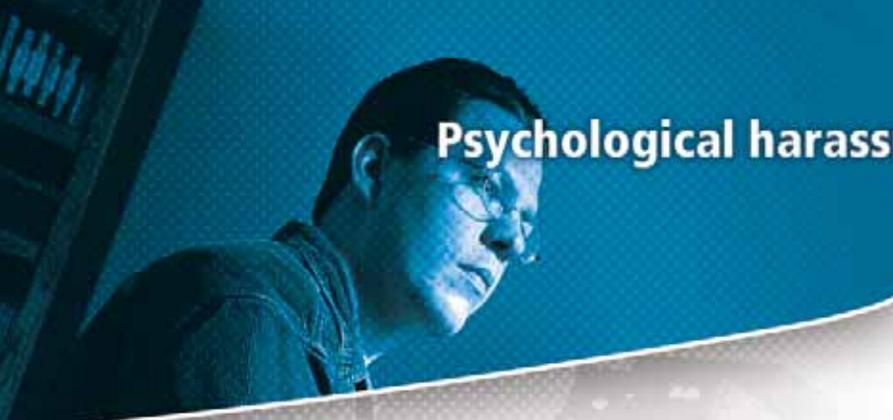




**Preventing**  
psychological harassment  
**is everyone's business!**



# Psychological harassment at work

## A prevention guide dealing with psychological harassment at work

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The Commission des normes du travail considers that prevention is the right approach to rid the workplace of psychological harassment. By adopting this approach, it is possible to resolve at the source those situations that can lead to psychological harassment and to limit the negative effects on individuals and on the undertaking.

Concerned about meeting the needs of big business employers, the Commission des normes du travail proposes a preventive approach in matters related to psychological harassment at work. The means suggested in this guide are neither exhaustive nor restrictive. The chosen suggestions should be adapted and take into account the means at the disposal of the undertaking.

It is in the interest of all concerned, both employer and employees, to have a harmonious work environment that is free from psychological harassment. While the employer is responsible for preventing and putting a stop to psychological harassment in his undertaking, maintaining a healthy and respectful work climate is everyone's business.

The Commission des normes du travail has also produced an Awareness promotion guide for employers and employees on the subject of psychological harassment. Reading this document may contribute to a better understanding of psychological harassment.

In this guide you will find:

- The definition of psychological harassment at work
- The employer's obligations stipulated in the Act
- The consequences of not acting in a preventive manner
- A preventive approach
- An example of a chart for detecting risk factors
- Means for putting a stop to psychological harassment at work
- A guideline for preparing a business policy on psychological harassment
- An implementation plan

**Note:** This guide cannot be used in the legal interpretation of the provisions of the Act respecting labour standards. Its sole objective is to inform employers about the prevention of psychological harassment at work.



### **What is psychological harassment at work?**

The Act respecting labour standards defines psychological harassment as being:

Vexatious behaviour that manifests itself by incidences of behaviour, comments, actions or gestures that are repetitive, hostile or unwanted. This behaviour affects the employee's dignity or his psychological or physical integrity, and leads to a harmful work environment for the employee.

Moreover, one serious incidence of such behaviour may also constitute psychological harassment. It is then necessary to show that this behaviour produced a lasting harmful effect on the employee and that it affected his dignity or his psychological or physical integrity.

This definition includes sexual harassment at work as well as harassment related to one of the grounds found in section 10 of the Charter of Human Rights and Freedoms. These grounds are race, colour, sex, pregnancy, sexual orientation, civil status, age except as provided by law, religion, political convictions, language, ethnic or national origin, social condition, a handicap or the use of any means to palliate a handicap.

With the exception of undertakings under federal jurisdiction, the provisions concerning psychological harassment apply to all employees, whether unionized or non-unionized, at all levels of the organizational hierarchy, including senior managerial personnel. All undertakings of Québec, whether in the private or the public sector, are covered.

### **The employer's obligations**

The provisions of the Act respecting labour standards stipulate that the employee is entitled to a workplace that is free from psychological harassment. The employer is under the obligation to take reasonable steps to prevent and put a stop to psychological harassment when he is informed of such behaviour.

This obligation is one of means and not of results, namely despite all the steps taken, the employer cannot guarantee the absence of psychological harassment in his undertaking.

An employer who is aware of the existence of a psychological harassment situation and who acts as if he did not know about it, remains responsible within the meaning of the Act. Moreover, whether the person responsible for the psychological harassment is a person who works in the undertaking or comes from outside the undertaking, the employer has the same obligations under the Act.



# Psychological harassment at work

## An ounce of prevention ...

The consequences of psychological harassment are numerous. They are not limited to just the victim, but extend to his friends and family and witnesses. The more serious the situation or the longer it lasts, the more likely it is to have consequences for the undertaking. For example, one notes an increase in absenteeism, a high staff turnover rate, recruitment difficulties, a loss of productivity, a loss of interest in and commitment to work, legal costs, increases in group insurance premiums, etc.

In the case where a non-unionized employee institutes a recourse by filing a complaint with the Commission des normes du travail, the employer must show that he has taken reasonable steps to prevent the harassment situation and to put a stop to it. The Act respecting labour standards sets a 90-day time period to exercise a recourse in the case of psychological harassment at work.

If the complaint is founded and the parties have not agreed on a settlement, the Commission des normes du travail transfers the complaint to the Commission des relations du travail. The Commission des relations du travail, an administrative tribunal, decides if the case involves psychological harassment and if the employer has failed to meet his obligations. If so, it can order:

1. that the employee be reinstated;
2. that reasonable steps be taken to put a stop to the psychological harassment;
3. that the employee be paid an indemnity for loss of employment;
4. that the disciplinary record of the employee who was the victim of psychological harassment be changed;
5. that an indemnity up to a maximum equivalent to the lost wages be paid<sup>1</sup>;
6. that punitive and moral damages and interest be paid<sup>1</sup>;
7. that the employer pay for the psychological support required by the employee for a period deemed reasonable by the authority<sup>1</sup>.

Moreover, the provisions of the Act related to psychological harassment are deemed to form an integral part of every collective agreement. A unionized employee who has a recourse under his collective agreement, must use the stipulated procedure. It is up to the grievance adjudicator, who has the same powers as those conferred on the Commission des relations du travail, to decide whether or not there was harassment and if the employer met his obligations.

It is possible for government employees who are not governed by a collective agreement as well as for the members and heads of organizations to exercise a recourse before the Commission de la fonction publique, which has the same powers as the Commission des relations du travail in this field.

## A preventive approach

### A clear and true commitment

In order to create conditions that are conducive to the implementation of the preventive approach, it is essential that senior management make a clear and true commitment to prevent and put a stop to psychological harassment at work. This commitment will be constant over time. It will be known to all staff members and will be reiterated at regular intervals. Tangible, credible and effective actions will confirm this commitment that will generally be part of a company policy. A guideline for preparing a policy is suggested in this document<sup>2</sup>.

1. This order does not apply for the period during which a person who was the victim of psychological harassment sustained a recognized employment injury within the meaning of the Act respecting industrial accidents and occupational diseases.

2. The preventive practices suggested in this guide are intended for undertakings of every size and should be adapted to the specific context of each one. A guideline for preparing a policy is proposed on pages 11 to 13 of the guide. It may also be downloaded from the web site of the Commission des normes du travail at the following address: [www.cnt.gouv.qc.ca](http://www.cnt.gouv.qc.ca).

# Prevention



## Talk about it

Talking openly about psychological harassment in the workplace is a preventive measure in itself.

The employer obtains information and informs his employees what is and is not psychological harassment. It is important that the personnel have a good understanding of the definition. The employer will make employees aware of everyone's responsibility for contributing to an environment that is free from psychological harassment. They will work together to prevent such harassment.

In addition, senior management will train managers, in particular by offering an advisory service and training to enable them to intervene early in their work unit.

Finally, the employer will inform persons outside the undertaking and with whom the employer interacts (customers, suppliers, users, visitors) of the fact that measures have been taken to prevent and put a stop to psychological harassment in the undertaking.

## Detect risks

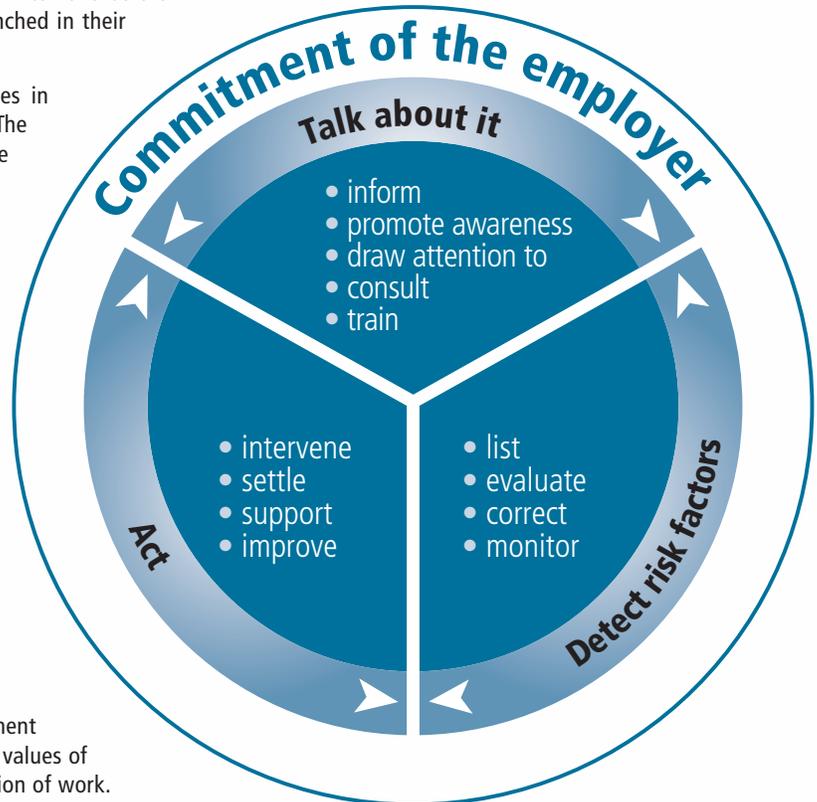
Another preventive measure consists of detecting risk factors to prevent them from leading to psychological harassment. It is easier to intervene before situations become acrimonious or people become entrenched in their positions.

The employer can request the cooperation of employees in listing and evaluating the risk factors in their work unit. The advantage of this approach is to make each employee aware of the behaviour and circumstances that can lead to harassment. This risk analysis is made periodically and when major changes occur in the undertaking such as restructuring, a merger, a change of technology, etc. It is recommended that employers make this analysis following a psychological harassment situation.

An example of a chart for detecting risk factors is proposed in this guide\*. The use of this chart makes it possible to record factors and their risk levels, as well as the measures chosen to correct them.

These measures are generally part of a global approach to managing human resources and organizing work. For each measure, the employer will determine a timetable, designate a person in charge, do a follow-up and evaluate the effectiveness.

This analysis may lead the employer to make a more comprehensive review of certain aspects of the management of his undertaking, in particular by giving thought to the values of the organization, the management style or the organization of work.



\* Example of a chart on page 6 of the guide.



# Risk Factors

## A few examples of risk factors

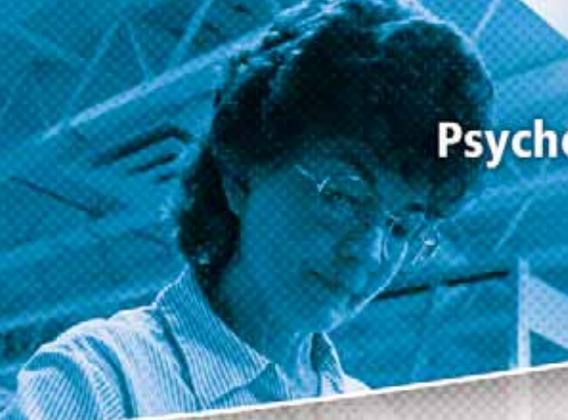
- Lack of respect between persons
- Conflicts that are not managed properly or not managed at all
- Envy, jealousy or rivalry
- The absence of communication between the employer and employees and between employees
- Excessive competition
- Ambiguity or lack of precision concerning the tasks that are to be performed
- Unfair distribution of the work load
- Lack of training or coaching when technological changes are made
- Inadequate work tools
- Denying the possible existence of psychological harassment in the undertaking

## A few ways of detecting risk factors

- Be attuned to one's workplace (change in the behaviour of individuals, forming of clans, etc.)
- Pay attention to existing tensions between persons
- Hold individual meetings
- Consult personnel
- Talk with an employee who leaves the undertaking to find out his reasons for leaving
- Prepare an assessment of the events that have occurred in the undertaking over the last year and analyze the absenteeism rate, the turnover rate, the nature of grievances, the type of misconduct having given rise to administrative or disciplinary measures, the reasons for consulting the company employee assistance program, etc.

## Measures to prevent risk situations from leading to psychological harassment

- Promotion of respect for others at work
- Open communications between the employer and employees as well as between employees
- Fair distribution of work
- Promotion of cooperation
- Clarification of expectations and misunderstandings
- Making sure that the employee's skills and abilities match the requirements of the position
- Clearly defined roles and tasks
- The employer's leadership in the early and appropriate management of conflicts
- Consultation with personnel, in particular about work methods
- Training to develop the knowledge and skills required to do the job



# Psychological harassment at work

## Establish a procedure to be informed of a psychological harassment situation

When making a firm commitment to prevent and put a stop to psychological harassment in the workplace, the employer must put in place a procedure to be informed of such a situation.

This procedure, which is simple, effective and known to all, will allow the employer to intervene quickly and to limit the negative impacts, both for the individuals concerned and for the undertaking. The procedure will also be accessible to persons working in the regions and who are often called upon to travel.

The employer must delegate one of his representatives to receive requests for intervention or complaints related to psychological harassment.

## Main principles of an intervention

To guarantee the credibility of interventions, the employer will adopt principles that will guide his actions.

### A few examples of intervention principles

The employer directs his interventions with diligence, impartiality and integrity. He assures the persons concerned that they will be treated with respect and fairness. He does not penalize a person who, acting in good faith, requests the employer's intervention.

Each person has the right to be assisted or advised by the person of his choice. The effect of an intervention is not to deprive the person of his recourses under a law in effect or his collective agreement.

The person who believes that he is the victim of psychological harassment may contact his employer in confidence. The employer will act discreetly to resolve the situation revealed to him and will require confidentiality on the part of the persons who, in one capacity or another, are called upon to take part in the resolution of the situation. Moreover, the employer will act in accordance with the legislation respecting the protection of personal information, in particular concerning the documents collected or filed during the intervention such as medical reports, investigation reports, etc.

## Act to put a stop to psychological harassment at work

As soon as the employer is informed of a psychological harassment situation, he will intervene quickly to take stock of the situation and to deal with it.

### Intervene

A brief analysis of the situation experienced by the person who believes that he is the victim of harassment and how far the situation has evolved will make it possible to determine the type of intervention. Each situation must be evaluated on a case-by-case basis.

The employer may consult the person who believes that he is the victim of harassment and evaluate the solutions and expectations he proposes. If the situation is urgent or serious in nature, temporary measures may be necessary. When a group of employees are considered responsible for the harassment, the intervention by the employer will require certain adaptations.

### An informal intervention

It is possible that a psychological harassment situation may be resolved by a direct intervention on the part of the persons concerned. On the basis of common interests, they will be brought closer together without the assistance of an intermediary. This approach is not obligatory or a prerequisite for the procedure put in place by the employer to be notified of such a situation.

If the case does not involve psychological harassment, an appropriate management of the conflict or a modification of management practices might resolve the situation.

## A formal intervention

In the case of a situation related to psychological harassment, the two types of formal intervention most frequently used are mediation and investigation.

These interventions are made by a neutral third party who is competent in the field of psychological harassment as well as in mediation or conducting investigations. The mediator and investigator can be part of the personnel of the undertaking or be external resources. At all times, the employer must be especially vigilant when it comes to impartiality or the appearance of impartiality, especially when the intervening party is an in-house resource.

## Mediation

Mediation is a simple, effective and rapid conflict resolution method that brings together only those persons concerned by the situation. This conflict resolution method has proven itself and is suited to settling situations that are as complex as a psychological harassment situation. Mediation seeks to put an end to the harassment by finding, with the help of an impartial third party, mutually acceptable solutions for the persons concerned. It is not an investigation or type of trial.

Mediation is free and voluntary. The participation of the persons concerned is done in good faith. The mediator assures a level playing field and re-establishes a fair balance if necessary. He does not impose his point of view or that of one person on another. He makes sure that the parties give their free and enlightened consent regarding the settlement to be reached.

Mediation may be offered before, during or after an investigation, as determined by the employer and taking into account the parties' interest in settling the matter. Mediation may prove very useful for the settlement of a harassment situation involving a third party.

Within the context of a given intervention, it is not recommended that the same person be both mediator and investigator. This is due to the nature of the investigator's and mediator's work, and the relations established with the parties concerned.

## Investigation

The employer may make an investigation when mediation has failed or when it is not possible under the circumstances. An investigation is often the method used to take stock of a situation, in particular when the versions of the persons concerned are contradictory or due to special circumstances. Above all, the investigation makes it possible to situate the problem. In all cases, the investigation must be carried out diligently.

This type of intervention requires more time than mediation. The intervention concerns the person who believes that he is the victim of psychological harassment, the presumed harasser and the witnesses. The presumed harasser has the right to know the allegations against him and to give his version of the facts.

The investigation may be conducted by an individual or by a committee. The investigators can be part of the undertaking's staff or be external resources.

The employer defines the mandate assigned to the investigator. The latter receives each of the testimonies in the order and at the location that he deems appropriate. He analyzes the facts and their impacts on individuals. This analysis may be made according to the criterion of a reasonable person. The investigator should then ask himself the following question: «Would a person who is well informed about all the circumstances and who found himself in the same situation as the employee who says that he is the victim of psychological harassment also conclude that such behaviour is vexatious?»

At the end of his investigation, the investigator establishes if the situation involves psychological harassment. Finally, depending on the mandate that he was entrusted with, the investigator files his report with the employer who will take the necessary steps.



# Psychological harassment at work

## Steps that should be taken following an intervention

During or following an intervention, the employer may be called upon to take steps involving the persons concerned – the victim of the psychological harassment, the presumed harasser, the witness, as well as the person who, at the end of an intervention, is not considered the person responsible for the harassment – or the undertaking.

Depending on the circumstances, the employer may offer support services under his company employee assistance program, if such a program exists. These services may be proposed during the intervention to prevent a person's condition from deteriorating or after an intervention to help reintegrate the person in the workplace.

## A few examples of support services

- Training or professional assistance
- An indemnity for a sick leave absence
- A progressive return to work whether or not following a sick leave
- A leave for a specified duration with or without pay
- Financial compensation for psychological support
- Compensation for medical treatments or medication not covered by the Régie de l'assurance maladie du Québec

When a victim of psychological harassment or a harasser returns to work, it may be advisable to accompany them in their reintegration. Moreover, following an investigation, it is possible that the employer may intervene to re-establish relations within a work unit. This type of intervention may be necessary when the psychological harassment originates from a group of persons.

However, in the event that the employer must impose disciplinary measures, he will act in accordance with generally accepted rules in this field, in particular with respect to the proportional nature of the sanction in relation to the wrongdoing, the gradation of sanctions as well as the aggravating or attenuating circumstances.

In light of the events experienced, the employer can check if certain management practices could be improved, particularly the organization of work, interpersonal communications and conflict management. Over the short term, the employer may reflect on management styles and the values of the undertaking, and eventually change them.

When the harasser is outside the undertaking, the employer could take measures according to the seriousness of the situation. For example, he could request a change of representative or a change to the service contract.

In the case where the situation does not involve psychological harassment at work, but instead a potential source of harassment, a major feeling of uneasiness or suffering related to the job, the employer should take action before such a situation degenerates and has negative impacts on the individuals and the undertaking.



## Guideline for preparing a company policy on psychological harassment at work

A company policy seeks to convey the employer's commitment to preventing and putting a stop to psychological harassment. This policy helps mobilize senior management and all employees of the organization around the objectives that have been set. This guideline presents the various aspects generally found in a policy.

A company policy is part of a global vision. It will be in keeping with the values or other policies already in effect. For these reasons and also because the means available to the undertaking vary, a psychological harassment policy should be adapted to the specific context of the undertaking. Preferably, the preparation of this policy will give rise to consultations with staff members or associations representing employees.

### 1. Policy's objectives

The policy's objectives state the purpose of the policy, i.e. to prevent and put a stop to psychological harassment in the workplace. The objectives are clearly defined and are in line with the means listed. The policy should be applied uniformly to all personnel.

### 2. Employer's commitment

Senior management clearly states its willingness, which must be constant over time, to prevent and put a stop to psychological harassment in the workplace. This commitment may be stated as follows:

The employer agrees to:

- offer an environment that is free from psychological harassment;
- promote respect between individuals;
- safeguard the personal dignity of employees;
- protect the physical and psychological integrity of personnel;
- promote a harmonious work environment, etc.

### 3. Scope

The scope refers to the persons protected by the policy. The legislative provisions concerning psychological harassment apply to all unionized and non-unionized employees as well as to managers of all levels of the organizational hierarchy including senior managers. It is also possible to clarify which persons are protected by the company policy and by the Act respecting labour standards depending on their employment status (permanent, temporary, part-time, etc.).

It may also be specified that employees are protected by the policy, regardless of whether their work environment is the physical place where they perform their tasks or any other place where they are called upon to work.

### 4. Definition

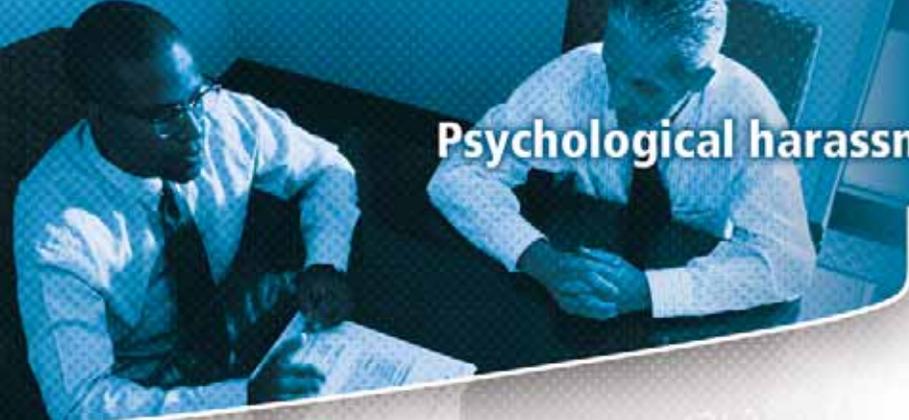
It is important that the policy refer to the legislative definition that reads as follows:

Any vexatious behaviour in the form of repeated and hostile or unwanted conduct, verbal comments, actions or gestures, that affects an employee's dignity or psychological or physical integrity and that results in a harmful work environment for the employee.

A single serious incidence of such behavior that has a lasting harmful effect on an employee may also constitute psychological harassment.

In order to better grasp the scope of this definition, it is advisable to mention in the policy that the definition includes sexual harassment at work as well as harassment related to one of the grounds found in section 10 of the Charter of Human Rights and Freedoms. These grounds are race, colour, sex, pregnancy, sexual orientation, civil status, age except as provided by law, religion, political convictions, language, ethnic or national origin, social condition, a handicap or the use of any means to palliate a handicap.

Examples of what does not constitute psychological harassment may be added to make it easier to understand the definition, for example a conflict at work between two employees, work-related stress, difficult professional constraints or the normal exercise of management rights (management of the regular presence of employees, organization of work, misdeeds punished by a disciplinary sanction, etc.).



# Psychological harassment at work

## 5. Roles and responsibilities

The policy will specify the roles and responsibilities assumed by the persons concerned.

### **For the employer, the board of directors or senior management:**

- assume responsibility for the policy;
- make a commitment to prevent and put a stop to psychological harassment and adopt the means to take action;
- support managers;
- designate the person who will be assigned to the application of the policy and determine the hierarchical level he will report to.

### **For managers:**

- make employees aware of their individual responsibility for ensuring that the workplace is free from psychological harassment;
- detect risk factors, preferably in cooperation with the employees of the work unit;
- decide on the measures to be taken to prevent identified risk situations in their work unit from leading to psychological harassment, and do a follow-up;
- intervene in an informal manner to resolve risk situations and consolidate the work unit if necessary;
- decide on the measures to be taken following an intervention.

### **For persons assigned to the application of the policy:**

- generally receive requests for intervention or complaints on behalf of the employer;
- inform employees about the company policy on psychological harassment;
- make employees aware of their individual responsibility for ensuring that the workplace is free from psychological harassment;
- refer employees to specialized resources for support;

- intervene in an informal manner to resolve conflict situations;
- decide, following a request for intervention or a complaint, on the nature of the intervention to be made;
- designate the person who will intervene as a mediator or an investigator.

### **For the Human Resources Department or, in the absence of such a department, for the person designated as a specialist in this field for the undertaking:**

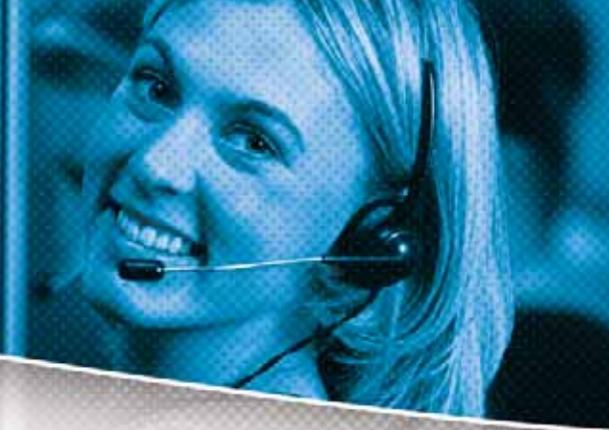
- advise and train managers in the field of management and psychological harassment at work;
- train the employees who will act as mediator or investigator;
- manage the employee assistance program;
- refer to specialized resources for support;
- advise senior management and managers when it comes to discipline;
- coordinate the consultative committee set up to prevent psychological harassment.

### **For employees:**

- contribute through their behaviour to ensuring a work environment that is free from psychological harassment;
- respect the persons with whom they interact as part of their work;
- participate in consultation mechanisms put in place by the employer to prevent psychological harassment.

### **For unions or associations representing employees:**

- prevent psychological harassment in cooperation with the employer. The consultation mechanisms put in place will be adapted to the workplace according to whether it is unionized or non-unionized. It may involve a psychological harassment prevention committee, a committee on quality of life in the workplace, a professional relations committee, a health committee, etc.



## 6. Procedure for informing the employer

The employer informs employees of the procedure that he has put in place to be notified of a psychological harassment situation in the undertaking.

The policy should specify the possible ways of notifying the employer. The complaint or the request for intervention could be conveyed to the employer verbally or in writing, in the form of a letter or a form provided for this purpose by the employer.

The employer will make known the name of the person designated to receive requests for intervention or complaints dealing with psychological harassment. The credibility of this designated person will be established within the undertaking so that any person who believes that he is a victim will not hesitate to turn to this designated person.

In this regard, the employer could indicate that a person must not resort to this procedure with a view to laying false accusations or undermining others, due to the major prejudice that such conduct could cause to the persons in question.

## 7. Principles guiding the employer's interventions

The employer will announce the principles that will guide his formal or informal interventions. These guiding principles will be known to all. They will aim to establish a climate of trust and to offer guarantees to those persons who turn to the employer to put a stop to a psychological harassment situation.

## 8. Nature of the interventions

The employer will describe the possible types of intervention that he plans to favour to put a stop to a psychological harassment situation. Depending on the nature of the situation brought to his attention and how far it has evolved, the employer will choose the suitable type of intervention (generally mediation or investigation).

The employer will also determine if, generally, he will resort to in-house or external resources to carry out the investigations and mediation. He will also need to determine if these are resources that are already specialized or internal resources trained to intervene, upon request, in addition to their usual tasks.

In the case where the employees of the undertaking are covered by a collective agreement, the employer will determine if his interventions complement or are in parallel to those stipulated in the collective agreement in force.

## 9. Measures

The employer can present the type of measures that he intends to offer the persons who are coping with psychological harassment. These measures may be intended for the victim, but also the witness, the harasser or the person who – at the end of an intervention – is not considered a harasser.

It may be difficult to anticipate the measures that will be offered as they will often be chosen based on the situation experienced. These measures may help to re-establish the person's physical or psychological integrity, or contribute to the employee's reintegration in the workplace. They may consist of training, professional assistance or relate to the organization of work.

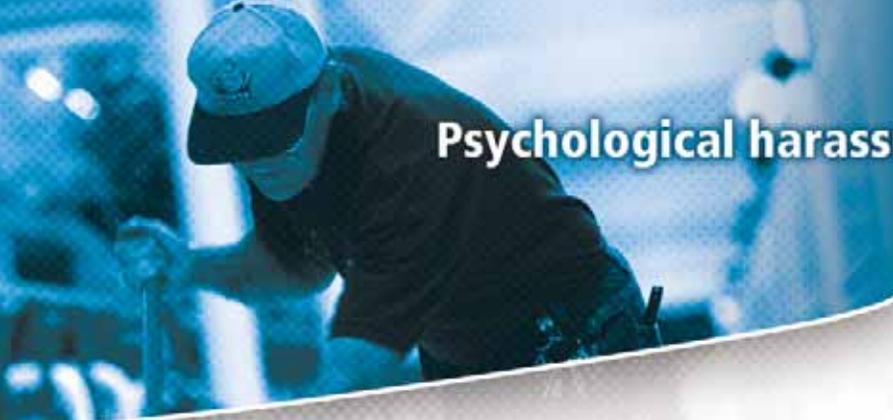
If there is an employee assistance program, the employer will offer available support services dealing with psychological harassment at work.

## 10. Evaluation and revision

The employer will make sure that the policy is understood, respected and used wisely.

An assessment of the application of the policy will be planned and the frequency will be determined in this chapter. The employer will evaluate if the elements of the policy produce the anticipated results and, where applicable, he will make the necessary changes. The employer may also consult employees or associations representing them to obtain their annual evaluation of the application of this policy.

Depending on the results of the assessment and evaluation, the employer will determine if he will revise certain aspects of his policy.



## Psychological harassment at work

### Implementation plan for the person assigned to the application of the policy

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First, obtain a clear and firm commitment from the senior management of the undertaking. Next, it is recommended that you:

- prepare a policy preferably in consultation with employees or associations representing them;
- put in place consultation mechanisms to prevent psychological harassment;
- identify the person who will intervene as a mediator or an investigator;
- devise a training plan for managers and intervening parties in mediation or investigations;
- prepare a communication plan to make known the policy to all personnel. This communication plan may include means such as an awareness promotion meeting, a theme-oriented day, an information document distributed with the pay sheet, with a memorandum, that can be sent by e-mail or appear on the Intranet or a bulletin board. To inform third parties that the employer has taken steps to prevent and put a stop to psychological harassment in his undertaking, posters, pamphlets, information notes, etc. may be conveyed to them.







## Have any questions?

Get in touch with customer services at the Commission des normes du travail to obtain the publications on psychological harassment at work. You can also consult the section devoted to psychological harassment on our web site.

### Customer services

Montréal area

**514 873-7061**

Elsewhere in Québec, dial toll free

**1 800 265-1414**

Internet

**[www.cnt.gouv.qc.ca](http://www.cnt.gouv.qc.ca)**

**Commission  
des normes  
du travail**

**Québec**



*Copie française disponible sur demande.*

This information is provided only as a guide. For more details, please refer to the Act respecting labour standards and its regulations or get in touch with customer services.

In this document, the masculine gender designates both women and men. No discrimination is intended.

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