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## Scandals Ignite Conversation on Sexual Harassment in Canada

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By Catherine Skrzypinski 11/24/2014

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In the wake of sexual abuse allegations against [former Canadian Broadcasting Corp. radio host Jian Ghomeshi](#) and [two Canadian politicians](#) in the House of Commons, companies across Canada are resolving to do a better job addressing sexual harassment complaints.

Employment lawyers say it is imperative for Canadian workplaces to foster a culture where sexual harassment is not tolerated.

“This has created a national conversation,” said Cissy Pau, CHRP, principal consultant at Clear HR Consulting in Vancouver. “Employers must create a safe work environment ... and must take a stand against ‘he said, she said’ cases.”

In Canada, employers, managers and unions are responsible for preventing and addressing harassment under the Occupational Health and Safety Act. Federal, provincial and territorial human rights commissions are responsible for investigating and resolving harassment complaints.

All of the allegations occurred in Ontario. According to the Ontario Human Rights Commission, harassment—whether it is sexual, physical or verbal—in Canada is defined as “unwelcome or unwanted behavior that makes a person feel uncomfortable,” and is viewed as a human rights violation. Common types of sexual harassment consist of:

- Inciting unnecessary physical contact, including unwanted touching.
- Using language that puts someone down, such as derogatory names.
- Leering or inappropriate staring.
- Joking in a salacious manner.
- Demanding dates or sexual favors.
- Making threats to penalize or punish a person who refuses to comply with sexual advances.

### Elements of an Anti-Harassment Policy

In a work environment with a respectful culture, procedures should be in place to properly investigate employees’ complaints, explained Thomas W.R. Ross, partner at Calgary, Alberta-based law firm McLennan Ross.

“But there are some gray areas,” he added. “It’s essential to have a policy to deal with it quickly and effectively. [Workplaces need to be] aware of what could go wrong if you don’t do it right.”

Pau said a workplace policy must include:

- A statement, which should be included in an employee handbook.
- Definitions for bullying, harassment and discrimination, along with examples of proper and improper conduct.
- Consequences of not following the policy. Will a complaint or accusation lead to a suspension, or termination?
- Responsibilities of managers and employees, as explained in training sessions.
- Procedures for employees to follow if they are the complainant, or if they witness inappropriate behavior.

Human resources professionals must not ignore any accusations, including verbal complaints, said Shana French, attorney at Sherrard Kuzz, a labor and employment firm in Toronto.

“They must also be sensitive to the whistle-blower, and show respect for the person who came forward, as well as the accused,” she continued. “HR also needs to make sure office gossip doesn’t get out of hand.”

HR practitioners should also contemplate how complaints will be investigated, explained Erin R. Kuzz, partner at Sherrard Kuzz, whether a manager should look into the grievance internally, or if they will explore external channels.

“HR professionals must be careful, and should not promise confidentiality to employees,” Kuzz added. “The only appropriate response is: ‘Depending on what you tell me, I may be able to keep it confidential, but you have to understand that I have legal and moral obligations to provide a safe workplace and if you tell me something that requires me to act, I must do it. While I will do everything I can to protect your anonymity, it may not be possible.’ ”

### **Sexual Harassment Training**

Pau noted that it is mandatory to train managers and staff on harassment in the workplace, but how to conduct those training sessions is determined by the company. Options include:

- Conducting harassment training in a staff meeting, team meeting or one-on-one.
- Providing training to new employees and periodically reviewing contents with all staff.
- Posting notices in visible, high-traffic locations around the workplace, including bulletin boards, or on a company intranet site.

“Employees should sign off that they have read and received the policies,” Pau added. “But distribution of the policy alone is not sufficient. You can’t just e-mail it or send a memo to workers.”

Ross advised that orientation is a good time to educate new employees about the company’s sexual harassment policy, but whether to have additional training beyond orientation will depend if the company is in a high-risk industry, such as construction.

As the holiday season approaches, Pau recommended companies that hold parties should keep the topic of harassment on the front burner. “This shouldn’t be swept under the carpet,” she said. “The conversation should not be avoided, even though it’s uncomfortable.”

### **Turning to Social Media**

Prior to the Ghomeshi and House of Commons scandals, people were often ashamed and embarrassed to discuss their own sexual harassment experiences at work, Pau said. Social media hashtags, such as [#BeenRapedNeverReported](#), have created awareness, but the debate is still out whether this will transcend into greater awareness in the workplace, she added.

People may now be more willing to publicly come forward, Kuzz concluded. “If there’s some good news to come out of this, [the sexual harassment scandals in Canada] have made victims brave, and they are now comfortable sharing their stories.”

*Catherine Skrzypinski is a freelance writer in Vancouver.*

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