

Bill 168 Workplace Violence and Harassment Q&A

RCC members participating in the webinar May 12, 2010 posed the following questions. Rodola Sibuma, Key Account Manager with the Ontario Service Safety Alliance, who presented the overview on the requirement for retailers in the webinar, answers your questions below.

Q: We have over 100 small retail stores. Do we need to assess each, even if only 5 minutes away from each other?

A: Yes. Even if similar work is being done in multiple locations, the assessment must take into account the nature and conditions of work. Each location must be assessed for those risks unique to the workplace along with the shared or common risks.

Q: What do you recommend if we have over 200 locations and an assessment can't be done for each location?

A: Each location may have different risks specific to its particular location. Those individuals that work in a location may be the best individuals to carry out an assessment, or verify a generic assessment prepared by corporate head office specifically for their location, because of their first hand knowledge. In addition, the responsibility to develop measures and procedures to control identified risks lies with the employer. Through feedback from the locations, this is an opportunity for the employer to engage their locations in developing controls and solutions best suited to their environment.

Q: Does working alone include a retail store located in a mall, open during regular mall hours?

A: Yes, if they are working alone. A mall environment does not protect them from violence hazards completely. Mall locations often have storage areas not located within the retail environment where a worker could be alone for periods. It would be a contributing factor when assessing the risk of violence.

Q: What documentation is required to "prove" an assessment has been done?

A: The Act does not require that the risk assessment be in writing. However, we strongly encourage workplaces to have a written violence risk assessment as a best practice. A written assessment assists you in the development of your program components, in communicating the risks to the JHSC, H&S representative or workers, and for providing instruction to workers, supervisors and managers. In addition, should there be any training involved as a result of an

assessment, training records should also be documented. A Ministry of Labour Inspector would issue an order to produce a documented assessment if they had any concerns that risks were not being assessed. A written assessment is the best evidence that one has been conducted as well as demonstration of due diligence on the part of the employer. Similarly, WSIB Workwell Auditors will want to see written risk assessments.

Q: Does the assessment need to be posted along with policy and program?

A: No. An assessment does not have to be posted. However, the results from the assessment must be shared with the JHSC, if applicable, or workers. Copies of the assessment (if in writing) shall be provided upon request. Keep in mind the high probability that the Ministry of Labour may require this for similar reasons cited in the previous question.

Q: The language in the template is very legal and not appropriate for some retail staff.

- Is there a more lay person version of the language?

A: The template is a sample only of the types of information you might want to include in a policy for your business. You should always put the policy in your own words using appropriate language for your workplace. It is an expression of the commitment of the employer to protect the health and safety of the employees. A small business version of the policy/program and violence risk assessment tools is being developed and tested. It will be available shortly and may help you further with this.

Q: What determines if your retail location resides in “high crime” location?

A: There are no specific criteria to use to determine if a retail location resides in a ‘high crime’ location. However, community resources are available through your local police division or through the police Community Services and Outreach program. Local law enforcement would be able to show you what types of crime occur in the area and what the crime statistics are for particular areas of the community. In addition, law enforcement officers can offer valuable information for the protection of workers. A local real estate or home insurance broker is another helpful source of information as they gather to establish property value and risk for insurability.

Q: For summoning “immediate assistance” for a kiosk in a mall, can this include a first step such as calling mall security?

A: Absolutely. Remember that measures such as the advantage of having mall security are taken into account during the Risk Assessment. These factors contribute to the way an employer would rank or categorize the risk and appropriately develop a ‘program’ that would incorporate “summoning assistance” from mall security. Note that these are part of orientation/training

procedures for any new hire (i.e. who to call for assistance, emergencies etc.) so a review of a company's overall health and safety program may show that these measure are already in place. Compliance to the new legislation may mean documentation that reflects this in a Workplace Violence Program.

Q: Does every employee in a workplace need to complete a survey or can H&S rep complete?

A: The employees themselves are the best source of input on how safe they feel in different situations. It helps you focus on the key areas that your program needs to address. The survey is a simple way to gather that information anonymously. It also provides a meaningful way to involve employees in the program and gain their support. We suggest you make it voluntary so not all will respond. If inviting every employee is not practical have the JHSC committee, the H&S representative or a couple of staff in each location complete.

The Workplace Violence Toolkit includes a Workplace Violence Employee Survey which can help those firms with multiple locations spread throughout the province, firms where there are workers who travel in the course of their employment or are "on-the-road".

For further clarification on these questions or others, contact Rodola Sibuma at rsibuma@ossa.com.