

# Addressing Sexual Misconduct In The Workplace: Making The Case For Sexual And Gender-Based Violence Assessments



In our practice as workplace investigators, we regularly conduct investigations into allegations of sexual misconduct. Investigations are critical to ensuring a fair outcome and a safe work environment when these types of serious allegations are made. At the same time, the data suggests that sexual and gender-based violence in the workplace actually occurs at a far higher rate than what is being reported to and subsequently investigated by employers. According to Statistics Canada data from 2020, less than half of all workers who experienced inappropriate sexualized behaviours in the workplace said that they had discussed the matter with someone at work.<sup>1</sup> Some of the reasons given for not reporting included concerns about the reporting process, fear of the consequences of speaking out, or not thinking the conduct was serious enough to report.

Given the above, an employer who cares about addressing sexual and gender-based violence in the workplace might understandably wonder how to address what we know to be a pervasive issue<sup>2</sup> without waiting for a complaint. We believe that this is possible, and suggest that employers approach the issue from a different angle: in addition to conducting an investigation when allegations are made, employers can also proactively monitor whether their workplace is safe from sexual and gender-based violence, ensure that employees know how to report this behaviour should it occur, and, where a complaint does arise, make sure that it is handled in accordance with best practices. One way to accomplish these things is through an independently conducted sexual and gender-based violence assessment.

As opposed to other workplace assessments and reviews, these types of assessments allow employers to focus squarely on the issues of sexual and gender-based misconduct in their workplace. This can encompass a range of behaviours, from sexual harassment to sexual assault to gender-based discrimination. Such an assessment aims to provide insight to an organization regarding the risks of sexual and gender-based violence in their workplace, the organization's efficacy in handling these types of issues, and how their employees perceive their handling of them, with the goal of making workplaces safer. These assessments are tailored to the specific profile and needs of the organization and can involve the following steps:

- A review and assessment of the organization's current processes for dealing with sexual and gender-based violence (including a review of policies and procedures and the training directed at addressing sexual and gender-based violence).
- An audit of past sexual and gender-based violence investigations and reports to identify areas for improvement.
- Interviews with individuals who have participated in complaints processes in the past (including those who were involved with handling the complaint internally) to hear about their experiences.
- One-on-one interviews specific to the question of gender and sexual safety in the workplace.
- Interactive educational surveys that i) inform staff about how to report sexual and gender-based violence in their workplace or institution, and ii) seek to obtain information regarding their experiences (while offering the option of anonymity to participants).

At the end of the process, organizations are provided with a report that identifies organizational risk factors for sexual and gender-based violence, barriers to reporting, and makes recommendations for improvements going forward.

When we have conducted these types of assessments in the past, we have been impressed by the high level of employee engagement and participation. This suggests to us that employees want the opportunity to talk about these issues in a trauma-informed, sensitive way with experts in the field of workplace safety and sexual and gender-based violence. This level of participation in turn allows us to make meaningful recommendations to our clients and promotes positive change. It can also surface problematic behaviour that may otherwise have gone unreported.

When it comes to sexual and gender-based violence in the workplace, we so often hear concerns that organizations are attempting to "sweep things under the rug." Assessments specific to this type of misconduct are an opportunity for employers to change this narrative and demonstrate a commitment to not only a culture of transparency and accountability, but also one of safety and respect.

## Footnotes

1. Marta Burczycka, "Workers' experiences of inappropriate sexualized behaviours, sexual assault and gender-based discrimination in the Canadian provinces, 2020" (August 12, 2021), online: <https://www150.statcan.gc.ca/n1/pub/85-002-x/2021001/article/00015-eng.htm>.

2. According to data released in February 2024 by Statistic Canada, 44% of women and 29% of men reported ever experiencing inappropriate sexualized behaviours in a workplace setting, <https://www150.statcan.gc.ca/n1/daily-quotidien/240212/dq240212a-eng.htm>.

*The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.*

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