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Employers face deadline to meet WorkSafeBC anti-bullying rules



WorkSafeBC is changing its rules to better prevent bullying in the workplace. The new rules come into effect on Nov. 1.

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BY DERRICK PENNER, VANCOUVER SUN OCTOBER 29, 2013

WorkSafeBC has accepted 40 mental disorder compensation claims where the illness was deemed to have been caused by bullying in the workplace since its mandate was broadened to include stress-related sickness in July of 2012.

Joe Pinto, a WorkSafe senior program manager, said claims have been coming in at the rate of 50 a month, although many are rejected because they don't fit current requirements.

In addition to the 40 claims approved under the bullying rule, Pinto said WorkSafe has accepted close to another 60 that were classified as traumatic occurrences.

However, Pinto won't be surprised if numbers climb after Nov. 1, when WorkSafeBC's new bullying and harassment policies come into force and the agency's prevention officers head into the field to begin enforcement.

"One thing I hope will happen is people will start paying more attention to how they behave in the workplace," Pinto said, "and we see more respectful behaviour."

To date, Pinto said they've accepted claims where employees were berated publicly by supervisors, where employees ganged up on a worker with taunts, and where employees were

subjected to sexual or racial taunts, either at the hands of co-workers or customers.

“Just outright abusive behaviour,” he said.

Pinto said the challenge is to distinguish between ordinary disagreements that occur at work and determining the threshold for abusive behaviour.

He added that the legislation was drafted to exclude situations where employers have made decisions regarding the management of their firms, such as cases of employee discipline or layoffs. Pinto said a number of claims in those circumstances have been rejected.

Dramatic cases, including claims of sexual harassment and bullying within the RCMP, have brought the issue to public attention, and for WorkSafeBC it has been a process of evolution to bring it within the range of its protections.

The provincial government made the first change in 2012 with legislation expanding compensation under the Workers’ Compensation Act to cover stress-related mental disorders, with a specific mention of bullying and harassment as potential causes.

Previously, Pinto said WorkSafe compensation covered only mental disorders as a result of traumatic events at work.

In March, WorkSafe amended its policies with specific requirements involving recognizing, preventing and dealing with bullying and harassment, which come into effect Friday, Nov. 1.

The new rules require employers to have anti-bullying policies, provide training, and have reporting and complaints procedures for bullying and harassment situations and to keep records of cases. Separate policies guide managers and workers on their obligations to prevent and report unacceptable behaviours.

“We have our prevention teams ready to go,” Pinto said. “They’re going to put the onus on the employers, and other workers and employers, to ensure this (behaviour) stops happening.”

The new policies are something that most employers have been preparing for, according to Christian Codrington, senior manager of professional practice for the B.C. Human Resources Management Association.

“I’m going to say our membership has known about (the Nov. 1 deadline) for some time,” he said, adding that he’s confident his organization, with 5,500 members in B.C. and Yukon, will be able to meet WorkSafe’s new requirements.

“I think what you’ll see is greater recognition of

this issue by many employers,” Codrington said, as regulations make for “more clarified rules of engagement.”

Deborah Cushing, an employment lawyer with Lawson Lundell LLP, said most big employers will already have policies involving harassment. She added that WorkSafe has done a good job of providing resources and template policies for smaller employers to follow.

The changes at WorkSafe are welcomed on the Provincial Legislature’s opposition benches, said NDP MLA Shane Simpson, but he is still concerned that the standard for approving claims has been set too high.

In order for a claim to be accepted, a claimant has to have a recognized mental disorder that is diagnosed by a psychiatrist or psychologist, not a family physician, and can be traced back to the claimed mistreatment.

“I’m not convinced that bar (of getting a psychiatrist’s diagnosis) is not too high,” Simpson said.

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