where a worker is working remotely, including if the person's workplace is their home;
- ▶ in a place where the worker is undertaking work at a different location, such as a client's home or contractor's home or work;
- ▶ where the worker is engaging in work-related activities such as conferences, training, work trips, work-related corporate events or a social activity such as a Christmas party;
- ▶ by phone, email or online such as through social media platforms.

Sources: Safe Work Australia, 2021a; and Safe Work Australia, 2021b.

## 1.1 Elements and examples of violence and harassment and how it can happen

Violence and harassment in the world of work cover a broad range of unacceptable<sup>3</sup> and unwelcomed actions and behaviours that aim at, result in, or are likely to bring harm to an individual and create a hostile environment. The offending conduct or behaviour can be any of the following:

- ▶ physical, psychological or sexual;
- ▶ verbal, written or online (through informational and communication technologies such as electronic means or social media);
- ▶ one-off or repeated incidents;
- ▶ conduct ranging from minor cases of disrespect to serious acts of physical, psychological or sexual assault, which may constitute a criminal offence;
- ▶ conduct occurring among colleagues, between superiors and subordinates or by/against third parties, such as clients, customers, patients or the public.

<sup>3</sup> The notion of unacceptability includes both subjective and objective criteria.

**▶ Box 3. Examples of common violence and harassment at work**

**Physical violence** includes assault, such as pushing, grabbing, shoving, tripping, slapping, biting, scratching, hitting, kicking, or throwing an object.

**Psychological violence and harassment** includes the following:

- ▶ harassment, bullying or mobbing behaviour such as yelling, humiliating, threatening, excluding and causing psychological damage, insulting, using hurtful remarks, offensive language, or any form of verbal abuse;
- ▶ making fun of subordinate or co-workers including family, sexuality, gender identity, race or culture, education or economic background;
- ▶ making derogatory comments or taunts about a person's disability, or practising harassing performance monitoring procedures, micro-management and over-attribution of mistakes based on negative stereotypes about the competency and productivity of the disabled person;
- ▶ giving impossible goals and deadlines or pointless tasks that have nothing to do with the job;
- ▶ deliberately changing work hours or schedules to inconvenience particular workers;
- ▶ deliberately holding back information vital for effective work performance;
- ▶ shunning, excluding, marginalizing subordinate or co-worker by excluding or stopping him/her from working with people or taking part in work-related activities.

**Sexual violence and harassment** includes the following:

- ▶ sexual assault, rape, indecent exposure, stalking or obscene communication;
- ▶ unwelcome physical contact including patting, pinching, tickling, stroking, kissing, hugging, fondling, brushing up against, cornering, or inappropriate touching;
- ▶ asking intrusive questions about an employee's private life or body;
- ▶ making insulting comments or jokes about someone's gender identity or sexual orientation;
- ▶ repeated asking for dates despite being rebuffed;
- ▶ asking for a sexual favour in exchange for a promised job or promotion;
- ▶ sharing or displaying sexually explicit pictures, videos, screen savers or posters;
- ▶ sending sexually explicit email or text messages.

Discrimination-based violence and harassment is any action or behaviour directed at persons because of their particular personal attributes, such as race, national origin, disability, sex or gender, age or health status (for example, HIV, coronavirus disease (COVID-19) and pregnancy). Discrimination-based violence and harassment, including gender-based violence, can appear in many forms, and it can be rooted in harmful social norms based on gender or racial stereotypes, or negative attitudes or stigma about disabilities, skin colour or the way a worker looks.

The unacceptable conduct or behaviour, be it physical, psychological or sexual, regardless of the intent, can affect both the physical and mental health of the victim, his or her co-workers and family members and witnesses to the abuse, and it can result in physical, sexual, psychological or economic harm (ILO 2021a, p. 98).

These behaviours can come from both internal and external sources.

- Internal violence and harassment: from co-workers, supervisors or managers.
- External violence and harassment: from customers, clients, patients or members of the public.

## 1.2 Domestic violence and its impact on the world of work

Domestic violence is a complex societal and economic issue. It can be defined as all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit. While it is a private issue that usually does not arise because of work activities<sup>4</sup> or matters that are within the employers' control, it can nevertheless negatively impact the safety, health and productivity of not only the victim but the wider workforce. For instance, the victim's productivity may be affected and their need for time off may increase. In addition, victims may be stressed, anxious and scared, and they may engage in behaviours in the workplace that may be unacceptable, such as maladaptive coping behaviours to deal with abuse suffered outside of the workplace. It is especially so if the perpetrator makes threats, intimidates, or carries out violence against a victim while he or she is working, thus creating a risk for the victim's co-workers. Moreover, when domestic and work settings overlap, domestic violence may arise from or be exacerbated by work-related activities. For this reason, it represents an even more relevant risk for some categories of workers, such as domestic, home-based or contributing family workers, many of whom are women and many of whom are working informally (ILO 2021b).

### ► Box 4. A shift in employers' views on domestic violence

In the past, employers argued that domestic violence was primarily a domestic matter, and it was not a workplace issue. The coronavirus disease (COVID-19) pandemic and restrictive lockdowns in many countries resulted in a necessity to work from home, and this forced some employers to revisit their view. When the home becomes the workplace, as it did for many workers during the pandemic, employers' liabilities/responsibilities can be extended to providing preventive/response measures when domestic violence occurs. Employers, depending on the availability of resources, can also offer employee assistance programmes that provide confidential counselling or referral services.

Source: ILO, 2021, [How the COVID-19 pandemic is changing business: A literature review](#).

<sup>4</sup> When domestic and work setting overlap, such in cases of family businesses or family contributing workers, domestic violence may arise or be exacerbated by work-related activities.

In recent years, labour legislations or collective agreements in many countries have increasingly taken the effects of domestic violence on workers' well-being and productivity into account. A growing number of countries have introduced leave, whether paid or unpaid, for workers who are victims of domestic violence. Some have envisaged employers' duties to take preventive measures to protect the employee or other workers or included domestic violence within the management of occupational safety and health (OSH) (ILO 2021b, p. 15).

► **Box 5. National labour and employment provisions on domestic violence in the world of work**

According to the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), Article 3(b), the definition of domestic violence includes "all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim".

In **New Zealand**, under the 2018 Domestic Violence – Victims' Protection Act, employees affected by domestic violence have the following rights:

- a. to take at least ten days of paid domestic violence leave;
- b. to have short-term flexible working arrangements for up to two months;
- c. to be protected from adverse treatment in the workplace because they experienced domestic violence.

In **Peru**, under the 2019 "Law to prevent, punish and eradicate violence against women in public and private sphere, and violence against family members", article 11 foresees that, when the victim is an employee, the following rights should be guaranteed:

- a. to be protected against dismissal for causes related to such acts of violence;
- b. to change workplace without detriment to their conditions and terms of employment;
- c. to receive five days of justified absence;
- d. to temporarily suspend the employment relationship;
- e. to return to the same or similar position afterwards.

Sources: ILO, n.d., [Domestic violence and its impact on the world of work](#); and ILO, 2021a.

**EBMO to insert** provisions of domestic violence in national labour and employment legislation, if any.



### 1.3 What is not considered violence and harassment at work?

Day-to-day management decisions, legitimate comments and advice involving work assignments, including negative feedback from managers and supervisors on work performance or work-related conduct, implementation of company policy or disciplinary action imposed are not considered harassment even if they sometimes involve unpleasant consequences. Managerial actions must be carried out objectively and in a manner that is reasonable and not abusive (Saskatchewan 2022).

#### ► Box 6. Examples of reasonable management

- Setting reasonable performance goals, standards and deadlines.
- Allocating and scheduling workloads.
- Changing work assignments and job duties.
- Deciding not to select a worker for promoting, following a fair and documented process.
- Informing a worker about unsatisfactory work performance and implementing disciplinary actions.
- Informing a worker about inappropriate behaviour.
- Implementing organizational changes or restructuring.
- Any other reasonable and lawful exercise of a management function.

Source: [www.ccohs.ca/oshanswers/psychosocial/bullying.html](http://www.ccohs.ca/oshanswers/psychosocial/bullying.html).

Courteous, mutually respectful, consensual, noncoercive interactions that are appropriate in the workplace and acceptable to and welcomed by both parties are not considered to be violence and harassment. Other situations that do not constitute violence and harassment may include physical contact necessary for the performance of the work using accepted industry standards, or disagreements at work that are not based on race, gender, age, ethnicity, religion, sexuality or personal characteristics. Cultural differences may sometime lead to misunderstanding, but this may not necessarily constitute violence and harassment. Additionally, work-related stress itself does not constitute harassment, however the accumulation of psychosocial risk factors may increase the risk of violence and harassment.

## ► Chapter 2: The business case of addressing and preventing violence and harassment at work

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### 2.1 Employers' perspectives on violence and harassment at work

Violence and harassment at work can constitute a human rights violation and is unacceptable. Employers, globally, support a world of work free from all forms of violence and harassment and agree that tolerating violence and harassment at work can have detrimental affects, including lost productivity, increased litigation cost, increased turnover and absenteeism, and reputational damage.

Everyone in the world of work, including workers and employers, should be protected from violence and harassment. Providing a safe and healthy working environment is not only a national requirement, it is now a fundamental principle and right at work.<sup>5</sup> Employers should take appropriate steps and measures to mitigate the risks and prevent violence and harassment at work for the persons, places, situations and circumstances within their control.

While employers have primary responsibility for providing a safe and healthy working environment, including a world of work free from violence and harassment, the joint efforts and collective action from government, workers and all actors in the world of work are required. Government should enact enabling and supporting laws and legislation, and workers should adhere to and respect the rules adopted by employers, refrain from violence and harassment, cooperate and contribute to the awareness of the risks and the prevention of violence and harassment.

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“Nobody should be subjected to violence and harassment at work... the majority of the Employers' group supported Convention No. 190, which provides a foundation for policy development and global action for governments, employers and workers, and their respective representatives on ending violence and harassment in the world of work”.

► **Alana Matheson**  
Vice-Chairperson of the Employers Group for the Standard-Setting Committee:  
Violence and Harassment in the World of Work

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“A workplace free from violence and harassment is a fundamental right of all human beings, and it makes good business sense. All governments, employees and employers, in every industry, across the world should unite to achieve this goal.”

► **Stephanie Fingal**, former Chief Executive Officer  
Employers' Consultative Association of Trinidad and Tobago

**EBMO Secretary-General or CEO to insert** quote to highlight the importance for enterprises to address violence and harassment.

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<sup>5</sup> “A safe and healthy working environment” was added as a fundamental principle and right at work at the 2022 International Labour Conference.

## 2.2 Why must employers take action against violence and harassment at work?

Violence and harassment is not only unacceptable on moral grounds, but it can be a violation of workers' rights and employers' statutory duties and common law obligations. Creating a world of work free from violence and harassment would have benefits for businesses, including increased productivity, reduced absenteeism and lower employee turnover. Enterprises that are known for having respectful and inclusive working environments may have a higher market value and reputation, happier and healthier employees, increased investor confidence and better customer and client satisfaction ratings than their competitors.

### 2.2.1. Legal obligations, litigations and claims

Employers have a duty of care towards their workforce and should create an inclusive working environment free from violence and harassment regardless of the size or sector of the enterprise. This means that employers have a duty to take reasonably practical steps to ensure the health, safety and well-being of their workforce. The reasonableness of a measure can be determined by considering the potential risk of harm to the individual compared to the cost and practicality of putting the preventative measure in place. Employers may have breached national laws and regulations if they fail to conduct a risk assessment and implement necessary measures, and they could be liable for such failure. To fulfil their duty of care, employers should ensure that the workforce is protected from violence and harassment.

Some countries have provisions in work-related legislation that prohibit violence and harassment or some of its forms, and impose obligations on employers to protect workers and prohibit violence and harassment at work. Employers may be liable if their workers attack or harass or are attacked or harassed by a co-worker, client or customer while working or in work-related situations. Violations of the obligations on employers may result in law suits, litigation or claims for compensation. In 2020, a number of multinational enterprises in the United States faced legal battles over allegations of discrimination and sexual harassment (Sonnemaker 2021) and a global video games enterprise was charged for failure to take measures to prevent sexual harassment in the workplace, with allegations that its employees had been subjected to "sexual harassment that was severe or pervasive" (Spiggle 2021).

#### ► Box 7. National laws or regulations obliging employers to protect workers and prohibit violence and harassment at work

In **Albania**, Section 32(1) of the Labour Code (Law No. 136/2015) provides that employers have an obligation to respect and protect the employment relationship by taking all necessary measures to ensure the safety, mental and physical health of employees; to prevent and stop moral and sexual harassment through relevant sanctions; and to prevent any behaviour that would undermine the dignity of the employee.

In **Niger**, Article 122 of Decree No. 2017-682/PRN/MET/PS of the Labour Code provides: "The employer must take all the necessary measures to prevent acts of sexual harassment".

In **Puerto Rico (United States)**, Article 5 of Law No. 90 of 2020 states: "An employer who engages in, encourages or permits workplace harassment shall be civilly liable to the persons affected. It shall be the responsibility of every employer to take the necessary measures to eliminate or minimize the occurrence of workplace harassment. Therefore, every employer shall adopt and implement the necessary internal policies to prevent, discourage and avoid workplace harassment in its workplaces, as well as investigate all allegations and impose the corresponding sanctions in those cases where appropriate".

Source: ILO, 2021a.

**EBMO to insert** relevant national legislation imposing an obligation on employers to prohibit violence and harassment at work or to take measures to prevent such acts or conducts.

Addressing violence and harassment is not just a matter of compliance. Even though violence and harassment is not explicitly mentioned under in labour-related or OSH legislations, there would still be a strong business case to respond to and eliminate unacceptable behaviour, because by protecting the workforce the enterprise is also protected.

### 2.2.2. Enterprise brand image and reputation

All enterprises are expected to comply with applicable laws and to respect internationally recognized human rights and take proactive steps to avoid adverse human rights impacts. According to the United Nations guiding principles on business and human rights, States have the obligation to enforce laws that directly or indirectly regulate respect for human rights in business activities, and such laws might range from non-discrimination and equality to health and safety.

Responsible business practices, including providing and maintaining a workplace free from discrimination, violence and harassment have become an essential requirement. The revolution in technologies and media, including social media, has facilitated the access and revelation of working conditions and environment to buyers, consumers and to the overall public. An enterprise's public image and reputation can be adversely affected by allegations or findings of discrimination, violence and harassment practices with the organization seen as less equitable and elicit perceptions of structural unfairness (Does, Gundemir and Shih 2018). Furthermore, the reputational cost can be high, reflected through a decline in sales and share prices, or even loss of business.<sup>6</sup>

There are proven benefits to having a good reputation. According to the Reputation Institute's 2009 Global Reputation Pulse, enterprises with positive reputations developed from well-articulated reputing strategies are better poised to improve, including:

- attracting better talent;
- being perceived as providing more value, which often allows them to charge a premium;
- having more loyal customers.
- having higher market value as it is believed that such companies will deliver sustained earnings and future growth.

Stepping up actions to ensure a safe and healthy workplace free from violence and harassment is an essential part of company strategies in building brand image and minimizing reputational risks.

**EBMO to insert** good practices on how enterprises in the country are taking positive measures to create violence and harassment-free workplaces and consequentially enhance brand image or build investors' confidence.

<sup>6</sup> A leading video game company in the United States was investigated for failure to take measures to prevent sexual harassment in the workplace and to disclose to investors its ongoing problems with sexual harassment and workplace harassment allegations. The value of the company's shares declined when the lawsuits and investigations became public, and the fallout continued. See [www.arnoldporter.com/en/perspectives/advisories/2022/03/sec-focus-on-esg-has-expanded?utm\\_source=Mondaq&utm\\_medium=syndication&utm\\_campaign=LinkedIn-integration](http://www.arnoldporter.com/en/perspectives/advisories/2022/03/sec-focus-on-esg-has-expanded?utm_source=Mondaq&utm_medium=syndication&utm_campaign=LinkedIn-integration).

### 2.2.3. Environmental, social and governance due diligence and investor confidence

In the past, workforce well-being was not considered a necessity, although employers and workers may have felt it was nice to have. The employer was not considered to be responsible for the well-being of workers. However, expectations are shifting, and accountability and transparency around workforce well-being are becoming vital business functions. Enterprise leaders have become accountable for proactive well-being promotion and intervention. The impact of the COVID-19 pandemic on the global workforce has accelerated this transformation (Deloitte n.d.).

Similarly, under the environment, social and governance (ESG) reporting framework, the metrics related to well-being go beyond maximizing profits and encompass a wide range of enterprises' contributions to social goals. In assessing ESG risks, the scope of social issues has expanded to include harassment, especially as respect for human rights is inherent to the concept of sustainability. Following global movements against violence and harassment, employers are increasingly called upon by their shareholders and investors to emphasize social issues when implementing ESG measures. Recently, several investment firms, including BlackRock, Inc.; BNP Paribas Asset Management; and Legal & General Investment Management, Goldman Sachs; have prioritized diversity and inclusion (Kerber and DiNapoli 2021). The Securities and Exchange Commission (SEC), an independent agency of the Government of the United States, is also paying greater attention to social aspects of ESG, in particular whether enterprises that do not adequately disclose material and credible allegations of harassment or other workplace misconduct have been sufficiently transparent with their investors about their efforts to address workplace diversity or culture (Lexicology 2022).

While enterprises recognize a high ESG score can add to their reputation as a proactive organization with lower investment risks, enterprises need to ensure that their ESG due diligence reporting and disclosures to investors are free from misstatements or omissions of relevant information (Lexicology 2022).

### 2.2.4. Organizational productivity and performance

A healthy and engaged workforce positively impacts a company's bottom line. Research shows that when enterprises support the well-being of their workforce, including by creating a violence and harassment-free workplace, their workforce has lower turnover and absenteeism, as well as greater productivity and engagement (ILO 2020, p.50). In a violence and harassment-free workplace where the workforce feels safe, respected and valued, worker can have greater motivation, loyalty and performance, and such a workplace can become a conducive and harmonious working environment.

On the contrary, violence and harassment is a workplace hazard, and it may also be discriminatory. It may cause physical and psychological injury or harm and result in considerable direct and indirect costs for the organization, including poor staff morale and poor employee relations, low levels of respect for managers and supervisors, poor performance, lost productivity, absenteeism, resignation, opportunity cost of the time managers spend responding to complaints, as well as the cost of litigation, compensation or settlement. In addition, working in environments where there is a higher risk of violence and harassment or where such unacceptable behaviour is expected (and accepted) can also negatively affect psychological health. Mental health disorders (including anxiety and depression), fear or distress can impair the ability of the workforce to effectively function and increase the risk of accidents at work (WorkSafe Victoria 2020).

There is a clear correlation between a higher incidence of work-related violence and harassment and lower productivity. A recent study in the United States found that enterprises with high sexual harassment scores experienced significant reductions in future stock performance and profitability. For example, enterprises with a score in the top 2 per cent earned a value-weighted risk adjusted stock return of -13 per cent. The study also found that these enterprises experienced a decline in operating profitability and an increase in labour costs during a five-year period including the time when the sexual harassment score

was recorded (Au, Dong and Tremblay 2022). A study in workplace harassment conducted in Bangladesh showed the costs of harassment to productivity. It revealed that the workforce is likely to be involved in negative behaviour that has an adverse effect on productivity and performance when they became the subject of harassment (Rokonuzzaman and Rahman 2011). It is therefore in every employer's interest to promote a safe, healthy, respectful and inclusive environment to safeguard productivity.

### **2.2.5. Attract, harness and retain skilled and talented workforce**

A violence and harassment-free workplace can help to attract, harness and retain talent. In today's competitive job market, more and more potential applicants are looking for employers who value diversity and provide a safe working environment. By creating a violence and harassment-free workplace, enterprises can make themselves more attractive to prospective employees. Such enterprises are also more likely to enable employees to reach their full potential compared to enterprises where talented employees may turn down promotion or avoid training opportunities to steer clear from a manager or colleague known to bully or harass. Additionally, employees in a violence and harassment-free workplace feel comfortable, secure and respected at work and are more likely to stay with the company for an extended period, thus reducing turnover costs (Safety Counselling Inc. n.d.).

### **2.2.6. Employer safety and health**

In addition to business benefits, individuals exercising the authority, duties or responsibilities of an employer are better protected when the workplace is free from violence and harassment. A violence and harassment-free workplace maintains positive relationships among employees and between management and employees. Offensive or harassing behaviour can cause high anxiety levels, lead to employee outrage and create problems that could be difficult to resolve. Where such challenges exist and workers are subjected to abusive conduct or behaviour, or even violence, individuals exercising the authority, duties or responsibilities of an employer may also be victims. Employers can mitigate their exposure to this risk by ensuring that the workplace is free from harassment and creating a more positive working environment.

## ► Chapter 3: The legal framework and employers' responsibilities to prevent violence and harassment

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A number of International Labour Standards have been adopted to protect workers in general, as well as certain categories of workers, against situations in which violence and harassment are present. These standards indirectly address violence and harassment, and include standards related to migrant workers, employment and working conditions. For example, sexual harassment is considered a serious form of sex discrimination falling within the scope of the Discrimination Employment and Occupation Convention, 1958 (No. 111). The HIV and AIDS Recommendation, 2010 (No. 200) requires workplace measures to reduce the transmission and alleviate the impact of HIV by, among other things, "ensuring actions to prevent and prohibit violence and harassment in the workplace".

There are also OSH-related standards that protect workers' safety and health, including protection from the risk of violence and harassment.<sup>7</sup> Other international labour standards refer directly to various manifestations of violence and harassment or set out the right to medical services and rehabilitation, including psychological care and treatment for victims of work-related injuries (work accidents or occupational diseases), and in case of general sickness. The ILO standards that directly or indirectly refer to violence and harassment at work are listed in Appendix 2.

### 3.1 Violence and Harassment Convention, 2019 (No. 190)

The Violence and Harassment Convention (No. 190) and its accompanying Recommendation (No. 206), 2019 are the latest and the main international standards on violence and harassment in the world of work that incorporate equality and non-discrimination with safety and health at work and comprehensively cover all instances of violence and harassment for all workers and other persons at work. The Convention requires Member States to adopt an inclusive, integrated and gender-responsive approach to prevent and address such behaviours and practices in the world of work. It sets out a common framework for preventing, addressing and eliminating violence and harassment, which envisages action on prevention, protection, enforcement, remedies, guidance, training and awareness-raising, including by requiring employers to take specific measures and take into account third parties as both victims and perpetrators.

Most countries have work-related legislation that aims to protect workers' safety and health at work, which directly or indirectly include workplace violence and harassment and cover some aspects of Convention No. 190. In recent years, specific provisions have been introduced into in work-related legislation in a growing number of countries to protect workers from various manifestations of violence and harassment, including specific categories of workers (domestic workers, migrant workers or workers with disabilities). The provisions include definitions and prohibitions of violence and harassment, or forms of violence and harassment such as sexual harassment or workplace bullying.

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<sup>7</sup> The Occupational Safety and Health Convention, 1981 (No. 155), and the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) were added as new fundamental Conventions at the 2022 International Labour Conference.

► **Box 8. Examples of work-related legislation and regulations prohibiting violence and harassment**

In **Canada (Yukon Territory)**, the Occupational Safety and Health Act, as amended in 2020, mandates workplace policies to include a statement that “violence and harassment in the workplace are prohibited”.

In **Hong Kong, China**, Section 22A(1) of the Disability Harassment Ordinance prohibits disability harassment in the workplace as follows: “It is unlawful for a person who is a workplace participant to harass a person with a disability who is also a workplace participant at a workplace of them both”.

In **Liberia**, Section 2.8 (Prohibition of sexual harassment) of the 2015 Decent Work Act provides as follows:

- a. A person shall not directly or indirectly sexually harass a worker:
  - i. in any employment practice; or
  - ii. in the course of a person’s employment.

Source: ILO, 2021a.

**EBMO to insert** national legislations protecting workers or prohibiting violence and harassment at work, either stand-alone piece of legislation or provisions in labour, employment or OSH legislations that include different forms of violence and harassment, for example sexual harassment and the risks and hazards that could lead to violence and harassment.

## 3.2 Employers’ responsibilities to prevent violence and harassment at work

Employers are responsible for providing a safe and healthy working environment, by preventing as far as reasonably practicable, any work-related risk to the safety and health of workers. Subject to national legislation, every employer has an obligation to ensure, as much as reasonably practicable, that workers are not exposed to violence and harassment concerning any matter or circumstance arising out of employment.

Convention No. 190 and Recommendation No. 206 call on ratifying countries to adopt laws and regulations requiring employers to take appropriate steps commensurate with their degree of control to prevent violence and harassment in the world of work, including gender-based violence and harassment.



► **Box 9. Convention No. 190, Article 9 on employers' responsibilities**

Each Member shall adopt laws and regulations requiring employers to take appropriate steps commensurate with their degree of control to prevent violence and harassment in the world of work, including gender-based violence and harassment, and in particular, so far as is reasonably practicable, to:

- a.** adopt and implement, in consultation with workers and their representatives, a workplace policy on violence and harassment;
- b.** take into account violence and harassment and associated psychosocial risks in the management of occupational safety and health;
- c.** identify hazards and assess the risks of violence and harassment, with the participation of workers and their representatives, and take measures to prevent and control them; and
- d.** provide to workers and other persons concerned information and training, in accessible formats as appropriate, on the identified hazards and risks of violence and harassment and the associated prevention and protection measures, including on the rights and responsibilities of workers and other persons concerned in relation to the policy referred to in subparagraph (a) of this Article.

Subject to applicable national laws and regulations, and in line with Convention No. 190, employers' responsibilities to prevent violence and harassment in the world of work include taking appropriate steps, so far as is reasonably practicable, and within their control. Employers should do the following:

- 1.** provide and maintain a safe system of work and environments that are safe and without risk to the safety and health of workers, including the risk of violence and harassment;
- 2.** adopt and implement a workplace policy on violence and harassment, in consultation with workers and their representatives;
- 3.** incorporate violence and harassment and associated psychosocial risks in the management of OSH;
- 4.** identify hazards and assess the risks of violence and harassment;
- 5.** put in place measures to mitigate, control and prevent the risk of work-related violence and harassment;
- 6.** provide relevant and accessible information, instruction, training, and supervision to the workers and other people concerned, so that they can perform their work in a manner that is safe and without risk to safety and health, including:
  - a.** the workplace policy on violence and harassment;
  - b.** the rights and responsibilities of workers and other people concerned concerning the workplace policy;
  - c.** the identified hazards and risks of violence and harassment;
  - d.** the associated prevention and protection measures.

Employers' responsibilities in preventing violence and harassment at work are governed by provisions in national legislation. Some form of legislation in most countries stipulates the obligation of employers to ensure and protect the safety and health of workers at work and to ensure equality and non-discrimination. Even if the legislation does not explicitly mention violence and harassment as risks to worker safety and health, the employer's duty of care may still be interpreted as including the protection of workers from the occurrence of workplace violence and harassment (ILO 2020).

In some countries, OSH legislation implicitly or explicitly includes both physical and mental health and risks and hazards that could lead to violence and harassment, while in other countries, legislation specifies the form of violence and harassment, such as sexual harassment, or the preventive measures to be taken by employers to mitigate and prevent such acts and behaviours in the workplace (ILO 2020, p. 51).

► **Box 10. Examples of employers' responsibilities on violence and harassment in national law and regulations**

In **Portugal**, the Labour Code, as amended by Law No. 73/2017 of 16 August 2017, strengthens the legislative framework for the prevention of harassment by, inter alia, introducing an obligation on companies with more than seven employees to adopt a code of conduct on harassment in the workplace and to start disciplinary proceedings against an employee whenever an alleged harassment at work is revealed.

In **Romania**, Article 2 of Law No. 202, 2002 (as amended in 2015 and 2018) on equal opportunities and equal treatment for women and men provides that central and local public institutions and authorities, civil and military, with more than 50 employees, as well as private companies with more than 50 employees, should identify an employee to whom to assign tasks in the field of equal opportunities and treatment between women and men, including preventing and combating harassment at work.

In **Saudi Arabia**, Article 5(1) of the 2018 Anti-Harassment Law states: The competent authorities in the government sector and the private sector shall put in place the necessary measures to prevent and combat harassment in their working environments, provided they include the following:

- a. an internal complaints mechanism in the sector;
- b. the necessary procedures to ascertain the veracity and seriousness of complaints in such a manner as to maintain their confidentiality;
- c. the dissemination and communication of such measures to those targeted by them.

Source: ILO, 2021a.

**EBMO to insert** relevant provisions from national legislations on employers' responsibilities to prevent violence and harassment in the workplace.

## ► Chapter 4: Employers' action and good practices in addressing and preventing violence and harassment at work

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Managing violence and harassment at work is an essential part of the OSH management system and should be an integral part of the risk assessment and management process to create a world of work free from violence and harassment. The responsibility for prohibiting and preventing violence and harassment at work lies with the employer. In line with Convention No. 190, provisions have been introduced in many countries requiring employers to adopt workplace policies on violence and harassment, either as a stand-alone policy dedicated to violence and harassment or as part of OSH policies or anti-discrimination policies (ILO 2020, p. 55). It is thus important for employers to take a proactive approach to ensure workplaces are free from violence and harassment.

### ► Box 11. Examples of national legislation and regulations requiring employers to establish workplace policies on violence and harassment

In **Kenya**, under Section 6(2)-(4) of the Employment Act (2007), employers with 20 or more employees must, after consulting with the workers or their representatives, if any, issue a policy statement on sexual harassment; establish mechanisms for its implementation; and train managers and workers on the policy.

In **Panama**, the 2018 Anti-Discrimination Law provides that every employer, public and private institution, and educational establishment are now responsible for developing internal policies to prevent, avoid, discourage and penalize discriminatory acts, such as sexual or other harassment, bullying in the workplace, racism and sexism.

In July 2019, under Supreme Decree N° 014-2019-MIMP, employers in **Peru** were required to adopt anti-harassment policies and investigation procedures, provide anti-harassment training, carry out annual sexual harassment risk assessments and set up a sexual harassment committee or delegate, depending on the size of the enterprise.

Source: ILO, 2021a.

**EBMO to insert** relevant provision in national legislations that requires employers to adopt workplace policies on prevention of violence and harassment at work.

## 4.1 Employers' commitment and statement

The central responsibility for changing an enterprise culture that tolerates violence and harassment lies with its senior-most leadership, and the outcome of efforts to change the culture may reflect the willingness of senior leadership to proactively address negative behaviours with sensitivity. Senior leadership defines the enterprise priorities and has the ability to drive change at all levels of the organization and through business networks. Active and visible commitment and support from top leadership to prevent and address violence and harassment at work is critical to successfully drive change and create a working environment free from violence and harassment. A formal statement issued by top leadership on the organization's zero-tolerance of violence and harassment at work would demonstrate the commitment of the enterprise and send a clear message to the workforce at all levels, as well as to customers, clients and the public.

### ► Box 12. Examples of enterprise statements against workplace violence and harassment

[Enterprise name] is committed to providing a working environment that is free from acts or threats of violence and harassment. [Enterprise name], has established a policy that provides "zero tolerance" for actual or threatened violence or harassment against staff, clients, visitors, or any other persons.

Our anti-violence and harassment policy expresses our commitment to maintain a workplace that is free from all form of violence and harassment, so our employees can feel safe and happy. We will not tolerate anyone attacking, intimidating, humiliating or sabotaging others in our workplace. We also prohibit wilful discrimination based on age, sexual orientation, ethnicity, racial, religion or disability.

It is the policy of [Enterprise name] and the responsibility of its managers and all of its employees to maintain a workplace free from threats and acts of violence and harassment. [Enterprise name] will work to provide a safe workplace for employees, clients and visitors. Each employee, and everyone with whom we come into contact in our work, deserves to be treated with courtesy and respect. [Enterprise name] does not tolerate any type of workplace violence and harassment committed by or against employees.

## 4.2 Developing enterprise policy on violence and harassment at work

All enterprises benefit from having a policy on violence and harassment at work that is easily accessible. While many enterprises already have a policy covering violence and harassment, it may be necessary to review the policy to check if it is fit for purpose. An enterprise policy, developed in consultation with workers and their representatives or OSH committees, if available, can help to set out how the enterprise will prevent and respond to violence and harassment, and set expectations about conduct and behaviours in the workplace. The policy need not be over-elaborated or complicated, especially for small and medium-sized enterprises, and the policy on violence and harassment may be subsequently integrated into other policies, such as policies for OSH or employee well-being. Enterprise policies should establish a process for raising concerns and addressing unacceptable behaviour, even if that behaviour does not violate the law. The enterprise should also commit to investigating allegations and giving confidence and trust to the victims to speak up. To ensure effective implementation of the policy, endorsement by management is critical.

### ► Box 13. Elements to consider when developing an enterprise policy on violence and harassment

1. A statement of commitment from senior management.
2. Definitions and examples of various types of violence and harassment at work and unacceptable conduct and behaviours – including physical, psychological and sexual – by internal and third-party perpetrators.
3. A short brief on the impact of workplace violence and harassment and how it can adversely affect the workforce and enterprise.
4. A statement that no form of violence, discriminatory or harassing conduct towards any worker, manager, client, contractor, or any other person in the workplace will be tolerated and that anyone who engages in such conduct or behaviour will be subject to disciplinary action, including dismissal.
5. A summary of the rights and responsibilities of workers and employers in preventing violence and harassment at work.
6. A summary of proactive steps taken by the enterprise, including violence and harassment prevention programme and training for managers, supervisors and staff.
7. Information on complaint and investigation procedures, including the affirmation that all reports and complaints related to violence and harassment will be acted on promptly.
8. A clause ensuring that investigations will be conducted fairly and all information gathered will be treated in strict confidentiality.
9. Measures to protect complainants, victims, witnesses and whistle-blowers against victimization or retaliation.
10. How the policy is to be implemented, reviewed and monitored.

Source: Adapted from Recommendation No. 206 (paragraph 7 (a)-(g)); and ACAS, 2014.

Refer to Appendix 3 for a sample template of a workplace policy on violence and harassment.

## 4.3 Implementing the policy

Whether the enterprise policy on violence and harassment is separate from other policies or part of the non-discrimination, diversity and inclusion, or OSH policy, having a policy is just a first step. How the workforce experiences policies in their day-to-day life is more important than what is written in a document, and this makes the organizational culture, communication and training essential. Implementing the policy consistently and reaching out to the entire workforce and related persons to ensure the workplace is free from the risk of violence and harassment is the main aim of the policy.

### 4.3.1. Promoting and communicating the policy

Employers must communicate the policy and ensure all parties are aware of it, including the workforce at all levels, as well as clients, customers, contractors and any third party dealing with the enterprise. To be effective, the policy should be consistently applied, easily accessible and understood by the entire workforce, including those who are cultural or linguistic minorities, such as migrant workers or persons with disabilities. It can be communicated and promoted through notice boards, posters, the intranet, team meetings or staff information sessions. Publishing the policy in the staff handbook is a good way of communicating the policy to employees, especially new staff, and the handbook can include specific mention of the consequences of workplace violence and harassment.

Managers should discuss the policy with their staff to ensure they are aware of their rights, the complaint and grievance procedures and to whom they can turn when they need help or support.

### 4.3.2. Providing information and training on the policy to the workforce

Providing information and training to the workforce helps to support the overall strategy for preventing violence and harassment at work and contributes towards a workplace culture free from violence and harassment. As managers may often be the first contact for a victim, they should be equipped with relevant tools and training to respond to allegations on violence and harassment. Training on violence and harassment at work is an added regulatory requirement in some countries.

#### ► Box 14. Examples of regulations on employers' responsibilities for violence and harassment training

In **El Salvador**, the General Regulations on the Prevention of Workplace Risks and Workplace Management make it incumbent upon employers to organize psychological risk prevention programmes that promote a healthy workplace, with training and the participation of an expert in the field. These programmes must include measures to create awareness of the causes and effects of violence against women and sexual harassment in the workplace.

In **Canada**, employers are mandated to provide workers with education and training if they are exposed to workplace violence or risks thereof.

In the **Republic of Korea**, workers' education to prevent sexual harassment in the workplace is mandatory.

Source: ILO, 2020.

**EBMO to insert** relevant provision on national legislations that requires employers to conduct training or organize programme on prevention of violence and harassment at work.

Like the policy, the accompanying training, instructions and information delivered to the workforce should be easily accessible. Developing effective approaches and methodologies for training as a means of preventing violence and harassment can be helpful, including trainings that enhance staff members' awareness and conflict management skills, or challenge harmful social norms that have an impact in the workplace (ILO 2020, pp. 63–64). The information and training could cover:

- ▶ the enterprise policy on violence and harassment;
- ▶ applicable laws and regulations covering violence and harassment, including violence and harassment based on discrimination;
- ▶ how to identify hazards and risks;
- ▶ workplace conflict management;
- ▶ how to create a respectful and inclusive workplace.

It may be helpful to supplement basic information with a guidance booklet and training session or seminar, delivered either in person or online. Training can also increase everyone's awareness of the damage violence and harassment does both to the organization and the individual (ACAS 2014, p. 8). It also helps to ensure that when violence and harassment occurs, the workforce knows how to report it and how to access appropriate resources. The information or training could be included in OSH training or induction training for new staff.

### 4.3.3. Training managers and supervisors on the policy and setting a good example

Training for managers and supervisors is particularly important as they need to know the enterprise policies, set a good example, be alert to problems, receive complaints and protect workers from reprisal and retaliation. They need to watch for signs that violence and harassment may be occurring, such as rumours, increased absenteeism, decreased motivation, reduced job performance and increased staff turnover.

The behaviour of employers, managers and supervisors is as important as any formal policy. Thus, they need to be aware of their behaviour and how it influences the working environment. Showing respect for the workforce at all levels is critical. Authoritarian management styles can sometimes spill over into bullying behaviour. Supervisors should never act in a way that could be seen as disrespectful or bullying. A culture where workers are consulted and problems are discussed is less likely to encourage bullying and harassment than the culture created by an authoritarian management style (ACAS 2014, p. 7). Additionally, research shows that passive leadership styles are more permissive of hostile behaviours, which in turn lead to greater tolerance towards violence and harassment (Human Resource Management International Digest 2018).

### 4.3.4. Organizational-wide policies and practices and other efforts

The policy on violence and harassment at work should be reflected in other organization-wide policies, codes of conduct and practices for an integrated, inclusive and consistent implementation. For example, some enterprises include in their supplier code of conduct specific requirements for their suppliers on human rights, which frequently detail treating the workforce with respect and dignity, ensuring fair and equal opportunities, and addressing violence and harassment at work.

► **Box 15. Examples of supplier codes of conduct, including anti-discrimination and anti-harassment**

[Enterprise name] is committed to respecting the highest standards of labour, human rights, environmental, and ethical conduct. [Enterprise name]'s suppliers are required to provide safe working conditions, treat workers with dignity and respect, act fairly and ethically, and use environmentally responsible practices wherever they make products or perform services for [Enterprise name]. [Enterprise name] requires its suppliers to operate in accordance with the principles and requirements, as applicable, in this [Enterprise name] Supplier Code of Conduct and in full compliance with all applicable laws and regulations.

**Anti-discrimination**

Supplier shall not discriminate against any worker based on sex, age, disability, ethnicity, gender, marital and family status, national origin, political affiliation, race, religion, sexual orientation, gender identity, union membership, or any other status protected by applicable national or local law, in hiring and other employment practices. Supplier shall not require pregnancy or medical tests, except where required by applicable laws or regulations or prudent for workplace safety, and shall not improperly discriminate based on test results.

**Anti-violence and harassment**

Supplier shall commit to a workplace free from violence and harassment. Supplier shall not threaten workers with, or subject them to, harsh or inhumane treatment, including but not limited to verbal abuse and harassment, psychological harassment, mental and physical coercion, and sexual harassment and any other forms of discrimination-based harassment.

*Source: Adapted from Apple Supplier Code of Conduct, version 4.7, 1 January 2021.*



## 4.4 Managing, assessing and mitigating risks

In a number of countries, the national OSH legislation stipulates that employers must assess all risks in the working environment and eliminate or minimize them as far as possible. The success of any workplace OSH programme, including concerning violence and harassment prevention, is contingent upon the cooperation of workers and employers in identifying the potential hazards and assessing the associated risks. Although management is responsible for assessing, controlling and minimizing risks, workers have a critical role to play in helping to identify workplace hazards, because of their knowledge and familiarity with facility operations, process activities and potential threats (ILO 2020, p. 58).

### ► Box 16. Mandatory risk assessment of violence and harassment: An example from France

In **France**, risks to physical and mental health linked to psychological harassment have to be assessed, where psychological harassment is considered a risk inherent in the working environment.

Source: ILO, 2020.

**EBMO to insert** relevant provision on national legislations that requires employers to manage or assess the safety and health risk including the risk of violence and harassment.

Managing the risks of work-related violence is a planned, systematic process. It involves the following steps: identifying hazards; assessing risks; preventing and controlling risks; monitoring and reviewing risk control measures; and dealing with third parties.

### 4.4.1. Identifying hazards

Hazard identification should address all existing occupational hazards and risks, including psychosocial factors and the hazards and risks associated with violence and harassment. It is important to gather information about the existing hazards, including by consulting workers and their representatives.

Work-related hazards that may contribute to violence and harassment include:

- the working environment;
- the working conditions and working arrangements;
- the work tasks and how they are carried out;
- the way work is designed and managed;
- engagement between managers and subordinates and among co-colleagues;
- engagement with third parties, such as clients, customers, service providers, users, patients or members of the public;
- gender, cultural and social norms that accept some forms of violence and harassment, including discrimination, abuse of power relations and domestic violence.<sup>8</sup>

<sup>8</sup> Adapted from Recommendation No. 206 (paragraph 8) and WorkSafe Victoria, 2020.

► **Box 17. Common hazards that give rise to work-related violence and harassment**

- Handling cash, drugs or valuables.
- Interacting with customers and member of the public including face-to-face, on the phone or online.
- Working alone, working in isolation and working in the community, for example, home visits, outreach work, driving passenger transport vehicles and working at night.
- Providing services or treatment to people with potentially unpredictable behaviour, such as those who are distressed, angry, intoxicated, incarcerated, confused, or ill.
- Conducting enforcement activities, for example, parking inspectors, security guards.
- Working in high crime areas.
- Working in a hazardous physical environment, for example, poor lighting or visibility.
- In relation to gender-based violence, low worker diversity, power imbalances along gender lines, and a workplace culture which accepts and tolerates gender-based violence.
- Service methods or policies that cause or escalate frustration, anger, misunderstanding or conflict, for example low staffing levels, customer service policies, setting unreasonable expectations of the services an organization or workers can provide.

Source: Adapted from Safe Work Australia, 2021a.

It is important to consider that some individuals may be more likely to be exposed to hazards that give rise to violence and harassment due to their race, gender, sexuality, age, migration status, religion, disabilities and literacy level.

Risk factors associated with violence and harassment at work

There are many factors contributing to violence and harassment at work, and these include psychosocial hazards<sup>9</sup> and work-related stress. When workers deal with high demands, heavy workloads, repetitive or low-intensity tasks, low job control, lack of role clarity, poor workplace relationships, autocratic leadership, workplace discrimination including by management and poor change management, this may increase stress and conflict within the workplace which may escalate to violent and abusive behaviour (Safe Work Australia 2021a).

To identify existing and potential hazards, it will be useful to do the following:

- Consult workers or their representatives and the OSH committee about any aspect or situation in the working environment they consider can increase the risk of violence and harassment at work.
- Review existing workplace reports and records, such as accident and injury records, grievances, workplace inspections, sick leave, staff turnover and performance measures.
- Inspect the workplace to identify hazards related to the physical working environment – including hazards related to third-party violence and harassment – for example, low visibility service areas; entries and exits for workers after hours; and surveillance, alarm and communication systems.

<sup>9</sup> Psychosocial hazards are factors in the design or management of work that increase the risk of work-related stress and can lead to psychological or physical harm. There is indeed a bidirectional relationship between violence and harassment and stress: psychosocial risk and stress can increase violence and harassment and violence and harassment is also a source of stress.

- ▶ Identify working situations at higher risk, for example working alone or in roles where there are long customer queues and wait times.
- ▶ Identify psychosocial hazards related to work organization or job design, such as poor supervisor support or high demands.
- ▶ Observe work culture and norms related to forms of harassment, such as name-calling, swearing, sexual or gendered jokes, and hazing new or young workers.
- ▶ Identify existing harmful social and gender norms or gender and racial stereotypes that could lead to discrimination-based violence and harassment.
- ▶ Observe how managers, supervisors, workers and others interact with one another, as poor communication, poor relationships and cultural or community issues can lead to workplace tension.
- ▶ Conduct anonymous worker surveys about incidents or behaviours that have caused discomfort and situations that had the potential to become more violent.
- ▶ Conduct surveys of clients and customers and analyse feedback to identify problem areas, for example service delivery and waiting times.
- ▶ Observe the leadership style of the organization.
- ▶ Refer to industry standards and guidelines that may highlight risk factors for the particular industry (Safe Work Australia 2021a).

#### 4.4.2. Assessing risks

After identifying the hazards, employers should assess the associated risks in consultation with the workers to determine the likelihood that someone might be affected by the hazards and the risk of violence and harassment arising from the hazards. It will be useful to consider the following:

- ▶ Who or which group of the workforce might be affected?
- ▶ Has it happened before, either in this workplace or somewhere else?
- ▶ If it has happened, how often does it happen?
- ▶ What is the potential impact?
- ▶ How serious could the harm be (minor, serious or fatal)?<sup>10</sup>

There are different risk assessment tools designed to identify and assess work-related violence and harassment risks. Refer Appendix 1 for examples of risk assessment tools. It is important to recognize that risk factors are often interrelated and may be present concurrently.

#### 4.4.3. Preventing and controlling risks

After identifying the hazards and assessing the associated risks, the next step is to adopt measures to prevent or control risks. The most effective control measure is to eliminate the hazard (and consequently the associated risk), for example the risks associated with cash handling in the public car park can be eliminated by introducing an electronic payment system. If it is not practicable to eliminate the hazard, the risk can be minimized by implementing a range of control measures, tailored to the needs of the enterprise and the workforce.

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<sup>10</sup> Adapted from SafeWork SA, 2018.

The physical working environment, security measures, work systems and procedures can affect the likelihood of violence and harassment and how the workforce can respond to incidents. Examples of measures in the physical environment to prevent work-related violence and harassment include locks and alarms, sign-in procedures for visitors and helpline for workers.

To prevent psychological violence and harassment, environmental and organizational measures should be considered. For example, individual job requirements should be clearly defined, and regular feedback should be sought from workers regarding their roles, responsibilities and workload. The workforce should be provided with the resources, information and training they need to execute their responsibilities effectively and safely. Teamwork and cooperation should also be encouraged (ILO 2020, p. 60).

In addition, institutional hierarchies and the abuse of power relations can contribute to psychological violence. Measures should therefore be put in place to provide managers and supervisors with the training, such as diversity and inclusion training, support and mentorship they need to be positive leaders. Likewise, the organization needs to ensure that leaders act promptly when they see or become aware of violence and harassment at work. As noted above, psychological violence and harassment, especially bullying, can be discouraged with good management practices and effective communication (ILO 2004).

In developing risk control measures, it is important to consult workers and OSH committees, if any. Engaging workers and others in developing control measures will likely result in measures that are more effective and widely used.

#### 4.4.4. Monitoring and reviewing risk control measures

Monitoring and reviewing can help employers to ensure risk prevention and control measures are working as planned and may also identify possible improvements. A review of risk control measures can include an examination of the physical environment, work functions and tasks, and it should take place:

- after an incident of violence and harassment is reported, as this can help to identify and address underlying factors, including whether risk control measures must be adjusted;
- when workers or their representatives indicate that risk control measures are ineffective or not as effective as they should be;
- when recommended by the OSH officer;
- when there is a significant change in the workplace that may introduce new or different hazards and risks, including changes in the working environment, work tasks, systems, processes or procedures;
- at regular intervals, for example, annually.

In addition to the existing records and data, anonymous surveys can be used to gather information from the workforce, clients, customers or service users on the effectiveness of the risk control and mitigation measures, including the reporting procedures. The survey can be targeted or integrated into existing workforce or customer surveys. Conducting such surveys can send an important message to the workforce and related third parties, that the enterprise is committed to controlling and mitigating the risks of violence and harassment, and the enterprise would respond effectively to complaints. Surveys can also be used to monitor various aspects of the risk of violence and harassment, as outlined in table 1.

► **Table 1: Example survey questions related to the risk of violence and harassment**

Topic	Example survey questions
<b>Knowledge and awareness</b>	<ul style="list-style-type: none"> <li>► Do you know where to find our workplace policy and code of conduct that covers violence and harassment?</li> <li>► To what extent do you understand our workplace policies on preventing and eliminating violence and harassment?</li> <li>► Have you received training on work-related violence and harassment and how to deal with it?</li> <li>► How prepared are you to deal with a harassing or violent situation?</li> <li>► Do you know how to report any concern in relation to violence and harassment at work?</li> </ul>
<b>Safety and security</b>	<ul style="list-style-type: none"> <li>► Have you ever been harassed or the victim of a violent incident on the job? If yes, did you report?</li> <li>► Have you ever witnessed harassment or a violence incident at the workplace? If yes, did you report?</li> <li>► How concerned are you about violence and harassment in our workplace?</li> <li>► Do you feel safe at work?</li> <li>► Do you think violence and harassment risks in the workplace have increased, decreased or stayed the same over the past year?</li> </ul>
<b>Risk control and mitigating measures</b>	<ul style="list-style-type: none"> <li>► Do you think the existing measures in controlling and preventing violence and harassment at work are effective?</li> <li>► If no, which aspect is ineffective or to what extent are measures ineffective?</li> <li>► What other steps or measures should be taken to make our workplace safer?</li> </ul>
<b>Enterprise culture and leadership</b>	<ul style="list-style-type: none"> <li>► How committed do you think the management is to preventing and responding to violence and harassment?</li> <li>► Do senior members of staff demonstrate commitment to addressing violence and harassment?</li> </ul>

Source: Adapted from European Bank for Reconstruction and Development, IFC and CDC Group plc, 2020.

When reviewing risk control measures, consider whether new control measures must be implemented to improve workers safety, compared with the potential impact of making changes to the physical working environment, work policies or procedures, or providing additional information or training. It is important to ensure any risk control measures implemented do not introduce new hazards or risks to safety and health.

Keeping records on reports of violence and harassment and actions taken can be useful in analysing trends and identifying systemic risk factors. Records with identifying information must be kept confidential.

#### 4.4.5. Dealing with third parties

Third-party violence and harassment can create an environment that is unsafe for employers and the workforce. Preventive measures should address third-party workplace violence and harassment. Although there are sectoral and organizational differences with regard to third-party violence faced by workers in different occupations and workplaces, good practice and steps to address it are common to all working environments:

- increasing awareness and understanding of the issue among the workforce, clients, customers, service users and public authorities (such as health and safety agencies);
- properly assessing the risks of third-party violence in different workplaces and job functions, if necessary modifying the workplace design to create a safer environment;
- training managers and workers in how to prevent or manage problems, including techniques to avoid or manage conflict;

- ▶ providing suitable tools to safeguard employees, for example, communication channels and monitoring, and security measure such as locks and security cameras;
- ▶ setting up policies and systems for monitoring, reporting and investigating incidents and providing support to victims (European Federation of Public Service Unions 2010).

Violence and harassment prevention activities should be integrated into daily procedures, such as checking lighting, locks and security cameras. Employers should also provide their workforce with instructions and training on how to effectively defuse hostile situations involving clients, patients, customers, passengers and anyone to whom they provide a service.

▶ **Box 18. Examples of preventive measures against the risk of third-party violence and harassment for public transport drivers**

- ▶ Install fixed or removable barriers such as screens between drivers and passengers.
- ▶ Block off the area closest to the driver to ensure a safe distance from passengers.
- ▶ Install security cameras to record activities within the vehicle to discourage violent behaviour.
- ▶ Install radio communication and reliable duress systems to allow drivers to safely request help.
- ▶ Install vehicle tracking devices such as GPS systems to locate drivers in distress.
- ▶ Improve lighting inside the vehicle that allows the driver to be aware of passenger behaviour.
- ▶ Limit cash transactions and provide safe storage areas for cash.
- ▶ Use signage to direct passenger actions, such as:
  - ▶ zero tolerance of aggression and violence;
  - ▶ security cameras are in use;
  - ▶ limited cash is held by the driver;
  - ▶ do not speak to driver while the vehicle is in motion;
  - ▶ passengers exit by rear doors (where applicable);
  - ▶ report incidents to relevant authorities;
- ▶ Train drivers in de-escalating aggressive behaviour (signs of aggression, verbal and non-verbal communication strategies).

Source: Adapted from *Safe work Australia, 2021a*.

## 4.5 Complaint and reporting procedures

An easily accessible, safe, fair and effective internal reporting and complaints mechanism and a system of dispute resolution should be in place for the workforce or any third party to report or seek help for any incidence of workplace violence and harassment. Once the complaints mechanism and reporting procedures have been created, they need to be implemented and properly communicated to all relevant parties. Recently, steps have been taken in several countries to include specific procedures in case of violence and harassment, including setting up dedicated internal committees or providing mechanisms for anonymous reporting.

### ► Box 19. Examples of reporting procedures on violence and harassment in legislation or national guidance

In **Gabon**, Article 6 of the Law on the Fight against Harassment in the Workplace, 2016, provides, “The employee, the civil servant or the trainee who considers to be a victim of moral or sexual harassment may inform, under confidential cover, staff representatives, the employer, the general inspection services or the labour inspection services”.

In **Mexico**, in March 2020, the Secretariat of Labour and Social Welfare issued a model protocol to address and eradicate work violence. The model protocol defines the procedures or mechanisms to provide assistance to alleged victims of workplace violence, to identify the competent bodies that may provide support on these issues, and to promote an organizational culture of gender equality and a working environment that helps to eliminate workplace violence.

In the **United Kingdom**, the technical guidance issued by the Equality and Human Rights Commission in 2020 recommends employers to set up reporting systems that can accept anonymous reports. By accepting anonymous reports, such systems can capture complaints that would otherwise go unreported. This may encourage complainants to come forward and allow some form of action even if a full investigation is not possible. The guidelines also recommend employers to make sure there are trained workers who can support a complainant through the process of making a complaint.

Source: ILO, 2021a.

**EBMO to insert** relevant provision on national legislations that requires employers to establish internal mechanism or procedure to deal with workplace violence and harassment.

► **Box 20. Well-established complaints procedure as part of enterprise efforts to create a safe workplace: An example from HBL, Pakistan and Indonesia**

**HBL, Pakistan**, the largest private sector bank in Pakistan with more than 17,000 employees, introduced the Anti-Harassment Policy in 2010. As part of the policy implementation mechanism, employees have various channels to report harassment, both as victims or witnesses. ‘Speak Up’ is an email address managed by the bank’s human resources department. Complaints received are conveyed to the disciplinary action department or the Anti-Harassment Inquiry Committee depending on the type of complaint, for further action. The Inquiry Committee and the team involved in handling harassment cases have been trained in relevant procedures.

In addition, the bank’s human resources helpline, which is generally used to report on day-to-day human resources issues, can be used to request guidance on addressing harassment-related issues or to submit complaints. Another channel is the human resources relationship manager, with whom staff can discuss an incident or complaint. Finally, as per the bank’s whistle blowing policy, employees have the option to report incidents anonymously to the bank’s compliance department, and the complaints are then routed to the human resources department.

**In Indonesia**, 38 enterprises signed a zero-tolerance policy on violence and harassment with their respective unions demonstrating their joint commitment rejecting any forms of violence and harassment in the world of work. The policy encourages the establishment of joint complaint mechanism to handle complaints on sexual violence and harassment, and stresses that victims of violence and harassment have the right to lodge complaints and to be provided full protection in terms of safety, privacy, and psychological support.

*Source: IndustriALL, 2022, Indonesian unions sign zero-tolerance policy on violence and harassment with companies, IFC, 2018, Advancing Gender Diversity through Effective Anti-Harassment Mechanisms. Case study: HBL Banking and Financial Services, Pakistan. December.*

The complaint procedures should include all options and to whom the complaint should be forwarded. Creating a process to receive and investigate complaints in a consistent, fair and effective manner is critical. Complaints should be made in writing and submitted to the designated person.

#### 4.5.1 Encourage reporting

Violence and harassment at work is often under-reported as the workforce can be reluctant to report it. This is particularly the case if they are not confident that the report will be acted upon and their rights to confidentiality will be respected, or if they feel reporting an incident might adversely affect their job or future career.

Employers need to develop supportive environments in which the workforce feels safe to discuss their concerns about violence and harassment, or to report incidents. To promote the reporting of violence and harassment, procedures for reporting and complaints should be developed in collaboration with workers or their representatives and communicated to the entire workforce. Employers need to provide accessible reporting procedures and ensure that the workforce knows how and to whom to report threats or acts of violence and harassment. Employers should encourage workers to make such reports as soon as possible after a threat or incident occurs.

For the complaint procedure to be effective, the workforce should not be expected to report to their immediate supervisor or manager only. They should be given the opportunity to report concerns through multiple channels, including the human resources department. The workforce should be aware that they



can remove themselves from situations that present a serious and imminent risk of harm and that they can do so without fear of being penalized.<sup>11</sup>

All complaints and reports must be acted upon promptly. The persons who handle complaints should be neutral, trained, gender-responsive and competent to carry out the tasks and act with the necessary discretion to protect the dignity and privacy of the parties involved, without compromising the transparency and fairness of the investigation. The complaint mechanism should also protect complainants (including whistle-blowers) and witnesses from reprisals (ILO 2020, p.62).

### 4.5.2 Responding to and handling complaints

For an effective response to any complaint and report of violence and harassment at work, there must be clear procedures and the procedures must be followed. Even though the complaint mechanism can be part of the enterprise grievance mechanism, complaints of violence and harassment must be handled with additional caution and care due to the sensitivity, privacy and vulnerability of the parties involved, especially if the alleged perpetrator is the manager or supervisor of the complainant.

### 4.5.3 Informal approaches

In some cases, it may be possible to rectify matters informally, depending on the gravity of the incident. Sometimes people are not aware that their behaviour is unwelcome and an informal discussion can lead to greater understanding and an agreement that the behaviour will cease. The workforce may choose to do this themselves, or they may need support from personnel, a manager, an employee representative, or a counsellor.

### 4.5.4 Official investigation

Employers should take complaints of violence and harassment seriously and investigate promptly and objectively to determine the cause and take appropriate action. Some conduct and behaviour, such as physical assault, sexual assault and harassment, are also criminal offences that need to be reported to external parties and authorities, such as police or OSH regulators, as required by laws or regulations. In such cases, the safety and well-being of the victim, or any other persons involved, including whistle-blowers and co-workers, should always be the priority.

When a report or complaint of harassment is made by a third party or whistle-blower, employers should also investigate to determine if the complaint is genuine and take action accordingly.

When investigating an incident or complaint, it is important to do the following:

- consult with workers and interview witnesses to gather information and evidence;
- keep confidential the information gathered and ensure the privacy of parties involved;
- review risk prevention and control measures to assess their effectiveness, and to determine if they need to be improved or replaced with new risk control measures;
- be neutral, objective and fair without any bias;
- keep records of incident reports, investigations and actions taken so that trends can be established and reviewed as part of the ongoing risk management.

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<sup>11</sup> Article 10(g) of Convention No. 190 on violence and harassment and Article 13 of the Occupational Safety and Health Convention, 1981 (No. 155).

### 4.5.5 Confidentiality

The confidentiality of all parties involved should be maintained throughout the investigation. An employer should not disclose the names of the complainant or the alleged perpetrator except when necessary to investigate, take corrective action or where required by law. Article 10(c) of Convention No. 190 calls for the protection of privacy and confidentiality, to the extent possible and as appropriate, and specifies that requirements for privacy and confidentiality are not misused.

**EBMO to insert** relevant provision on national legislations that requires employers to maintain confidentiality in handling workplace violence and harassment.

► **Box 21. Examples of legislation requiring employers to respect confidentiality when a complaint is lodged**

In **Luxembourg**, Article L.245-6(2) of the Labour Code, as amended in 2016, states “The staff delegation, and the equality representative, if there is one, are empowered to assist and advise the employee who is the subject of sexual harassment. They are required to respect the confidentiality of the facts of which they are aware in this respect, except to be exempted from it by the harassed person”.

In **South Sudan**, Article 7 of the 2017 Labour Act requires that the workplace policies include specific provisions on the fact that “the employer will not disclose the name of a complainant or the circumstances related to the complaint to any person except where disclosure is necessary for investigating the complaint or taking disciplinary measures in relation thereto”.

Source: ILO, 2021a.

The employer should take all reasonable steps to ensure any information gathered during the investigation is kept confidential and secure. To create an environment where workers feel confident to talk about their experience of violence and harassment, the employer must demonstrate such assurance, which may include advising and guiding the complainant, the victim, the alleged perpetrator and the witnesses during the investigation and keeping the matter in strict confidentiality.

Nevertheless, ensuring confidentiality should not prevent the parties involved from seeking support, such as through an employee assistance programme, or bringing along a support person or representative to a meeting.

### 4.5.6 Protection against retaliation

One of the main reasons a victim refrains from reporting violence and harassment is fear of retaliation. Convention No. 190 calls for protection against any form of victimization or retaliation against complainants, victims, witnesses and whistle-blowers. Protecting complainants from retaliatory actions is a fundamental part of safe and effective reporting, complaint procedures and dispute resolution mechanisms. It is vital to ensure victims or complainants are not further victimized and punished, and to protect complainants, victims, witnesses, and whistle-blowers against potential retaliation. This includes keeping the identity of the complainant confidential, providing a leave of absence or arranging a transfer to another workplace or location while ensuring that arrangements made are not seen as or amount to punitive measures for the victim or complainant.

**EBMO to insert** relevant provision on national legislations that protect complainants, victims, witnesses or whistle-blowers against retaliation.

► **Box 22. Examples of legislation and regulations providing protection against retaliation**

In **Cote d'Ivoire**, Article 5 of the 2015 Employment Code provides that no employee or person in training or internship may be punished, dismissed or made to bear undue consequences in relation to matters relating to employment, including recruitment and other terms and conditions, for refusing to undergo the acts of moral or sexual harassment as well as for having testified to or reported such acts.

In **Japan**, the Anti-Power Harassment law includes a provision that prohibits employers from dismissing employees who report cases of harassment or treating such workers unfavourably in any other way for reporting such cases.

In **Niger**, Article 122 of Decree No. 2017-682/PRN/MET/PS in the regulation of the Labour Code (10 August 2017) states "No worker may be punished, or subjected to discrimination for having been a witness to acts of sexual harassment or for reporting them".

Source: ILO, 2021a.

#### 4.5.7 Victim support and remedies

The employer should provide necessary support and assistance to victims, including victims of physical or sexual assault, sexual harassment or repeated bullying.<sup>12</sup> To facilitate recovery, the employer may consider providing ongoing support, which can include debriefing and paid or unpaid leave while the victim recovers from injury or trauma and seeks medical care, treatment or rehabilitation if needed. Employers may also refer the victim to counselling services for psychological treatment and support. Convention No. 190 and Recommendation No. 206 include principles and guidance on support measures and services for complainants and victims of violence and harassment.<sup>13</sup>

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12 Article 10(b)(v) of Convention No. 190 mentions "legal, social, medical and administrative support measures to complainants and victims". Support services should be gender-responsive, particularly in case of gender-based violence and harassment. See (Article 10(e)), and paragraph 17 of Recommendation No. 206.

13 Article 10(b)(v) and 10(e) of Convention No. 190 and paragraph 17 of Recommendation No. 206.

► **Box 23. Gender-based violence support services provided by enterprise: Bioparques de Occidente Agribusiness and Forestry, Mexico**

Bioparques employs 4,360 workers in Jalisco, and women were 38 per cent of its workforce in 2020. Since 2013, Bioparques has taken steps to ensure the safety of its workers, including publishing a code of ethics, establishing a grievance mechanism, adopting a psychosocial risk prevention policy, and offering a range of on-site support services.

During and after any investigation involving gender-based violence or sexual harassment, multisectoral support is provided to the survivor. Each accommodation complex has a team of on-site social workers, psychologists, medical doctors and sexual harassment focal points ready to provide immediate support. A case worker or psychologist provides assistance in accessing relevant services (such as medical care and counselling) and maintains communication with both survivors and service providers. In some cases, Bioparques provides the survivor with access to a psychologist, who can help to design a tailored response. The company also offers similar support to any local community member who experiences sexual exploitation and abuse perpetrated by one of their workers. The support services are offered in addition to any support provided by the government. Bioparques social workers assist workers to identify and access relevant government services and accompany them to make a report, if such support is requested by the worker.

Source: IFC, 2020, *Case study: Bioparques de Occidente Agribusiness and Forestry, Mexico. Exploring client approaches to gender-based violence prevention and response.*

In addition to the support provided by employers, there are external support services or legal remedies available to victims, such as reinstatement, compensation for damages, employment injury benefits and financial support for legal fees and costs incurred.<sup>14</sup>

► **Box 24. Examples of legislation and regulations providing support services and remedies to victims of violence and harassment**

In **Italy**, the Constitutional Court in January 2021 ruled that all victims of gender-based violence and harassment are entitled to free legal aid and assistance.\*

In **Puerto Rico (United States)**, Act No. 83-2019 provides for 15 days of leave in case of sexual harassment at work.

In **Denmark**, sexual harassment and violence at work are included in and compensated under employment injury insurance and are overseen by the Labour Inspectorate, part of the Danish Working Environment Authority.\*\*

Notes: \* Giurisprudenza Penale, 2021, "Reati contro la libertà sessuale e ammissione della persona offesa al patrocinio a spese dello Stato a prescindere dalle condizioni reddituali: depositata la sentenza della Corte Costituzionale (1 del 2021)", 12 January; \*\* Eurofound, 2015, *Violence and Harassment in European Workplaces: Extent, Impacts and Policies.*

Source: ILO, 2021a.

**EBMO to insert** relevant provision on national legislations that provide support and assistance to victims of violence and harassment.

### 4.5.8 Corrective action and sanctions

The employer should ensure there is no unnecessary delay between receiving the complaint, conducting the investigation, preparing the report, and taking action.<sup>15</sup> If the investigation substantiated the complaint or report of violence and harassment, the employer should take appropriate action against the perpetrator whether it is an employee or third party, review the risks that led to the incident, and eliminate or minimize such risks if possible. For more serious offences, such as assault and sexual harassment that could constitute criminal offences, the employer should alert law enforcement authorities.

In taking action, the employer should ensure that any sanction or disciplinary action imposed is appropriate and in accordance with the applicable laws and regulations, collective agreement or the individual's employment contract.

Provisions have been introduced in some countries that impose a legal obligation on employers to take action on reported violence and harassment at work, including reporting to law enforcement authorities when violence and harassment has criminal relevance.

#### ► Box 25. Examples of legislation or regulations requiring employers to take action on violence and harassment

In the **Philippines**, Section 19 of the 2018 Safe Spaces Act foresees fines in case of non-compliance with provisions related to employers' preventive duties or in case of not taking action on reported acts of gender-based sexual harassment committed in the workplace.

In **Gabon**, the 2016 Law on the Fight against Harassment in the Workplace (art. 10) states that "without prejudice to the criminal sanctions provided for by the applicable legislation, any perpetrator of moral or sexual harassment in the location of work or during work, incurs major disciplinary sanctions pursuant to applicable laws".

In **Iraq**, the 2015 Labour Law (art. 11-2) states that perpetrators "Shall be punished by imprisonment for a period not exceeding six months and a fine not exceeding one million dinars or by any of the two sanctions, whoever violates the provisions of the articles contained in this chapter relating to child labour, discrimination, forced labour and sexual harassment, as the case may be".

Source: ILO, 2021a.

**EBMO to insert** relevant provision on national legislations that require employers to take action or impose sanction on the perpetrator of violence and harassment.

<sup>15</sup> Article 10(d) of Convention No. 190 and paragraph 19 of Recommendation No. 206. Recommendation No. 206 specifies, "Perpetrators of violence and harassment in the world of work should be held accountable and provided counselling or other measures, where appropriate, with a view to preventing the reoccurrence of violence and harassment, and facilitating their reintegration into work, where appropriate."

► **Table 2. Good practices for responding to violence and harassment at work**

Principles	Action
Accessibility of complaints mechanism	An easily accessible, safe, fair and effective internal reporting and complaints mechanism and a system of dispute resolution should be in place for all workers or any third party to report or seek help for any incidence of violence and harassment at work.
Act promptly to investigate	Reports/complaints should be dealt with quickly, reasonably and within established timelines. The relevant parties should be advised of how long it will likely take to respond to the report/complaint and should be kept informed of the progress, so they are reassured it has not been ignored.
Treat all matters seriously	All reports/complaints should be taken seriously and assessed on their merits.
Maintain confidentiality	The confidentiality of all parties involved should be maintained. Details of the matter should only be known by those directly concerned.
Ensure fairness	The alleged harasser should be treated as innocent unless the allegations are proven to be true. Allegations must be put to the person in question, and he or she must be given a chance to explain. The opportunity to have decisions reviewed should be explained to all parties.
Be professional	The persons who handle the report/complaint should be trained and competent to carry out the tasks, and act with the necessary discretion to protect the dignity and privacy of the parties involved, while not impeding the investigation.
Be neutral	Impartiality towards everyone involved is critical, and people must be treated impartially throughout the process. The person in charge of the report/complaint should not have been directly involved in the case, and they should also avoid bias.
Be gender-responsive	Gender-responsive, safe and effective complaint and dispute resolution mechanisms, support, services and remedies should be made available.
Support all parties	Once a report/complaint has been submitted, the parties involved should be told what support is available. This might include worker assistance programmes, or the right to have a support person present at interviews or meetings, for example, an OSH representative, union representative or work colleague.
Do not victimize	It is important to ensure that anyone who reports workplace violence and harassment is not victimized for doing so. The person accused of workplace violence and harassment (and witnesses) should also be protected from further victimization.
Provide victim support	Support and assistance should be rendered to the victim such as paid or unpaid leave, medical and referral for counselling support.
Protect against possible retaliation	The mechanism should be in place to protect complainants (including whistle-blowers) and witnesses to avoid reprisals.
Take appropriate actions	If the investigation found that the report/complaint of violence and harassment is substantiated, employers must take appropriate action against the perpetrator, who may be an employee or third party, review the risks that leads to the incident, and eliminate or reduce such risks.
Communicate the process and outcomes	All parties should be informed of the process, how long it will take and what they might expect will happen during and at the end of the process. Should the process be delayed for any reason, the parties should be informed of the delay and advised when the process is expected to resume. Finally, reasons for actions that have been taken (or not taken) should be explained to the parties.
Keep records	<p>The following should be recorded:</p> <ul style="list-style-type: none"> <li>► the person who made the report/complaint, the date and the person to whom it was submitted;</li> <li>► the details of the issue reported;</li> <li>► the action taken to respond to the issue;</li> <li>► any further action required – what, when and by whom.</li> </ul> <p>Records should also be made of conversations, meetings and interviews, detailing who was present and the agreed outcomes.</p>

Source: Adapted from ILO, 2020.

## 4.6 The duty of workers and their representatives to collaborate

Like employers, the workers have responsibilities for preventing and refraining from violence and harassment in the world of work (see Article 9(a)-(d) of Convention No. 190). Workers and other persons concerned have a general duty to take care of their own safety and health, and that of others who may be affected by their actions at work. Moreover, workers and their representatives play a critical role in cooperating with employers developing and implementing of a workplace policy on violence and harassment.

Furthermore, workers have the responsibility and obligation to respect national laws and legislation, to comply with the enterprise workplace policies and to collaborate with the employer in prevention programmes, including participating in awareness-raising activities and attending trainings. The workforce should also report incidences of violence and harassment and provide relevant information, including being a witness during investigations of misconduct. Provisions have been introduced into the labour laws or OSH legislation of some countries to prohibit workers from committing acts of violence and harassment or to impose a duty on workers to cooperate with enterprise initiatives to prevent violence and harassment.

### ► Box 26. Examples of legislation and policy prohibiting workers from committing acts of violence and harassment

In **Ecuador**, Article 46(j) of the Labour Code, as amended in 2017, provides that the worker is prohibited from committing acts of workplace harassment towards a colleague, towards the employer, towards a hierarchical superior or a subordinate person in the company.

In **Grenada**, the 2019 National OSH Policy states, among others, the following responsibilities for workers: “Cooperate with the employer in their compliance with the OSH Act, regulations or policies. Take reasonable care and not recklessly endanger the safety and health of themselves or others. ... Report health and safety issues, including psychosocial factors and work-related stress, accidents, incidents or near misses to the elected HSR [health and safety representative]”.

In the **Philippines**, Section 18 of the 2018 Safe Spaces Act provides: Employees and co-workers shall have the duty to:

- a. from committing acts of gender-based sexual harassment;
- b. Discourage the conduct of gender-based sexual harassment in the workplace;
- c. Provide emotional or social support to fellow employees, co-workers, colleagues or peers who are victims of gender-based sexual harassment;
- d. Report acts of gender-based sexual harassment witnessed in the workplace.

Source: ILO, 2021a.

**EBMO to insert** relevant provision on national legislations that prohibit workers from committing acts of violence and harassment or imposing duty on workers to collaborate.

## ► Chapter 5: The role of employer and business membership organizations in preventing and eliminating violence and harassment at work

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Employer and business membership organizations (EBMOs) are key players in the efforts to prevent and eliminate violence and harassment at work. At the global level, the majority of employers supported the adoption of Convention No. 190 and Recommendation No. 206, the inclusion of safe and healthy working environment as fundamental principles and rights at work as well as the other Conventions that directly and indirectly address violence and harassment in the workplace.

Recognizing and acknowledging the business case for preventing and eliminating violence and harassment at work, an increasing number of EBMOs are taking initiatives, for example, by adopting workplace policies, developing guidance and tools to support their members in addressing, preventing and eliminating violence and harassment at work, and engaging in dialogue at the national and international levels to eradicate violence and harassment. Furthermore, the senior-most leadership of EBMOs have declared and expressed their support for Convention No. 190 towards ensuring that workplaces are free from violence and harassment.

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“Convention No. 190 offers protection to everyone, including those who are in situations of vulnerability. Employers can play a critical role in preventing and addressing violence and harassment, both inside and outside the workplace.”

► **Sergio Ortiz-Luis Jr.**, President,  
Employers' Confederation of the Philippines

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“The Federation of Kenya Employers is committed to ensuring that all workplaces in Kenya are free from violence and harassment and workers feel safe and productive.”

► **Jacqueline Mugo**, Executive Director,  
Federation of Kenya Employers

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“Violence and harassment at work in any form is bad for business. It affects the performance of the victim, relationships and productivity. We call on business leaders, government and entrepreneurs to deal with any such incident with decisiveness.”

► **Alieu Secka**, Chief Executive Officer,  
Gambia Chamber of Commerce and Industry

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This chapter provides examples of initiatives or actions that can be taken by EBMOs in supporting their member enterprise in addressing, preventing and eliminating workplace violence and harassment.



## 5.1. Providing information and advice

Providing information and advice is one of the key functions of EBMOs. While violence and harassment at work can be part of the OSH issue in the workplace, dealing with and handling this phenomenon can be complex due to its sensitivity, especially with regard to gender-based violence and harassment or the impact of domestic violence. Thus, a key starting point for EBMOs to support their members is to raise awareness and provide relevant information and advice.

At a basic level, enterprises will want to know what can constitute workplace violence and harassment, how it can happen, the applicable laws and regulations, the international legal framework and its impact on employers and enterprises, employers' responsibilities as well as the latest government policies on the issue. EBMOs, therefore, can develop guidance materials, such as employers' guides and tools to support and assist members to understand the issues and their obligations. For example, the Honduran Council of Private Enterprises (COHEP), the Confederation of Moroccan Enterprises (CGEM) and the Association of Southeast Asian Nations (ASEAN) Confederation of Employers released employers' guides on violence and harassment in 2021.

EBMOs can also provide in-person or online advice or use online platforms to facilitate the exchange of ideas between members and information sharing about issues of interest, challenges and good practices. In such a way, enterprises will be supported to take proactive measures to address and prevent violence and harassment in the workplace. Enterprises can learn a great deal from each other. EBMOs can collect, document and disseminate examples of good practices among their members.

## 5.2. Raising awareness and providing training

In addition to providing relevant information, EBMOs can play a leading role in raising awareness and providing training on preventing violence and harassment at work, either as separate training or as part of the OSH training, especially if required by law. The training will not only help to raise awareness and understanding among members on how to prevent and mitigate the risk of violence and harassment at work but can be an income-generating service that would strengthen the organization and attract membership.

Strategic collaboration between EBMOs and the government, workers' organizations and other stakeholders in promoting a workplace free from violence and harassment can take many forms. For example, they can jointly organize awareness-raising campaigns, develop a joint statement, distribute posters and leaflets, and organize national workshops, symposiums, seminars, webinars and outreach programmes for employers. This will not only raise awareness among employers but encourage dialogue and collaboration between the EBMO, stakeholders and members.

The EBMO should strive for the training, awareness-raising activities and programmes to reach all its members, especially small and medium-sized enterprises that may have less awareness, resources and capacity to implement measures to prevent violence and harassment at work.

► **Box 27. Examples of EBMO actions on preventing violence and harassment**

In **Denmark**, the social partners and the Danish Working Environment Authority launched a campaign in 2019 to prevent sexual harassment and unacceptable and offensive conduct in the workplace. Following the 2018 amendment of the Act on Equal Treatment of Men and Women, social partners and the Working Environment Authority joined forces for the campaign “Where’s the limit?”, bringing the prevention of sexual harassment into focus. The goal of the campaign is to prevent unacceptable and offensive conduct in the workplace and, by doing so, to create a working environment and workplaces free from sexual harassment.<sup>1</sup>

In **Ecuador**, the Chamber of Industries and Production has taken action against gender-based violence. In particular, in October 2020, it launched a comprehensive campaign on the prevention and elimination of violence against women at work, at home, at school and in society (“*Más unidas, más protegidas*”). Many member companies have also adopted codes of conduct/ ethics that prohibit any kind of violence and harassment against women at work.<sup>2</sup>

In **Singapore**, the Tripartite Advisory on Managing Workplace Harassment serves as a practical guide for employers and employees to better prevent and manage harassment in the workplace. It emphasizes the importance of proactive management and focuses on preventive measures to ensure a safe and conducive workplace. It also suggests key steps and remedial actions that employers and affected persons can take in responding to harassment when it occurs.<sup>3</sup>

**Notes:**

<sup>1</sup> HR Global lawyers, Ius Laboris, 2019, “Working Environment Authority and social partners collaborate on sexual harassment prevention campaign in Denmark”. 11 Nov. Available at <https://iuslaboris.com/insights/working-environment-authority-and-social-partners-collaborate-on-sexual-harassment-prevention-campaign-in-denmark/>.

<sup>2</sup> Portal Diverso, 2020, “Fundación CIPEM lanza campaña de prevención de violencia contra la mujer”, 6 October.

<sup>3</sup> Singapore, Ministry of Manpower, 2015, Tripartite Advisory on Managing Workplace Harassment.

## 5.3. Promoting good practices and compliance with laws and regulations

The recognition of good practices is growing and paving the way for eliminating violence and harassment in the world of work. In addition to promoting compliance with applicable laws and regulations, EBMOs can encourage enterprises to create a workplace free from violence and harassment, and employers can take proactive action in preventing and eliminating such practices and promote business good practices, in line with the United Nations Guiding Principles on Business and Human Rights and in support of the Sustainable Development Goals, in particular Goal 5 (Gender equality) and Goal 8 (Decent work and economic growth).<sup>16</sup> Through the above activities – raising awareness; providing information, advice and training; conducting awareness campaigns; and sharing and disseminating good practices – EBMOs play a wider role in promoting business good practices and compliance with laws and regulations.

<sup>16</sup> SDG Target 8.8: Protect labour rights and promote safe and secure working environments of all workers, including migrant workers, particularly women migrants, and those in precarious employment. Target 5.2.1: Eliminate violence against women and girls: Eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation

## 5.4. Consulting and legal representation

Employers have an obligation to provide and maintain a safe workplace, including a workplace free from violence and harassment. Therefore, employers should take proactive measures to prevent workplace violence and harassment including implementing workplace policy, investigating the complaint, taking appropriate action against the perpetrator and ensuring the incidence will not reoccur. Other than providing the relevant information, guidance and training to member enterprises, EBMOs can provide professional consulting and representation services to its members, for example when there is a reported incidence, how to respond and handle the case professionally, such as conducting the investigation, interviewing witnesses, preparing investigation reports and deciding what actions to be taken against the perpetrator. All these require specialized technical skills as the response to the incident may escalate to a tribunal or court hearing, thus it must be handled properly (both procedural and merit) and in accordance with the applicable laws and regulations and collective agreement to ensure the employer fulfils its obligation and that any action taken is just and fair.

For example, if the employer dismisses the perpetrator for alleged misconduct, and the perpetrator is not satisfied with the action and brings the case to the tribunal claiming unfair dismissal, the EBMO can provide the necessary advice and, subject to legal requirements, represent the employer to prove that the dismissal is just and fair.

## 5.5. Policy influence

As a representative of the voice and interest of private-sector employers in the country, EBMOs have a key role in engaging with the government on legislative reform and policy development. In tripartite matters, EBMOs play a critical role in working with government and workers on decisions to ratify ILO Conventions, including Convention No. 190 on violence and harassment. To provide useful inputs to the government, EBMOs would need to fully understand and appreciate Convention No. 190, be aware of the gaps between national legislation and Convention No. 190, and assess enterprise needs, concerns and challenges in relation to implementing the convention.

### ► **Box 28. Advocacy of Convention No. 190 by the Employers Confederation of the Philippines**

The Employers Confederation of the Philippines together with its business partners and the trade unions' constituents issued a bipartite statement at a Leader's Forum in August 2021 to launch a campaign to raise awareness jointly and separately among employers and workers a series of consultations to hear their insights on how Convention No. 190 will shape the policy environment in the Philippines and how laws and policies will be effectively enforced, should it be ratified.

Source: <https://ecop.org.ph/joint-statement-of-the-leaders-forum-on-ilo-convention-190-on-violence-and-harassment-in-the-world-of-work/>.

## 5.6. Social dialogue

Meaningful social dialogue between employers and workers can be an effective tool for promoting and strengthening the physical and mental well-being of the workforce, including preventing and eliminating violence and harassment at work (ILO 2020, p. 42). Many workplace violence and harassment cases can be prevented by enhancing workplace relations and creating a culture of mutual understanding, trust and respect, where the entire workforce can work collaboratively in a happy, safe and healthy environment.

Social dialogue, including collective bargaining and workplace cooperation, helps to improve the effectiveness of workplace policies and initiatives to prevent violence and harassment by increasing ownership and commitment among staff. Workers' organizations and employers use collective bargaining and workplace cooperation processes to address violence and harassment at work, including developing and implementing policies and prevention programmes.

### ► Box 29. Examples of collective agreements addressing violence and harassment in the world of work

European social partners signed the European framework agreement on harassment and violence at work in 2007, aimed at increasing the awareness of employers, workers and their representatives in relation to identifying, preventing and managing violence and harassment at work. In implementing the agreement, they have developed a Joint Guidance on Preventing Workplace Harassment and Violence.

The Mine Workers' Federation of Myanmar initiated a social dialogue with employers and recommended the addition of a clause in the collective bargaining agreement to prevent violence and harassment at work.

Source: ILO, 2020.

EBMOs can play an important role in promoting social dialogue among their members, at the national, regional, sectoral or enterprise levels. EBMOs can also represent their members in collective bargaining at different levels. A range of approaches may be used, for example, collective agreement or workplace policies can include statements of principle and requirements, it can include provisions defining elements of violence and harassment, and specifying prevention programmes, risk management, awareness-raising and training activities, workplace procedures, reporting and data collection mechanisms, and psychological and other types of support for victims.

There is no denying that planning and implementing successful and effective strategies to prevent violence and harassment at work is challenging, but if employers, workers and stakeholders work together, they can contribute toward achieving the common objective of workplaces that are free from violence and harassment.

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## ► Appendix 1: Lists of selected tools, resources and guidance materials relevant for violence and harassment in the world of work

### ► ILO resources and guidance materials

No.	Title
1.	How to promote disability inclusion in programmes to prevent, address and eliminate violence and harassment in the world of work (2021)
2.	Violence and harassment in the world of work: A guide on Convention No. 190 and Recommendation No. 206 (2021)
3.	Safe and healthy working environments free from violence and harassment (2020)
4.	Policy Brief on sexual harassment in the entertainment industry (2020)
5.	Workplace Stress: A collective challenge (2016)
6.	The SOLVE training package: Integrating health promotion into workplace OSH policies (2012)
7.	Stress Prevention at Work Checkpoints. Practical improvements for stress prevention in the workplace (2012)
8.	Code of practice on safety and health in agriculture (2010)
9.	Framework guidelines for addressing workplace violence in the health sector (2005)
10.	Workplace violence in services sectors and measures to combat this phenomenon (2003)
11.	Guidelines on occupational safety and health management systems, ILO-OSH 2001
12.	The cost of violence/stress at work and the benefits of a violence/stress-free working environment (2001)
13.	Guidance for the prevention of stress and violence at the workplace (2001)
14.	Violence at work - A major workplace problem
15.	What can be done about violence at work?

### ► Other resources, factsheet, sample policy, report and guidance materials

No.	Title	Published by
1.	Preventing workplace violence and aggression guide	Safe Work Australia, 2021
2.	Heads Up: Workplace Bullying	Beyond Blue, Australia
3.	Harassment Prevention: An employer's guide for developing a harassment prevention policy	Saskatchewan, 2022
4.	Workplace harassment and violence	Government of Alberta, Canada
5.	Violence and Harassment Policy	WSPS, Canada
6.	Manual of Procedures of complaint and sanction of abuse, harassment and sexual harassment at work. (available only in Spanish)	DIFROL, Chile
7.	E-guide to managing stress and psychosocial risks	EU-OSHA
8.	► IOE Helping employers: Manage risks from violence to staff ► IOE Factsheet on Understanding and Addressing Violence at Work	IOE
9.	Addressing Gender-Based Violence and Harassment Emerging Good Practice for the Private Sector	EBRD, CDC, IFC, 2020

No.	Title	Published by
10.	Protocol of action against cases of violence at work, harassment and sexual harassment for companies of the Mexican Republic (available only in Spanish)	STPS, Mexico
11.	A-Z topics and industry bullying: Tools and resources for businesses and workers to help guide you in preventing bullying in the workplace ► Preventing and responding to bullying at work: Good Practice Guidelines (March 2017) ► Preventing and Responding to Bullying at Work: Advice for small businesses (Feb 2017)	WorkSafe New Zealand
12.	Bullying, Harassment and Discrimination	Employment NZ, New Zealand
13.	Tripartite Advisory on Managing Workplace Harassment	MOM, Singapore
14.	Spanish Association against workplace harassment and domestic violence (available only in Spanish)	AECAL, Spain
15.	► Manual on mobbing, physical violence and sexual harassment (available only in Spanish) ► Violence at work (available only in Spanish)	INSST, Spain
16.	Preventing workplace harassment and violence. Joint guidance implementing a European social partner agreement	ACAS, BIS, CBI, HSE, PPE, TUC, United Kingdom
17.	A guide for managers and employers: Bullying and harassment at work	ACAS, United Kingdom
18.	► Example policy on work-related violence ► Violence at work: a guide for employers ► Example violent incident report form	HSE, United Kingdom
19.	Preventing sexual harassment at work: a guide for employers	Equality and Human Rights Commission, 2020, United Kingdom
20.	Sample Incident Report Form	OSHA, United States
21.	What HR Can Do About Cyberbullying in the Workplace	SHRM

## ► Examples of risk assessment tools

No.	Title	Published by
1.	Sample workplace harassment and violence risk assessment tool	Government of Canada
2.	Work-Related Violence: Preventing and responding to work-related violence Appendix 1 – Work-related violence risk assessment tool	SafeWork SA, 2018
3.	Code of Practice: Violence and aggression at work Page 14 – 22, Risk Management Examples: Hazard identification and risk assessment form	COSH, Dept of Mines, Industry Regulations and Safety, Government of Western Australia
4.	A guide for employers: Work-related violence Appendix A – Work-related violence risk control measures selection tool	WorkSafe Victoria, 2020
5.	Workplace Features Assessment Tool	Employment New Zealand
6.	Workplace violence: Risk Assessment Process	WorkplaceNL, 2019
7.	Guide: Preventing Violence in the Workplace. Page 14 - 16	SAFE Work Manitoba, 2016



## ▶ Appendix 2: List of International Labour standards protecting workers against situations in which violence and harassment may exist

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The following list of relevant ILO Conventions and Recommendations and their associated description were taken from Safe and healthy working environments free from violence and harassment (ILO, 2020), and Violence and harassment in the world of work: A guide on Convention No. 190 and Recommendation No. 206 (ILO, 2021). [The EBMO may insert a list of national laws and regulations that protect workers, directly or indirectly against violence and harassment at work.]

### 1. ILO Fundamental Conventions and associated Protocols and Recommendations

#### **Occupational Safety and Health Convention (No. 155), Recommendation (No. 164), 1981 and Protocol of 2002**

- ▶ Convention No. 155 defines the term 'health' in relation to work; it 'indicates not merely the absence of disease or infirmity; it also includes the physical and mental elements affecting health which are directly related to safety and hygiene at work' (Article 3(e)).
- ▶ It also sets out the basic principles for a national and enterprise level policy and strategy for the implementation of OSH preventive and protective measures.
- ▶ Recommendation No. 164 provides that measures should be taken in pursuance of the national OSH policy to prevent harmful 'physical or mental stress due to conditions of work' (Paragraph 3(e)).
- ▶ Recommendation No. 164 also outlines the obligations of employers to ensure that work organization, particularly with respect to hours of work and rest breaks, does not adversely affect occupational safety and health. It obliges employers to take all reasonably practicable measures with a view to eliminating 'excessive physical and mental fatigue' (Paragraph 10(g)).

#### **Promotional Framework for Occupational Safety and Health Convention (No. 187) and Recommendation (No. 197), 2006**

- ▶ Convention No. 187 calls for the active and continuous improvement of occupational safety and health to prevent occupational injuries, diseases and deaths by developing national systems, policies and programmes.
- ▶ It calls for member states to promote and advance, at all relevant levels, the right of workers to a safe and healthy working environment.
- ▶ It provides that the national programme shall promote the development of a 'national preventative safety and health culture,' (Article 5 (2)(a)), which it defines as 'a culture in which the right to a safe and healthy working environment is respected at all levels.
- ▶ The national programme is also to widely publicise and contribute to the protection of workers by eliminating or minimizing, so far as is reasonably practicable, work-related hazards and risks, in accordance with national law and practice, in order to prevent occupational injuries, diseases and deaths and promote safety and health in the workplace (Article 5(2)(b)).

### **Forced Labour Convention, 1930 (No. 29), and Protocol of 2014**

#### **Abolition of Forced Labour Convention, 1957 (No. 105)**

Convention No. 29 defines forced or compulsory labour as “all work or service which is exacted from any person under the **menace of any penalty** and for which the said person has not offered himself voluntarily” (Art. 2(1)). The “menace of a penalty” should be understood in a very broad sense, covering penal sanctions, as well as various forms of coercion, such as physical violence, psychological coercion and retention of identity documents.<sup>17</sup>

#### **Worst Forms of Child Labour Convention, 1999 (No. 182), and Minimum Age Convention, 1973 (No. 138)**

- The worst forms of child labour inherently include physical and psychological violence and harassment (Convention No. 182, Art. 3(a)–(d)).
- Possible exposure to violence and harassment is relevant for identifying hazardous work (Convention No. 138, Art. 3(1); Convention No. 182, Art. 3(d)).<sup>18</sup>

#### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111)**

- Convention No. 111 calls for the implementation of a national equality policy with a view toward eliminating any discrimination in employment and occupation based on race, colour, sex, religion, political opinion, national extraction or social origin.
- Sexual harassment<sup>19</sup> is considered a serious form of sex discrimination falling within the scope of the Convention (Art. 1).<sup>20</sup>

## **2. ILO technical conventions and recommendations**

### **Occupational Health Services Convention (No. 161) and Recommendation (No. 171), 1985**

Convention No. 161 describes the functions and purposes of the occupational health services, which must advise the employer, the workers and their representatives on the requirements for establishing and maintaining a safe and healthy working environment – so as to ‘facilitate optimal physical and mental health in relation to work’ and also to adapt work ‘to the capabilities of workers in light of their state of physical and mental health’ (Article 1 (a)).

#### **List of Occupational Diseases Recommendation, 2002 (No. 194)**

Recommendation No. 194 provides for the regular review and updating of the ILO list of occupational diseases. The ILO list, updated in 2010, now covers mental and behavioural disorders, including post-traumatic stress disorder (PTSD) and ‘other mental or behavioural disorders not mentioned in the preceding item where a direct link is established scientifically, or determined by methods appropriate to national conditions and practice, between the exposure to risk factors arising from work activities and the mental and behavioural disorder(s) contracted by the worker.’<sup>21</sup>

17 ILO, 2012, Giving Globalization a Human Face: General Survey on the Fundamental Conventions Concerning Rights at Work in Light of the ILO Declaration on Social Justice for a Fair Globalization, 2008, ILC.101/III/1B.

18 Ibid.

19 In addition to sexual harassment, racial harassment and other “discriminatory-based harassment” are also included as per the [Committee of Experts on the Application of Conventions and Recommendations \(CECAR\) General Observation 2019](#). Racial harassment occurs where a person is subject to physical, verbal or non-verbal conduct or other conduct based on race which undermines their dignity or which creates an intimidating, hostile or humiliating working environment for the recipient.

20 Ibid 4.

21 ILO List of Occupational Diseases (revised 2010), paragraph 2.4.2. Available at [www.ilo.org/wcmsp5/groups/public/---ed\\_protect/---protrav/---safework/documents/publication/wcms\\_125137.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---safework/documents/publication/wcms_125137.pdf).

**Indigenous and Tribal Peoples Convention, 1989 (No. 169)**

Article 20(3) provides that workers belonging to indigenous peoples should enjoy protection from sexual harassment.

**Private Employment Agency Convention, 1997 (No. 181)**

Article 8(1) calls for the adoption of measures to provide adequate protection for, and prevent abuses of, migrant workers recruited or placed in a Member State's territory by private employment agencies.

**Maritime Labour Convention, 2006 (MLC, 2006) as amended in 2016**

- ▶ Guideline B4.3.1 requires the competent authority to ensure that the implications of harassment and bullying for health and safety are taken into account.
- ▶ Guideline B4.3.6 provides that, with respect to investigations, consideration should be given to the inclusion of problems arising from harassment and bullying.

**HIV and AIDS Recommendation, 2010 (No. 200)**

Paragraph 14(c) requires measures to be taken in or through the workplace to reduce the transmission and alleviate the impact of HIV by, among other things, "ensuring actions to prevent and prohibit violence and harassment in the workplace."

**Domestic Workers Convention (No. 189) and Recommendation (No. 201), 2011**

- ▶ Article 5 requires Member States to take measures to ensure that domestic workers enjoy effective protection against all forms of abuse, harassment and violence.
- ▶ Paragraph 7 of Recommendation No. 201 refers to the establishment of mechanisms to protect domestic workers from abuse, harassment and violence, including creating accessible complaint mechanisms, ensuring that all complaints are appropriately investigated and prosecuted, and establishing programmes for the relocation and rehabilitation of domestic workers subjected to abuse, harassment and violence.

**Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204)**

Paragraph 11(f) calls for the adoption of a comprehensive policy framework, which should include "the promotion of equality and the elimination of all forms of discrimination and violence, including gender-based violence, at the workplace".

**Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205)**

Paragraph 15(e) states: "In responding to discrimination arising from or exacerbated by conflicts or disasters and when taking measures for promoting peace, preventing crises, enabling recovery and building resilience, Members should: ... (e) prevent and punish all forms of gender-based violence, including rape, sexual exploitation and harassment, and protect and support victims."

## ► Appendix 3: Sample template for violence and harassment enterprise policy

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The sample template was adapted from “Discrimination, Violence and Harassment Policy Template”, from the ASEAN Confederation of Employers Toolkit on Gender Equality, Elimination of Discrimination, Violence and Harassment, which was published in 2021. [Enterprises could use this template as a guide, or as a draft to be negotiated, amended and discussed with workers representatives in developing workplace policy if relevant.]

### The policy statement

[Name of enterprise] commits to creating and maintaining a friendly, diverse and inclusive, safe and healthy working environment. [Name of enterprise] recognizes the adverse impact of violence and harassment to our people and does not tolerate any type of violence and harassment whether direct or indirect, including gender-based violence and harassment. [Name of enterprise] will treat all incidents seriously and confidentially, and promptly investigate all complaints made fairly and thoroughly.

[Name of enterprise] acknowledges that to effectively address and prevent violence and harassment at work, it is our shared responsibilities to restrain from committing such behaviour, to establish prevention programmes and measures and to report any incidence of violation.

### Who does this policy apply to?

The workforce, regardless of their positions, are expected to comply with this policy and ensure that prohibited conducts does not occur. Any individual wishing to raise a complaint against an employee of [Name of enterprise], or relevant third party (such as external client or stakeholder) may do so under this policy. Disciplinary action will be taken against any employee who violates this policy. Based on the seriousness of the offence, disciplinary action may include verbal or written warning, suspension, dismissal and potential criminal charges and legal action.

Managers and supervisors who knowingly allow or commit any acts of violence, harassment or retaliation, including the failure to immediately report such misconduct to human resources (HR), are in violation of this policy and may subject to discipline.

### What is violence and harassment?

[Insert the definition in the national laws and regulations, if any] or

Violence and harassment covers a broad range of unacceptable and unwelcomed actions and behaviours, and includes gender-based violence and harassment that can reasonably be expected to cause offence, humiliation, or other physical or psychological injury or harm to an individual.

Gender-based violence and harassment refers to “violence and harassment directed at persons because of their sex or gender, or affecting persons of a particular sex or gender disproportionately, and includes sexual harassment”.

### Examples of prohibited conducts and behaviors

[Name of enterprise] prohibits violence and harassment of any kind, including physical, psychological and sexual, in person, correspondence or by electronic means, one off or repeated, minor or serious and will take appropriate and immediate action to prevent such instances, as well as in response to complaints or knowledge of violations of this policy.

The following examples of violence and harassment are intended to be guidelines and are not exclusive when determining whether there has been a violation of this policy:

**Physical violence** includes assault, such as pushing, grabbing, shoving, tripping, slapping, biting, scratching, hitting, kicking, or throwing object.

**Psychological violence and harassment includes the following:**

- ▶ harassing and bullying behaviour, such as yelling, threatening, insulting, using hurtful remarks, offensive language or any form of verbal abuse;
- ▶ making fun of subordinate or co-worker including family, sexuality, gender identity, race or culture, education or economic background;
- ▶ making derogatory comments or taunts about a person's disability;
- ▶ giving impossible goals and deadlines or pointless tasks that have nothing to do with the job;
- ▶ deliberately changing work hours or schedule to inconvenience particular worker;
- ▶ deliberately holding back information vital for effective work performance;
- ▶ shunning, excluding, marginalizing subordinate or co-worker by excluding or stopping him/her from working with people or taking part in work related activities.

**Sexual violence and harassment includes the following:**

- ▶ sexual assault, rape, indecent exposure, stalking or obscene communications;
- ▶ unwelcome physical contact including patting, pinching, tickling, stroking, kissing, hugging, fondling, brushing up against, cornering, or inappropriate touching;
- ▶ asking intrusive questions about an employee's private life or body;
- ▶ making insulting comments or joke about someone's gender identity or sexual orientation;
- ▶ repeated asking for dates despite being rebuffed;
- ▶ asking for sexual favours in exchange for a promise job or promotion;
- ▶ sharing or displaying sexually explicit pictures, video, screen savers or posters;
- ▶ sending sexually explicit email or text messages.

Anyone can be a victim of violence and harassment, regardless of their gender and of the gender of the harasser and the position they hold. All violence and harassment, is prohibited whether it takes place within [Name of enterprise] premises or outside, including at social events, business trips, training sessions or conferences attended by the employees as directed by [Name of enterprise].

Courteous, mutually respectful, consensual, pleasant, noncoercive interactions that are appropriate and acceptable to and welcomed by both parties are not considered to be violence and harassment.

Day-to-day management decisions, legitimate comment and advice involving work assignments including negative feedback from managers and supervisors on work performance or work-related conducts, implementation of company policy or disciplinary action imposed that are carried out reasonably and respectfully are not considered harassment.

**Rights and responsibilities of the workforce**

- ▶ The workforce is entitled to work free from violence and harassment, and have the right to remove themselves in case of imminent danger.

- ▶ The workforce is expected to treat everyone with respect and not commit any act of violence and harassment.
- ▶ The workforce is expected to comply with this policy as well as with any internal regulations, including on occupational safety and health.
- ▶ The workforce must report any incident of violence and harassment to their manager or designated staff at the HR department.
- ▶ The workforce is expected to co-operate in the investigation of a violent and harassment incident.
- ▶ Anyone who is involved in the process of investigation, must keep the information confidential.

#### **Management rights and responsibilities**

- ▶ The management at [Name of enterprise] will ensure, as reasonably practicable, that no one is subjected to violence and harassment, including gender-based violence and harassment.
- ▶ The management will, as reasonably practicable, take preventive measure to prevent violence and harassment including managing risks and providing information and training to employees.
- ▶ The management will act and investigate any complaint or report of violence and harassment in a prompt, fair, and confidential manner alongside human resources (if available).
- ▶ The management will expect the full collaboration from all employees to report or to provide evidence and information during investigation.
- ▶ The management will take action against anyone who subjects an individual to violence and harassment.
- ▶ Any information gathered will be treated in strict confidentiality. Management will not disclose the name of a complainant or the circumstances of a complaint except where disclosure is necessary to investigate the complaint, required to take corrective action, or as required by law.
- ▶ Management will ensure the complainant, victim or witnesses will not be victimised and are protected against retaliation.

#### **Malicious complaint**

[Name of enterprise] treat all complaints seriously. Lodging a bona fide complaint will in no way be used against the employee or have an adverse impact on the individual's employment status. However, filing groundless or malicious complaints is an abuse of this policy and will be treated as a violation and may result in disciplinary action against the complainant.

#### **Confidentiality and protection against retaliation**

All complaints and investigations will be treated confidentially, and information is disclosed strictly on a need-to-know basis. No one will be victimised for making a complaint and adequate steps will be taken to ensure the complainant, victim and witness are protected against retaliation during and after the investigation. All information pertaining to a complaint or investigation will be kept in secure files within the human resources department.

#### **Complaints procedures**

[Name of enterprise] has established the following procedure for lodging a complaint of violence and harassment. The complaint mechanism is accessible to all, including people with disabilities. We will treat all aspects of the procedure confidentially, impartiality and fairness. Anyone who is the victim of violence and harassment, aware or witness the incidence is to lodge a formal or anonymous complaint or report to the designated person [insert position and dept].

1. Upon receiving the complaint, [Name of enterprise] will conduct the investigation including interview the complainant, victim and the alleged harasser.
2. The victim will be provided with information on support and essential services including [insert referral services offered].

### **Informal complaints mechanism**

If the victim wishes to deal with the matter informally, the designated person will:

- ▶ give an opportunity to the alleged harasser to respond to the complaint;
- ▶ ensure that the alleged harasser understands the complaints mechanism;
- ▶ facilitate discussion between both parties to achieve an informal resolution which is acceptable to the complainant, or refer the matter to a designated mediator within the company to resolve the matter;
- ▶ ensure that a confidential record is kept of what happens;
- ▶ follow up after the outcome of the complaints mechanism to ensure that the behaviour has stopped.

### **Formal complaints mechanism**

If the victim wants to make a formal complaint or if the informal complaint mechanism has not led to a satisfactory outcome, the formal complaint mechanism is available to resolve the matter.

The designated person will launch a formal investigation and will be independent and objective and respect the rights of both persons who has made the complaint and the person alleged to be responsible for violence and harassment.

The person carrying out the investigation will:

- ▶ interview the victim and the alleged harasser separately;
- ▶ interview witnesses and other relevant third parties;
- ▶ analyse the information and witness statement to decide if the incident(s) took place;
- ▶ produce a report detailing the investigations, finding and the recommended action.

If the complaint is substantiated:

- ▶ take appropriate action against the harasser, and appropriate remedy for the victim;
- ▶ Inform the parties the findings of the investigation and the action to be taken;
- ▶ Follow up to ensure the conduct or behaviour has stopped;
- ▶ keep a record of all the investigation and actions taken;
- ▶ ensure all records concerning the matter are kept confidential.

### **External complaints mechanism**

A person who has been subject to violence and harassment can also make a formal legal complaint outside of the company. They can do so through [insert external complaints mechanism, such as employment tribunal, ombudsperson].

### **Victim Support**

[Name of enterprise] will provide necessary support and facilitation to the victims as needed to recover/ rehabilitate from any injury or trauma incurred.

### **Sanctions and disciplinary measures**

Anyone who has been found to have committed violence and harassment will be subject to disciplinary actions which may include verbal or written warning, suspension, or dismissal.

For serious misconduct such as physical or sexual assault which could constitute criminal offence, [Name of enterprise] will also report to the police and relevant authority for their investigation and action.

### **Implementing the policy**

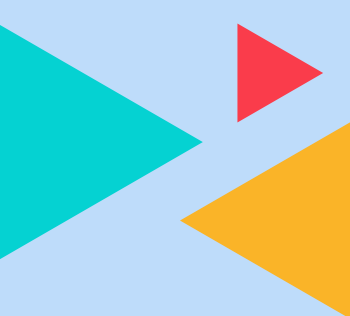
[Name of enterprise] will ensure that this policy is widely disseminated to all relevant persons. It will be included in the staff handbook. All new employees will undergo mandatory training on the content of this policy as part of their induction into the company.

[Name of enterprise] may require the employees to attend a refresher training course on the content of this policy from time to time. It is the responsibility of every manager to ensure that they and all their employees are aware of the policy.

### **Monitoring and evaluation**

[Name of enterprise] recognizes the importance of monitoring this violence and harassment policy to assess its effectiveness in preventing and eliminating violence and harassment in the workplace. Supervisors, managers and those responsible for dealing violence and harassment cases will report on compliance with this policy, including the number of incidents, how they were dealt with, and any recommendations made.





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