

**Public Service Alliance of Canada
British Columbia Regional Union Safety and Health (BRUSH)**

**Minutes
June 20, 2012**

Chair: Sam Wiese (Regional Councilor, H&S)

In Attendance: Bob Jackson (REVP BC), Bob Kingston (Pres AGR), Linda Harding (alternate Regional Councilor, H&S), Tracey Shudo (CEIU), Bob Bridgeman (UNDE), Melvin Dureen (RVP USGE), Jennifer Ho (RVP NAT), Martha Johnson (UVAE), Wayne Little (UTE), Bill Pleming (GSU), Phil Carrier (RVP USGE), Amanda Smith (USGE), Laura Yue (CRA) and James Little (PSAC, H&S)

Regrets: Kelly Megyesi (CEIU), Leanne Hughes (CIU), Susan Yaciw (UTE), Angela Marafon (UTE), Monique Bakker (UEW), Bert Farwell (UCTE), and Virginia Vaillancourt (UVAE).

Agenda

Roll Call including Regrets
Accepting the Agenda
Review Previous Minutes
Business Arising

Standing Items:

1. Ergonomics
2. Membership Survey

New Business

- 1) 2012 H& S Conference update – Debrief
- 2) PSAC National H&S Conference
- 3) Environmental Hypersensitivity
- 4) Violence in the Workplace

Round Table

Adjournment

Introduction/Roll Call

Sam conducted a roll call and expressed member's regrets.

Accepting the Agenda

Added No. 5 – BRUSH Minutes

Review of Previous Minutes

Members reviewed and approved the previous minutes with no amendments.

Standing Items:

Ergonomics

Linda Harding of Public Works and Government Services has announced that the Regional Master Standing Offer (RMSO) for ergonomic assessments are expiring and members need to go to the National Website to review future Ergonomic Services.

For more information about these standing offer, you can go to the Standing Offer Index: <http://www.gcpedia.gc.ca/wiki/Ergonomics>

We would like to thank the members representing Public Works and Government Services Canada for providing the contact links. There are a few questions outstanding in regard to how the contracts will be administrated and we are hoping that most of the answers will be addressed in the contracts.

It appears that there may have been a lack of consultation with the unions prior to implementing this new service. There has been no discussion at the National Service wide committee level or with the PSAC as a whole. There may have been consultation with some departments but not all and certainly no unions.

We also want to advise members that if they are having problems accessing the service or with the service providers please let us know as soon as possible.

PWGSC have received no complaints either regionally or nationally.

Membership Survey

We remain committed to this project and continue to work on the process. The BC Regional H&S Survey was launched in late October. Survey questions have been sent to local presidents as well as posted on our website. We issued a reminder later in December 2011 and only 35 of 142 locals have responded. The BC Regional Council member for H&S will be preparing a report on the survey

which will be attached as an addendum to the 2012 BC Regional H&S Conference Report.

Task: Sam to complete a brief report on the survey

New Business

2012 BC Regional H&S Conference Debrief

The conference was held Feb 24-26 2012 at the Sheraton Richmond Airport Inn.

We had 60 participants from around the region. The members present at this meeting felt the conference was a great success and we reviewed the notes from the BC regional planning session.

We all agreed that as a committee we need to do a better job of connecting with the H&S member/activists in the region. We need to remain committed to increasing member participation in the BRUSH and continue to look for ideas and receive suggestions for strengthening that relationship.

Plans are in place to do a series of online video's highlighting Occupational Health and Safety and the BRUSH. These video's will be broadcast on the website over the summer months. It is also our intention to improve the look of the BC H&S webpage and the Regional Communication Officer will be asked to assist with this task.

We need also to discuss the proposition that the BRUSH amend its terms of reference to increase the number of yearly meeting to six from four.

Task: Send out Sam's notes

PSAC National H&S Conference

At the time of the meeting there had been no announcement from the PSAC regarding the National H&S Conference however we were expect that the Conference would be held (as usual) shortly after the PSAC National Conventions – so the fall of 2012.

Rumor suggested that the conference may not be held until the spring of 2013. We committed to monitor this and inform members of the date as soon as it is made available to the BRUSH.

It appears that on the PSAC National calendar the National H&S Conference is now being scheduled for November 2014 in Montreal.

Environmental Hypersensitivity

The PSAC has recently won a ground breaking decision on environmental hypersensitivity (multiple chemical sensitivity). This decision paves the way for the fight for recognition of our workplace environments as a hazard and the employers obligation to provide accommodations for things like chemical sensitivity within the workplace.

The decision can be viewed at the following site:

http://pslrb-crtfp.gc.ca/decisions/fulltext/2011-35_e.asp

Task: James will locate the decision and ensure it is posted on the website.

Violence in the Workplace

Bob Kingston and Bob Jackson shared their ideas around the redress mechanisms provided in circumstances where there is violence, harassment and bullying in the workplace. The Agriculture component is at the for front of this fight and would like to share some of their bulletins with respect to the redress process.

Treasury Board is also working on a National Harassment policy and this new policies definition of harassment falls within the definition of violence under the Canada Labour Code Part II.

The Canadian Centre for Occupational Health and Safety (CCOHS) has very good resource materials and awareness training modules.

Harassment should be treated as a health and safety issue, because harassment always causes members physiological damage and puts their mental health at risk.

Canadian Centre for Occupational Health and Safety (CCOHS)

<http://www.ccohs.ca/>

Regulation 20: attached

Agriculture bulletins: attached

Glover decision: Fit to work assessment done by your general practitioner must be accepted (given certain conditions)

BRUSH Minutes

The taking of BRUSH minutes should not be the sole responsibility of the PSAC representative for H&S. This duty should be shared among the committee members and Melvin Dureen has agreed to take the minutes of the next meeting. Thanks Mel!

Round Table

Wayne Little – Anybody have information on Mumps, one person in their office contracted mumps and immediately took leave.

In the Fraser Valley and Penticton there have been reports of members with mumps – information is on the PSAC BC H&S website.

Jennifer Ho – Jennifer would like Mental Health, First Aid added to the next BRUSH agenda. She also provided us with a link to the Mental Health First Aid site: <http://www.mentalhealthfirstaid.ca/EN/Pages/default.aspx>

Task: Jennifer to send us information from the Mental Health Commission of Canada before next meeting.

Bob Jackson – We need to recruit more members and H&S Activists. We should look at using social media more for H&S engagement.

Meeting Adjourned

Next Meeting

September 26, 2012

HARASSMENT & BULLYING FORMS OF WORK PLACE VIOLENCE

Federal Public Sector Employers are legally required under *Canada Labour Code (CLC) Part II* and *Part XX-Violence Prevention in the Work Place* of the *Canada Occupational Health and Safety Regulations (COHSR)* to provide employees with a safe and healthy work environment free of all types of violence including harassment and bullying.

While there are many definitions of harassment, traditionally, harassment has been defined as:

any improper conduct by an individual that is directed at and offensive to another person or persons in the work place and which the individual knew or ought reasonably to have known would cause offence or harm. It comprises any objectionable act, comment or display that demeans, belittles or causes personal humiliation or embarrassment, or any act of intimidation or threat. It includes harassment within the meaning of the Canadian Human Rights Act (CHRA).

With the introduction of *Part XX–Violence Prevention in the Work Place* of the *COHSR*, the landscape has significantly changed in terms of how we view and deal with harassment in the work place.

Part XX defines *work place violence* as:

any action, conduct, threat or gesture of a person towards an employee in their work place that can reasonably be expected to cause harm, injury or illness to that employee.

It is apparent from reviewing the aforementioned definition that harassment is a form of work place violence that can cause harm, injury or illness to an employee and as such, should be dealt with in the context of the *CLC Part II* and *Part XX* of the *COHSR*.

Until recently, members experiencing harassment in the work place had the option of filing grievances, a complaint under Employer Harassment Policy or a complaint with the Canadian Human Rights Commission (CHRC).

This Key Info Sheet is intended to assist Local Representatives when dealing with all forms of work place violence including but not limited to harassment and bullying.

The Public Service Alliance of Canada (PSAC) encourages members to access the mechanisms available under the *CLC Part II* and the provisions of *Part XX* of the *COHSR*.

Employers are required to carry out their obligations under *Part XX–Violence Prevention in the Work Place* in consultation with and the participation of the Occupational Health and Safety (OHS) Policy Committee.

As a participant on OHS Policy Committees, the PSAC has taken the lead in urging Employers to amend outdated Harassment Policies to properly reflect the provisions of the *CLC Part II* and *Part XX* of the *COSHR* or simply to nullify them and have harassment included in the Work Place Violence Prevention Policy.

Part XX requires Employers to develop and post a Work Place Violence Prevention Policy which sets out specific obligations of the employer which include providing a safe, healthy and violence-free work place, establishing emergency notification procedures to respond to work place violence as well as assisting employees who have been exposed to work place violence.

If a Work Place Violence Prevention Policy has not yet been implemented in your work place, you can expect it will be introduced soon. If you require any assistance, please contact your Local PSAC OSH Representative. If they require assistance, they will communicate with the respective Co-Chair of the OSH Policy Committee to obtain advice and guidance.

Regardless of whether or not there is a Work Place Violence Prevention Policy, members who experience violence have access to the recourse mechanisms listed below.

- ***CLC Part II Mechanisms***

- 1- *Report to Employer - Subsections 126.(1)(g) and (h)*
- 2- *Section 127.1 – Internal Complaint Resolution Process*
- 3- *Raise Issue with Workplace OHS Committee or Union OSH Representative*
- 4- *Section 128 – Refusal of Dangerous Work*

- **Grievances**

- A- Corrective Measures Grievance
- B- No Discrimination Grievance

- **CHRC Complaint**

CLC Part II Mechanisms

The provisions of *Part XX – Violence Prevention in the Work Place of the COHSR* apply to all available mechanisms under the *CLC Part II* to the fullest extent possible.

When it comes to accidents, occupational diseases or hazardous occurrences involving violence in the workplace, *Part XX* requires Employers appoint a “**competent person**” to investigate the alleged work place violence. The *COHSR* defines a “**competent person**” as a person who is:

- a) *impartial and is seen by the parties to be impartial*
- b) *has knowledge, training and experience in issues relating to work place violence; and,*
- c) *has knowledge of the CLC Part II and its regulations.*

Under the *COHSR* there is reference to both a “*competent person*” and a “*qualified person*” in the context of investigations. It is important to note that a “*qualified person*” is different from the “*competent person*” in that the “*qualified person*” deals only with accidents, occupational diseases or other hazardous occurrences not related to violence. Where an investigation deals with work place violence it is a “*competent person*” that will investigate the matter. This person must meet the full criteria outlined above.

1- **Report to Employer per Subsections 126.(1)(g) and (h)**

Subsection 125.(1) requires the Employer to investigate all accidents, occupational diseases and other hazardous occurrences known to the Employer. As such, when an employee reports such instances/situations under *Subsections 126(1)(g)* and *126(1)(h)*, the employer is required to have an investigation conducted. In these circumstances, a “*competent person*” would be tasked with conducting the investigation as per *Part XX – Violence Prevention in the Work Place*.

2- **Section 127.1 – Internal Complaint Resolution Process**

When filing a complaint under *Section 127.1* of the *CLC Part II*, employees and Local Representative should refer to the Section which clearly outlines every step of the complaint process. Should you require any assistance, please first contact your OSH Union Representative who will contact either the Regional OSH Representative Union Co-Chair of the OSH Policy Committee should they require further advice and guidance.

3- Raise Issue with Workplace OHS Committee or Union OSH Representative

In accordance with *Section 135 (7)* of the *CLC Part II*, a workplace committee:

“shall participate in all of the inquiries, investigations, studies and inspection pertaining to the health and safety of the employees, including any consultations that may be necessary with persons who are professionally and technically qualified to advise the committee on these matters.”

Under this mechanism, the conditions of *Part XX* apply including the appointment of a “*competent person*” to investigate the matter. Local OSH Committees and OSH Representatives will decide to what extent they will participate in investigations under *Part XX*.

4- Section 128 – Refusal of Dangerous Work

When filing a refusal to work under *Section 128* of the *CLC Part II*, employees and Local Representative should refer to the Section which clearly outlines every step of the refusal to work process.

Should you require any assistance, please first contact your Local Union OSH Representative who will contact either the Regional OSH Representative or Union Co-Chair of the OSH Policy Committee should they require further advice and guidance.

Grievances

All workplace violence situations must be dealt with under *Part XX* of the *COSHR*. However, there may be instances where grievances are also warranted. If the Local requires assistance, the Regional OSH Representative is available to provide advice and guidance.

A- Corrective Measures Grievance

Employees, who have lost pay, leave and/or benefits because of violence in the workplace should file a grievance as soon as possible. The grievance statement will relate to the leave provisions in the collective agreement. For example, corrective measures could include but are not limited to reinstatement of pay, sick leave, vacation leave or compensatory leave, etc.

The grievance should be placed in abeyance until such time as the investigation process under the *CLC Part II* has been concluded. Where the complaint or refusal action is successful and no corrective measures have been provided, the grievance should be taken out of abeyance and pursued through the grievance process. Where the complaint or refusal action is unsuccessful, an assessment of each grievance will need to be made to determine whether or not there is merit to proceed.

B- No Discrimination Grievance

Harassment/violence based on a **prohibited ground** constitutes discrimination which is contrary to the No Discrimination Article in the collective agreement and the *Canadian Human Rights Act (CHRA)*. As with all violations of the No Discrimination Article, members should file a grievance within the prescribed timelines.

Complaint with the Canadian Human Rights Commission

Where harassment/violence is linked to a **prohibited ground** under the *CHRA*, the PSAC recommends members file a complaint with the CHRC. This should be done concurrently with the filing of a No Discrimination grievance and any recourse mechanism pursued under the *CLC Part II*. The timeframes for filing a human rights complaint with the CHRC is one year from the event and/or circumstances which are believed to be discriminatory. The process requires members contact the CHRC to advise they wish to file a complaint. The CHRC will advise the member of the next steps required. More details on the process for filing a human rights complaint can be found on the *CHRA* web site:

<http://www.chrc-ccdp.ca/> .

For more information visit the following sites:

Canada Labour Code (CLC) Part II

<http://laws-lois.justice.gc.ca/eng/acts/L-2/page-73.html>

Part XX-Violence Prevention in the Work Place of the Canada Occupational Health and Safety Regulations

<http://laws-lois.justice.gc.ca/eng/regulations/SOR-86-304/index.html>

Canadian Human Rights Act (CHRA)

<http://laws-lois.justice.gc.ca/eng/acts/h-6/>

Canadian Human Rights Commission

<http://www.chrc-ccdp.ca>

