



WORKPLACE HARASSMENT AND VIOLENCE PREVENTION REGULATIONS

Designated Recipient: How-to Guide



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Workplace harassment and violence is common across Canadian work-places, including in the trucking and logistics industry. Everyone deserves a workplace that is safe and respectful, but there haven't always been consistent legal rules on how to make sure this happens. To increase employee rights and protections and to make sure that all federally regulated employers are working with the same set of rules, the Government of Canada has passed *Bill C-65*, a law that sets clear rules on workplace harassment and violence. *Bill C-65* amends the **Canada Labour Code** to create new Workplace Harassment and Violence Prevention Regulations (the Regulations), which entered into force on January 1st, 2021, meaning that federally regulated employers must comply with what is required under the law.



Under the Regulations, employers have the obligation to **prevent** workplace harassment and violence, **respond** to incidents of workplace harassment and violence, and **support** employees who have been victims¹ or witnesses of workplace harassment and violence.

¹ Individuals who have experienced harassment or violence use many different words to describe themselves. Some may refer to themselves as “victims” or “survivors,” while others prefer the term “target.” Others do not refer to themselves using any of these terms at all. Note that the Regulations use the term “principal party” to describe someone who has experienced harassment or violence.

To support the ‘response’ obligation, *section 14* of the Regulations states that the employer must appoint a **Designated Recipient** of workplace harassment and violence complaints. Many employers have questions and concerns about the Designated Recipient of workplace harassment and violence complaints.

This guide will help you to:

- Understand the role of the Designated Recipient; and
- Identify the best candidate within your organization to serve as the Designated Recipient.

While the Regulations outline specific requirements and timelines for incident response, it is important to note that the credibility of any harassment and violence program depends on how quickly and effectively reports and complaints raised by employees are handled. It is therefore important for employers to determine who will investigate complaints of workplace harassment and violence in their workplace, i.e. select their Designated Recipient, before any incidents occur or complaints are raised.

Selecting a Designated Recipient: A Guide to Identifying Skills, Competencies and Training



THE DESIGNATED RECIPIENT

Within the Regulations, the “Designated Recipient” is the individual, or group of individuals to whom a notice of an occurrence can be submitted by a principal party² or witness regarding an incident of harassment and violence in a workplace.

The Designated Recipient:

- Will be impartial and be seen to be impartial by parties to the complaint

² Under the Regulations, the “principal party” is defined as being an employee or employer who is the object of an incident of workplace harassment or violence.

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- Will have knowledge, training and experience in issues related to workplace harassment and violence
- Will have knowledge of relevant legislation

THE ROLE OF THE DESIGNATED RECIPIENT

The Designated Recipient plays a significant role within the workplace:

- They receive and review workplace harassment and violence complaints from employees.
- They should be known as the main contact for addressing these matters at work.
- When they receive a complaint, the Designated Recipient manages the complaint process by following the required procedures.
- They must make every reasonable effort to resolve workplace harassment and violence incidents before the matter is referred to an investigator.
- They must maintain detailed records of the complaint resolution process and adhere to all documentation requirements within the Regulations.
- The Designated Recipient is an important contact person for employees. They can offer guidance and directions on how to navigate the complaint process.**



****NOTE:** Ideally, proceeding with internal complaint resolution mechanisms is the best way to address a complaint, but there might be situations where an external investigation is clearly the best approach. As per the Act and Regulations, individuals involved in the complaint have the right to request an investigation at any time. If an investigation is requested by the principal party, it must be carried out.

TYPICAL WORK DUTIES OF THE DESIGNATED RECIPIENT

Depending upon the size of the organization, some employers may select a current employee (or team of employees) with the required skillset to assume the role of Designated Recipient as complaints arise. Other employers may choose to hire someone for the role. Regardless, understanding the typical work duties of the Designated Recipient can help in determining who is right for the role.

Main Work Duties of the Designated Recipient:

- Collecting information
- Assisting others throughout the complaint resolution process
- Communicating with supervisors, peers, and subordinates
- Interviewing individuals/parties involved in complaints
- Performing administrative duties, including documentation and record keeping
- Providing guidance and support to others
- Analyzing information
- Following up/connecting with the parties involved during the complaint resolution process

The following skills and abilities are considered strong assets for Designated Recipients:

- Conflict management ability
- Interpersonal relations – including empathy, tact, patience
- Investigative skills

 SELECTING A DESIGNATED RECIPIENT

Once in effect, section 14 of the Regulations demands that employers must designate a person or work unit as the Designated Recipient to whom notice of an occurrence may be provided. A work unit could refer to a group of people, such as the Human Resources department, the Labour Relations department, etc. While it is a best practice for the Designated Recipient to be someone within the company who is accessible to all employees, this is not a requirement.

Part of the rationale behind having a Designated Recipient within the workplace is to remove any intimidation or fear of reprisal about coming forward with a complaint of workplace harassment or violence. If the Designated Recipient is external to the organization (i.e. not a current employee), employees may not feel comfortable speaking to someone that they do not know. Remember, if you do not have someone currently qualified for the role, they will become qualified through training and support.



****NOTE:** While all employers are strongly encouraged to source a Designated Recipient internally, if an individual from outside of the organization is selected as the Designated Recipient, they could be an association, or a third-party organization, or another individual who would be able to fulfil the duties required under the role.

Provided the candidate for the role meets the criteria of possessing, or being provided with the relevant knowledge, training and experience, the Designated Recipient could be selected internally from the following groups within the company (as applicable):

- Existing employees
- Union representatives
- Human resources
- Occupational health and safety
- Legal staff
- Employee assistance

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QUICK TIP: Additional suggestions for identifying your Designated Recipient follow within this document.

Depending upon the size of your organization, you may consider developing an incident response team or work unit, comprised of a designated team leader and alternate. This would help ensure organizational capacity to assist with employee concerns and complaints.

BEST PRACTICE CONSIDERATIONS

It is recommended that the Designated Recipient *should have no direct personal or working relationship with any of the parties involved in a complaint, and no personal interest in the outcome of the matter.*³ This is to help ensure that the Designated Recipient can remain neutral and impartial during the complete complaint resolution process. In all cases, they must ensure that the confidentiality and privacy of all matters are maintained as outlined in federal legislation.

What does this mean?

It is therefore recommended that the Designated Recipient should not be an individual in your organization who has direct authority over employees – including Managers or Supervisors, even as the Regulations do not set explicit rules preventing this. If, for example, an HR Manager is appointed as a Designated Recipient, it is recommended to ensure that employees have access to and are aware of an alternate contact for reporting harassment or violence complaints. Remember, the Designated Recipient must remain neutral. If the Designated Recipient were a Supervisor or Manager, victims or witnesses may be afraid or hesitant to report incidents of workplace harassment and violence.



QUICK FACT: Under the Regulations, an Employer can receive complaints of workplace harassment and violence, but they cannot be the sole contact for these workplace matters. That is why employers are required to appoint a Designated Recipient. Note that the word ‘Employer’ is used as a broad category to refer to supervisors, managers, directors, leaders, executives, business owners, or anyone else who has responsibility in fulfilling employer duties under the Regulations.

TRAINING

An employer must ensure that the Designated Recipient is provided with the required training **before** assuming their duties under the Regulations and at least once every three years after that.

³ For more information about the Regulations, consult the Government of Canada’s Interpretations, Policies and Guidelines published to support Workplace Harassment and Violence Prevention.

COMPETENCY PROFILE – DESIGNATED RECIPIENT

The recommended competencies below are comprised of Knowledge (what the Designated Recipient must know) and Performance (what the Designated Recipient must be able to do).

THE DESIGNATED RECIPIENT *MUST KNOW*:

- K.1** Organizational structure, policies and practices of their respective workplace
- K.2** Responsibilities of the Designated Recipient as outlined in the Regulations
- K.3** Workplace Harassment and Violence Prevention Policy – inclusive of the content, and responsibilities of Employers, Employees, the Applicable Partner, and their role as Designated Recipient
- K.4** Relevant legislation, including privacy and confidentiality, the Canada Labour Code, the Canadian Human Rights Act, and the Criminal Code
- K.5** Complaint resolution procedures under the Act and Regulations
- K.6** Trauma-informed response, i.e. ability to recognize signs of trauma and understand how it impacts victims, Designated Recipients, and witnesses⁴
- K.7** Approaches for dealing with complex and sensitive situations
- K.8** Conflict resolution techniques
- K.9** Crisis management techniques (e.g. de-escalation techniques)
- K.10** How to recognize, minimize, prevent and respond to workplace harassment and violence
- K.11** Investigative techniques

⁴ The process of reporting workplace violence and harassment can be emotionally stressful and, in some cases, re-traumatizing for victims. Designated Recipients can take steps to limit the potential impact of reporting a complaint by being sensitive to any potential trauma arising out of the incident. This is referred to as 'trauma-informed care' or 'trauma-informed response'.

THE DESIGNATED RECIPIENT *MUST BE ABLE TO:***P1. Administer the Complaint Resolution Process:**

Section 23 of the Regulations requires that employers engage in a mandatory process known as negotiated resolution once a complaint about workplace harassment or violence has been received. Negotiated resolution is a form of informal resolution in which the victim meets with the employer or Designated Recipient to:

- Discuss the incident of harassment or violence
- Clarify the information that was submitted in the complaint, and
- Attempt to reach resolution

As part of this process, the Regulations require the employer or the Designated Recipient to review the incident (if accepted as true) to determine whether workplace harassment or violence has taken place. This is achieved by referencing the definition found in subsection 122(1) of the Canada Labour Code, and this review is performed jointly with the victim. The victim always maintains the right to proceed with a negotiated resolution, conciliation process, and/or an investigation regardless of whether or not the employer or Designated Recipient finds that workplace harassment or violence has taken place. From this point on, the Designated Recipient will thus be required to administer and manage the complaint resolution process and follow the required procedures.

Employers may wish to follow their own practices and procedures **in addition to** those outlined in the Regulations to respond to harassment and violence, and this can include conducting internal investigations (as long as regulatory procedures are followed and the victim's rights under this framework are respected). In particular, the outcomes of any internal investigation must still preserve the victim's right to proceed with a complaint resolution process. It is a best practice to ensure that a thorough internal investigation is conducted when complaints of workplace harassment and violence are received, and this can assist in determining any next steps, including corrective or disciplinary measures.

Regardless, impartial resolution of workplace harassment and violence complaints is the most critical responsibility of the Designated Recipient. To perform this important skill, a Designated Recipient must be able to:

P1.1 Gather Information:

When the Designated Recipient receives a complaint, they start to gather information that will aid in the resolution process. To gather the information, the Designated Recipient may:

- Request further information from the employer, e.g. employee records, risk assessment results
- Collect physical evidence (as applicable)

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P1.2 Conduct Dialogues and/or Interviews:

Interviews and discussions are an important aspect of the complaint resolution process. The Designated Recipient must have the skills and abilities to conduct impartial and effective meetings and interviews. The Designated Recipient should be able to employ a number of interviewing tactics, which could include:

- Building and maintaining rapport with involved parties
- Asking effective questions
- Dealing with difficult interviewees (e.g. hostility, gossip, reluctance)
- Managing interview interruptions
- Assessing credibility (e.g. detecting lying)

P1.3 Analyze Information:

The Designated Recipient must effectively synthesize and analyze all of the collected information, inclusive of primary research (interview data) and physical evidence related to the case. They must be able to objectively analyze the information to make an informed and unbiased assessment of the incident and to determine the best course of corrective action, or any next steps.

Essential Skills Associated with analyzing information include:

Critical thinking and evaluation, problem solving and decision-making



QUICK TIP: *Training in investigative techniques is a significant asset for Designated Recipients.*

P2. Maintain Records and Write Reports:

The Regulations fully outline the record-keeping and reporting requirements of the Designated Recipient and should be followed to ensure compliance. For example, the Regulations require that the Designated Recipient maintains a record of each complaint that has been received and of each action taken in response to the complaint. With these factors in mind, the Designated Recipient must be able to:

- Draft the allegations/statements that form the basis for the complaint resolution process
- Outline the complaint resolution process followed
- Present decisions, actions, findings and conclusions in a precise, concise and effective manner
- Develop various forms of reports and written records required for various parties involved in the complaint resolution process
- Report details of the complaint objectively to avoid defusing or accelerating the complaint, i.e. objective vs. emotional writing

P3. Manage Conflict:

Effective conflict resolution is one of the tenets of the Designated Recipient role. They are responsible for managing the process of resolving an issue raised in their workplace (if the incident is not escalated to a formal investigation by a third-party).

Designated Recipients would benefit from conflict resolution training and instruction. Key considerations for managing conflict include:

- Demonstrating patience with all parties involved
- Ensuring fairness and impartiality during the complaint resolution process

P4. Communicate Effectively:

Effective communication is essential for a Designated Recipient. Specific communication skills that are critical for the role include:

Active Listening: A technique that is used in counseling, training, and solving disputes or conflicts. It requires the listener to fully concentrate, understand, respond, and then remember what is being said.

Oral Communication: To conduct interviews with involved parties.

Written Communication: To accurately document all aspects of the complaint resolution, which can then be integrating into a final report.

Negotiating: Facilitating dialogue between two or more parties to reach an agreement.

Conducting Meetings: Of particular importance when meeting with involved parties. They must be able to coordinate, plan and facilitate meetings.

P5. Demonstrate Professionalism:

Professional and ethical behaviour is critical for a Designated Recipient. They must adhere to Corporate Codes of Ethical Conduct (if applicable) at all times. Professionalism and ethical behaviour is complex; however, critical skills and abilities for Designated Recipients include:

- **Tact:** The ability to deal with difficult issues and situations with sensitivity and respect.
- **Impartiality:** The ability to not allow unconscious bias impact the assessment of the situation.
- **Stress Management:** The stress associated with being a Designated Recipient cannot be overlooked. As a main point of contact, they bear witness to the hurt and pain being experienced by victims, which can impact their own personal well-being if not managed correctly.
- **Integrity:** The quality of being honest and having strong moral principles; moral uprightness.

ADDITIONAL ABILITIES AND ATTRIBUTES OF DESIGNATED RECIPIENTS

The following attributes are very beneficial for Designated Recipients to fulfill their roles:

- **Interpersonal relations:** The ability to work well with others. Interpersonal skills are vast but can include being able to control one's emotions; showing respect and consideration for other's points of view; demonstrating empathy; cooperating and collaborating with others; concern for others.
- **Social perceptiveness:** The ability to determine what others are thinking through observation of their behaviours. This can include reading emotions, non-verbal cues and body language.
- **Concern of others:** Having empathy towards others' feelings and needs and being understanding and responsive to them.
- **Resilience:** The ability to the capacity to recover quickly from difficulties. This is particularly important when the dealing with unpleasant situations and difficult or stressed employees.



IDENTIFYING CANDIDATES FOR THE DESIGNATED RECIPIENT

As mentioned before, guidance surrounding the Regulations recommends that the Designated Recipient should not have a direct or personal relationship with employees. There are many roles/positions that have skills and knowledge associated with being the Designated Recipient that your company could consider in seeking to identify candidates.



QUICK TIP: Consider incentivizing the position with a raise due to individuals having to take on more duties.

ROLES/POSITIONS THAT YOU MAY CONSIDER FOR THE DESIGNATED RECIPIENT INCLUDE:**Claims Personnel:**

Claims personnel, including agents and specialists, may possess the following skills:

- Information gathering and synthesis
- Managing conflict
- Effective communication
- Report writing

Customer Service Personnel:

Customer service personnel may possess the following skills:

- Information gathering and synthesis
- Effective communication
- Managing conflict

Safety and Compliance Personnel:

Safety and compliance personnel would also be used to interpreting legislation and regulations. They may possess the following skills:

- Conducting investigations – including gathering information, conducting interviews and analyzing information



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- Managing conflict

- Communicating effectively

Recruiters:

Members of the recruiting team by possess the following skills:

- Conducting interviews

- Communicating effectively

Union Representative/Liaison:

Union representatives/liaison are often versed in regulations, policies and procedures, having worked with collective agreements. They may also possess the following skills:

- Managing conflict

- Conducting investigations

- Communicating effectively

HR Personnel:

HR personnel regularly interpret and implement various legislation and regulations and will play a role in implementing the workplace requirements associated with Bill C-65 and the Regulations. They may also possess the following skills:

- Writing reports

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- Communicating effectively
- Conducting investigations
- Managing conflict
- Demonstrating ethical and professional behaviour

Occupational Health and Safety Representatives:

Occupational health and safety representatives regularly interpret and implement various legislation and regulations. Members of the occupational health and team may have completed training related to investigating complaints or instances of workplace physical incidents and accidents. They may also possess the following skills:

- Writing reports
- Communicating effectively
- Conducting investigations
- Managing conflict
- Demonstrating ethical and professional behaviour

Legal Personnel:

Legal personnel possess the most in-depth knowledge of the legal requirements associated with the Regulations. In addition, they may have completed Investigation training. Fleets may have in-house legal teams or attain third-party legal counsel. Some legal firms provide investigative services for legislation like Bill C-65 and the Workplace Harassment and Violence Prevention Regulations.

TRAINING CONSIDERATIONS FOR DESIGNATED RECIPIENTS

The Regulations state that employers must ensure that the Designated Recipient is provided with training before assuming their duties under these Regulations and at least once every three years after that.

Trucking HR Canada's **Workplace Harassment and Violence Prevention Training – Incident Response Module** is an online and in-person training program that will allow trainees to understand and implement the complaint resolution process, as outlined under the Regulations.⁵ It is designed to assist employers and Designated Recipients in understanding their workplace roles and responsibilities in this area.

However, to fully support Designated Recipients to perform their roles as effectively as possible, training in the following areas would be beneficial:

Mental Health First Aid (MHFA):

MHFA is the help provided to a person developing a mental health problem, experiencing a mental health crisis, or a worsening of their mental health. MHFA training aims to improve understanding about mental health and provide people with the skills and knowledge to better manage potential or developing mental health problems in themselves, a family member, a friend, or a colleague. Learn more at: <https://mhfa.ca/>

Investigative Techniques:

There are various courses offered by a number of providers (i.e. post-secondary educational institutions, unions, law firms, etc.) that provide detailed instruction on advanced investigative techniques that can support the role of the Designated Recipient.

Interviewing Techniques:

To ensure effective and objective interviewing, the Designated Recipient may choose to complete formalized and/or self-directed study in various interviewing techniques to be able to respond to challenges and issues encountered during the information gathering stage of the complaint resolution process.

⁵ The Incident Response Module is available in an on-line format starting in January 2021. Later in 2021, Trucking HR Canada will also offer the Incident Response Module in an in-person format, which will outline an interactive training program that will take a comprehensive approach to assisting individuals in this role. Employers can receive more details about Trucking HR Canada's in-person training options by consulting their provincial trucking association.

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- For guidelines for interview protocols, visit: <https://www.canada.ca/en/government/publicservice/wellness-inclusion-diversity-public-service/harassment-conflict-resolution/investigation-guide-policy-harassment-prevention-resolution-directive-harassment-complaint-process.html#an5>
- For tips on interviewing, visit: <https://www.canada.ca/en/government/publicservice/wellness-inclusion-diversity-public-service/harassment-conflict-resolution/investigation-guide-policy-harassment-prevention-resolution-directive-harassment-complaint-process.html#an4>

Conflict Management:

Various vendors provide static and dynamic training on conflict management. Designated Recipients would benefit from learning various techniques to manage conflict and prevent escalation.

Report Writing:

Reporting is a critical component of the Designated Recipient role. Additional training in objective report writing can assist Designated Recipients who may be daunted by the writing requirements associated with the role.

- For tips on Report Writing visit: <https://www.canada.ca/en/government/publicservice/wellness-inclusion-diversity-public-service/harassment-conflict-resolution/investigation-guide-policy-harassment-prevention-resolution-directive-harassment-complaint-process.html#an9>