



BUCKINGHAM™

From Awareness to Action: Tackling Workplace Harassment in Policing

Presented by:

Darren Wilcox & David Rudderham



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Health & Safety Conference*





BUCKINGHAM™

Buckingham Headquarters is proudly located on the traditional lands of the Nehiyaw/Cree, Nahkawe/Saulteaux, Dakota, Lakota, Nakota and Homeland of the Metis.

We acknowledge that **Blue Mountain** is located on the traditional territory of the Anishinaabek Nation, including the Saugeen Ojibway Nation—comprising the Chippewas of Nawash and the Saugeen First Nation—and is covered by Treaty 18, the Lake Simcoe–Nottawasaga Treaty of 1818.



Welcome

Darren Wilcox & David Rudderham

Workplace Harassment and Human Rights Investigations



- 65 combined years in Professional Policing / Provincial/Municipal and Federal
- Judicial investigations / Reviews / Adjudications / Union Leadership.
- Planning and implementing complex and sensitive workplace investigations, with a human rights focus
- National Sport / Government Employees "Federal-Provincial-Municipal" Corporations, University and School Boards, RCMP x 100, Municipal Governments



we're here to help

**PROVIDE
SOLUTIONS**

TO YOUR WORKPLACE ISSUES



The Reality

- Most organizations have issues with workplace conflict
- Unresolved conflict can lead to harassment,
and potentially a grievance / litigation
- It cannot be ignored



The Reality

- Workplace conflict can be positive or negative depending on how it is addressed
- Use a workplace investigation as an opportunity to solve the issue
- Be proactive



8 Elements to an Effective Investigation

1. Expertise
2. Timely
3. Procedural fairness
4. Flexible
5. Restorative
6. Confidentiality
7. Full investigative product
8. Defendable process



Case Law

Disotell v. Kraft Canada Inc.:

Failure to conduct proper investigations into harassment complaints

Marentette v. Canada (AG):

Duties in providing all parties with a reasonable opportunity to respond and refute allegations during workplace investigations.

Joshi v. National Bank of Canada:

Good faith in investigations, employers must afford employees due process and an opportunity to respond to allegations of misconduct.

Golob v. Fort St John:

No duty of procedural fairness is owed by an employer to an employee where the employment relationship is governed by a contract.



1. Expertise

Ensure 3rd party has the experience and training

- Administrative law experience
- Interviewing techniques
 - cognitive
 - trauma-informed
- Case law and changes to legislation
- Union sensitive
- Court expertise



2. Timely

- 60-day diary date for completion
- When emergent circumstances arise,
expediting matters is essential
- Regular check-ins
- Singularly focused on your investigation



3. Procedural Fairness

Principles:

- Neutral decision maker
- Unbiased investigators
- Representation
- Full information / parties advised of process
- Right to Respond



3. Procedural Fairness (Cont'd)

Procedural elements become standard practice

- Review mandate letter
- Review statement
- Review preliminary investigation report
- Right to Respond – Statement / Preliminary Report



4. Flexible

All investigations have unique environments and circumstances

- Capacity to adapt to client requirements (Union – Collective Agreements)
 - Virtual or In Person
- Accommodating changes while maintaining investigation integrity
- Know the correct process –

Provincial Law/Human Rights/Policy



5. Restorative

Ensure your investigation causes no harm

- Restorative vs punitive
- Non-adversarial or inquisitional
 - must be administrative (interest based)
- How are parties treated in the process?
 - The interview process



6. Confidentiality

Protect all involved and build trust

- Confidentiality is important
- 3rd party investigators must respect the privileged information of parties involved
- To instill confidence in process
 - secrecy vs confidentiality



7. Full Investigative Product

Ensure you obtain the entire investigation upon conclusion

- All interviews and notes
- Emails / scanned documents / photos
- Preliminary report / final report / process documents
- Treat all investigations with an expectation of being challenged



8. Defendable Process

Investigational process should stand up to any challenge

- Full record
- Mandate to investigators
- Process used
- File management



How to Mitigate Risk of Harassment in the Workplace

Brenda Rebman

Future Resource Partners, Inc.



Mitigate Risk of Harassment

1. Know your legislative and regulatory framework (jurisdictional)
2. Establish a solid foundation of policies at the governance and operational levels
3. Have a clear-cut zero-tolerance, anti-harassment policy
4. Mandatory training and orientation programs (annually)
5. Specialized training for managers and supervisors



Mitigate Risk of Harassment

6. Build and maintain constructive relationships with unions and professional associations
7. Empower your people. Start with leaders/managers.
Build a culture where harassment is unlikely
8. Clearly lay out and communicated the process of reporting a complaint



5 Essential Take-Aways

1. Informal resolution is always the goal of any workplace conflict
2. The **PROCESS** should never be INFORMAL
(even if the conflict is resolved informally)
3. Reporting the action is key
4. Client remains in control – Mandate / Costs / Process
5. All final decisions remain at the client's discretion

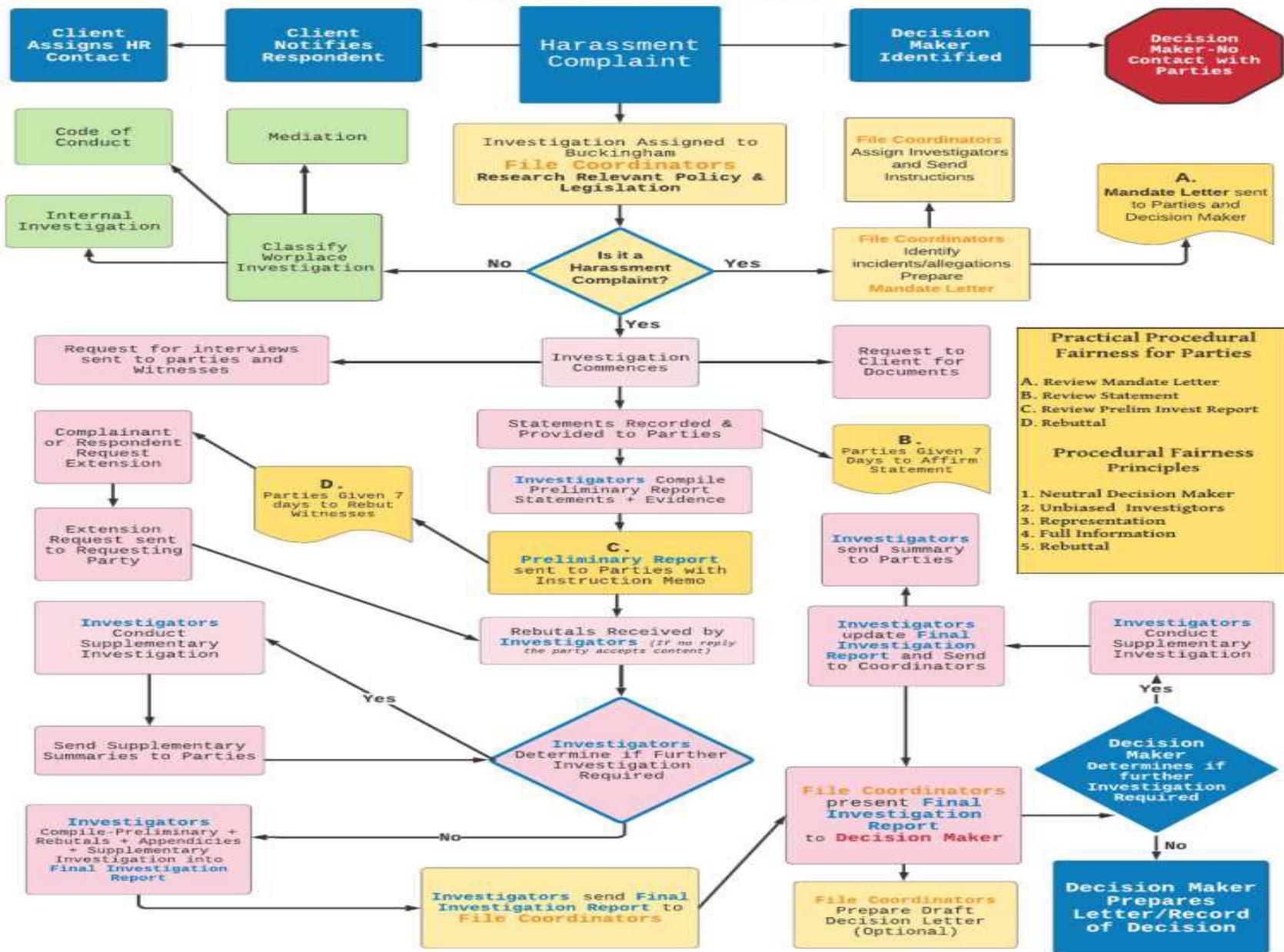


Emerging Trends

Artificial Intelligence – Everyone is talking about it!

- Pros/Cons
- Double-check the information
- Disclosure





Duty to Investigate & Procedural Fairness

Duty to Investigate:

- Legal Obligation
- Prompt Action
- Scope of Investigation

Procedural Fairness:

- Right to Respond
- Transparency
- Impartiality
- Reasonable Opportunity



Virtual Interviews Work

Geography is not a barrier.

- The benefits are many:
 - Effective and successful interviews
 - Saves time
 - Eliminates travel costs



Nationwide Accessibility

Our network of independent investigators provides objective workplace solutions



Buckingham is licensed across Canada



Buckingham Services

- Workplace Investigations
- Human Rights Investigations
- Specialized Investigations
- Death Investigations
- Corporate Interviewing Training
- Mediation & Dispute Resolution
- Policy Construction

we're here to help
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TO YOUR WORKPLACE ISSUES



Q & A



THANK YOU!

