

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

## 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 small business employers, the Commission des normes du travail suggests a preventive approach in matters related to psychological harassment at work. The means proposed in this guide, which are neither exhaustive nor restrictive, are adapted to the specific context of small businesses.

In this guide you will find:

- The definition of psychological harassment at work
- The employer's obligations
- An approach to prevent psychological harassment in a small business
- Means for putting a stop to psychological harassment at work
- An example of a chart for detecting risk factors
- A poster: What is psychological harassment at work?
- An example of a statement of the employer's commitment
- An ounce of prevention...

## What is psychological harassment at work?

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The Act respecting labour standards defines psychological harassment as being:

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.

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.

**Note:** The sole purpose of this guide is to inform employers. It is not a legal opinion and must not be considered an interpretation of the Act respecting labour standards.



## What are 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 put a stop to psychological harassment when informed of such behaviour.

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

Willful ignorance of a harassment situation does not relieve the employer of his responsibility. 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.



### A clear and true commitment

The firm commitment made by the employer to prevent and put a stop to harassment will be known to all personnel and reiterated at regular intervals. The employer can affirm this commitment in a statement\* and send it to all employees as well as to new employees at the time of hiring. This statement can be distributed during individual meetings or meetings with the entire staff, with the pay sheet, by internal memo, by e-mail, or on bulletin boards in change rooms, the lunch room, the lounge, etc.

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.

\* An example of a statement by an employer is provided at the end of this 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).

## How to prevent psychological harassment at work

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### First, talk about the problem openly.

It is suggested that the employer:

- **learn** what psychological harassment is
  - by reading the publications of the Commission des normes du travail, by consulting its web site, by contacting customer services at the Commission or by attending an information session on this subject;
  - by referring to an association, a group or a network of businesses to obtain information;
  - by contacting a person who is competent in this field;
- **inform** employees of his commitment to combat and put an end to harassment and make them aware of their individual responsibility in seeing to it that their workplace is free from psychological harassment
  - by making known the procedure put in place;
  - by organizing meetings with all staff members;
  - by sending memoranda, e-mails or pamphlets to each employee;
  - by posting signs or notes in the change room, lunch room, lounge, etc.;
- **work** with employees according to a method adapted to the workplace;
- **inform** persons outside the undertaking and with whom the employer interacts that measures have been taken to prevent and put a stop to psychological harassment in the undertaking
  - by posting a sign at the delivery dock or in the waiting room;
  - by sending an information sheet on the subject with the service contract, etc.

### It also involves detecting risk factors, making sure that they do not lead to psychological harassment, and taking appropriate steps.

It is suggested that the employer:

- **list**, preferably with employees, the risk factors present in the workplace. The advantage of this approach is to make employees aware of the circumstances that can lead to harassment as well as the possible consequences for the individuals concerned and the workplace;
- **evaluate** the level of risk to determine the timetable for implementing the steps that are to be taken. An example of a chart for detecting risk factors can be found on page 11 of the guide;
- **correct the situations** by taking appropriate steps. Depending on the circumstances, these steps will be part of a global approach to managing human resources and organizing work. The undertaking can compare its situation with that of other undertakings and take advantage of their experience. The employer can seek the advice of resources specializing in human resource management or psychology. He can also call on an association, a group or a network of businesses that offers this type of service;
- **follow up** on the steps taken to make sure that they produce the intended effects.

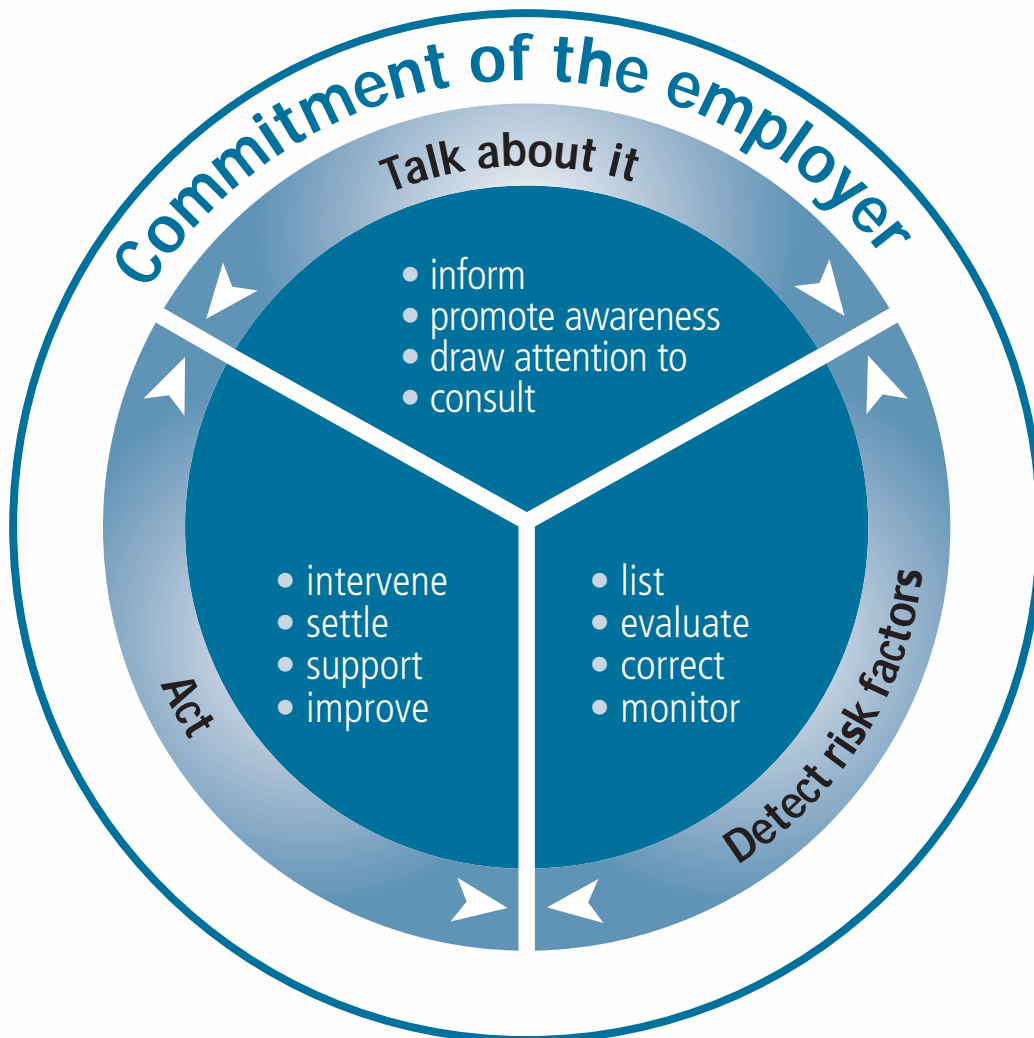
# Prevention



## A simple and effective procedure, known to all

The employer will establish a procedure to be informed of a psychological harassment situation. It will allow an individual who believes that he is the victim of harassment to inform his employer, if he is able to do so, either informally or formally by lodging a complaint. Obviously, the employer will act discreetly when dealing with the situation that is brought to his attention. He will require confidentiality on the part of those persons who, in one capacity or another, will be involved in resolving the situation.

The existence of a procedure must not prevent an employer from intervening if he witnesses a situation that may lead to psychological harassment. Moreover, the procedure does not prevent the person who believes that he is the victim of psychological harassment from speaking directly to the person who is the source of the unwanted behaviour. In such a context, the emphasis is put on the facts and the solutions sought to ensure that the conduct ceases. This approach is not obligatory. Nor is it a prerequisite for the procedure put in place by the employer to be notified of a harassment situation.





# Psychological harassment at work

## 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
- Absence of communication between the employer and employees as well as 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 workplace

## A few ways of detecting risk factors

- Be attuned to one's workplace
- Pay attention to existing tensions between persons
- Hold individual meetings
- Consult staff members
- Talk with any employee who leaves the undertaking to find out his reasons for leaving
- Prepare an assessment of the events that occurred in the undertaking over the last year (absenteeism rate, turnover rate, nature of grievances, etc.)

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

- Promotion of respect for others at work
- Open communication between 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





## What is psychological harassment at work?

Remove this poster (see back) and display  
it in a location that is conspicuous and  
readily accessible to all your employees.

# What is psychological harassment at work?

The definition of psychological harassment chosen in Québec by the legislator is 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 for psychological harassment to be established, the four elements of the definition must be present and demonstrated, namely:**

## **1 - Vexatious behaviour that is repeated or serious in nature**

It is a behaviour that is humiliating, offensive or abusive for the person who is subjected to such behaviour, that undermines his self-esteem or that causes him torment. It is a behaviour that exceeds what a reasonable person deems appropriate in the accomplishment of work.

Each of the words, incidences of behaviour, actions or gestures taken on their own may be harmless, insignificant, but it is everything taken together or the accumulation of these words, behaviours, actions or gestures that allows one to conclude that a harassment situation is present.

However, the repetitive nature is not an essential component of harassment. Indeed, a single serious incidence of a behaviour, word, gesture or action may also be considered psychological harassment if it produces a lasting harmful effect for the person concerned. If there is only one cause, the harmful effect must be perpetuated in time. An isolated incidence of behaviour, such as violence or aggression whose impact on the victim is perpetuated in time, may constitute psychological harassment.

## **2 - Hostile or unwanted in nature**

The incidences of behaviour, words, actions or gestures in question must be seen as hostile or unwanted. However, in some cases, such as at the time of aggression or sexual harassment, the unwanted nature does not necessarily require that the victim have clearly expressed his refusal or disapproval.

## **3 - Effect on the person's dignity or psychological or physical integrity**

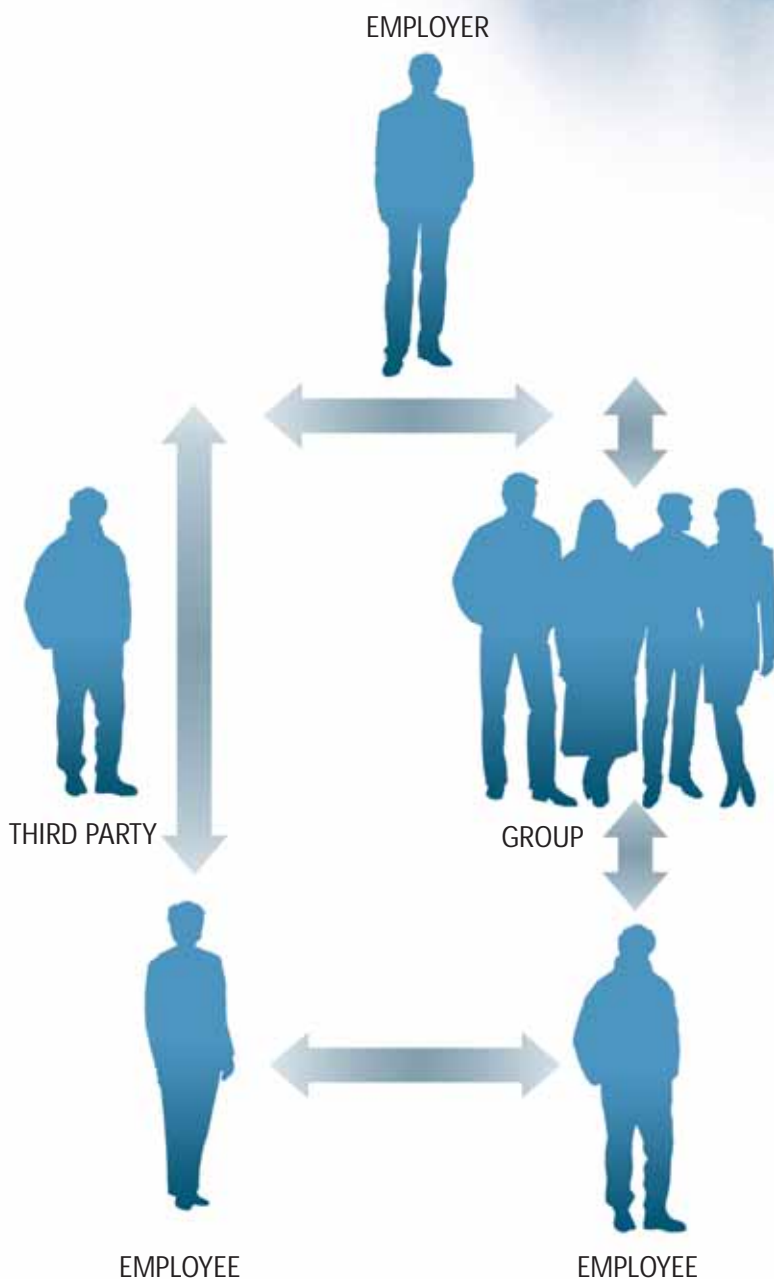
Harassment has a negative impact on the person. A person who is the victim of harassment may feel diminished, degraded or denigrated, both personally and professionally. The harassment situation may also cause a deterioration in the physical health of the victim. However, there does not necessarily have to be a negative impact on the victim's health.

## **4 - Harmful work environment**

A harmful work environment is a work environment that is detrimental, that is harmful to someone, that has an adverse impact on the person who is the victim of harassment. The work atmosphere created by the behaviour may lead to the victim's isolation in his work environment for instance.

*It is not the intention of the harasser that needs to be taken into consideration to conclude that there is psychological harassment. The words, gestures, actions or behaviour of the harasser do not have to be associated with a harmful intent; rather, it is the effect on the person concerned that counts.*





### The many faces of harassment

Psychological harassment may occur at all levels of the organizational hierarchy. It may manifest itself between work colleagues, persons in a position of authority may harass their subordinates and conversely, employees may harass their superiors. The persons involved may be individuals or a group of persons. The presumed harasser may also come from outside the undertaking. In this case, it may be a customer, a user, a supplier or a visitor.

In addition to the victim and the harasser, there are witnesses. Persons who witness a psychological harassment situation play an important role in perpetuating or putting a stop to this behaviour.

### Management rights and normal conditions of employment

Psychological harassment must not be confused with the normal exercise of the employer's management rights, in particular his right to assign tasks and his right to impose disciplinary measures.

Insofar as the employer does not exercise these rights in an abusive or discriminatory manner, his actions are not psychological harassment.

**Commission  
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**Québec** 







## Taking action

### When the employer is notified of a psychological harassment situation, it is suggested that he:

- **INTERVENE AND DEAL WITH** the situation diligently and adequately. The type of intervention will take into account the nature of the situation experienced and how far it has evolved. The employer must decide if the situation requires that he adopt temporary measures.

If the situation does not seem to involve harassment, it is possible that an appropriate management of the conflict will suffice to resolve the problem. In other cases, a change in management practices would be appropriate.

If the situation seems to be psychological harassment, it is recommended that an intervention be made by a person who is impartial, credible and competent to resolve the situation quickly. For this type of intervention, mediation is the recommended approach. This conflict resolution method has proven itself and is suited for dealing with situations that are as complex as a psychological harassment situation.

For employers of the small business sector, it is strongly recommended that they resort to an external resource to guarantee the impartiality of the intervention. This person must have knowledge in the psychological harassment field and mediation skills. As for all other professional services, the employer can call on his network.

### Characteristics of mediation...

- It is a simple, flexible and rapid conflict resolution method
- It seeks to put an end to psychological harassment by finding solutions that are mutually acceptable to the persons concerned, with the help of an impartial person
- It is free, voluntary, and participants act in good faith
- It is confidential
- It is not an investigation or a form of mini-trial

### ... and of a good mediator

- He is impartial and honest and exhibits an ethical behaviour in his interventions
- He does not impose his point of view, nor that of one person on another
- He ensures a level playing field and re-establishes a fair balance if necessary
- He demonstrates competence in the field of psychological harassment and mediation

- **SUPPORT**, according to the circumstances, the persons concerned by a harassment situation. These measures may be offered during the intervention to prevent the deterioration of a person's condition or following an intervention to help the person return to work.

A few examples of measures:

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

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.

- **IMPROVE**, in light of the events experienced, the management practices, in particular concerning:
  - The values of the undertaking
  - The management style
  - The organization of work
  - Interpersonal communication
  - Conflict resolution

### What can be done when the person who is the source of the psychological harassment is outside the undertaking?

In such a case, the employer could take measures according to the seriousness of the situation. For example, he could request a change of representative, a change to the service contract or ultimately the termination of the business relationship.



## Statement of the employer's commitment

Name of the undertaking: \_\_\_\_\_

- 1 Agrees to prevent psychological harassment in the workplace as defined in the Act respecting labour standards.
- 2 Agrees to promote respect between the persons working in the undertaking and those persons with whom the employees interact.
- 3 Considers that it is the responsibility of each employee to contribute by way of his conduct to a work environment free from psychological harassment.
- 4 Agrees to put a stop to psychological harassment when he is informed thereof, irrespective of the source:
  - by a superior toward an employee;
  - by an employee toward his superior;
  - by an employee toward another employee;
  - by several employees toward an employee;
  - by a third party toward an employee of the undertaking.

The employee who believes that he is the victim of psychological harassment will contact, when he is able to do so,

\_\_\_\_\_  
*Name of the person who is both owner and manager of the undertaking*

in confidence to ask him to intervene. The latter will designate a person who is impartial and competent to intervene to resolve the situation quickly.

The employer promises that his intervention will be impartial, respectful and fair toward the persons concerned. He 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. The employer will not penalize a person who, acting in good faith, asks the employer to intervene.

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 persons in question are not referred to as the victim or the harasser, until proven to the contrary. The request for intervention must not be based on false allegations due to the prejudice that this could cause the persons in question.

\_\_\_\_\_  
*Signature of the person who is both the owner and manager of the undertaking*

\_\_\_\_\_  
*Date*



## An ounce of prevention...

It is the wish of the Commission des normes du travail that employers incorporate prevention, mediation and the early resolution of conflicts in their day-to-day management practices. Both employees and employers are responsible for contributing to the preservation of a work climate that is free from psychological harassment.

However, if a harassment situation cannot be resolved in the undertaking, the Act respecting labour standards provides a recourse for employees and establishes a 90-day period to exercise said recourse.

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.

If the complaint is founded and if 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\*;
- 6 that punitive and moral damages and interest be paid\*;
- 7 that the employer pay for the psychological support required by the employee for a period deemed reasonable by the authority\*.

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.

\* 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.

## Have any questions?

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



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**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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