

How to handle challenging issues in occupational health and safety and workers' compensation

As you present and teach this material, students may have questions that are difficult to answer. For example, they may ask about specific safety issues they have encountered in their workplaces, or relay stories about friends or co-workers who have refused unsafe work and then faced reprisals from co-workers or an employer. Students may worry about being fired for refusing unsafe work or for reporting safety issues in the workplace. They may ask if their jobs will be protected if they are injured or refuse to do work they feel to be unsafe.

While specific sections of the *Occupational Health and Safety Act* (OH&S Act) and the *Workplace Safety and Insurance Act* (WSIA) deal with these issues, there is sometimes a disconnect between what should be done according to the legislation and what actually occurs.

When questions arise, one approach is to engage students in a discussion or role-playing exercise about the challenges and decisions to be considered with respect to refusing unsafe work, reporting hazards, or reporting an injury or illness.

Refusing unsafe work

With a few specific exceptions (e.g. police, firefighters), all workers can refuse work if they **believe** they might be in danger. Workers must follow a set procedure to refuse unsafe work, and this procedure is available on the Ontario Ministry of Labour website at: www.labour.gov.on.ca/english/hs/pubs/ohsa/ohsag_7.php. An employer is not allowed to fire, discipline, suspend or penalize workers who have obeyed the law (or threaten to do any of these things). If workers feel they have been unfairly disciplined, they can complain to the Ontario Labour Relations Board or file a grievance through their union (if there is one).

Reporting hazards

Workers can also report work hazards they see in the workplace. In fact, they have a duty to report hazards such as broken equipment, safety problems or violations of the OH&S Act to their employer or supervisor.

Workers can discuss concerns about the safety of their job with their supervisor, worker joint committee member or health and safety representative at their workplace. In workplaces with more than five workers, there should be, by law, an occupational health and safety representative. In workplaces with 20 or more workers, there should be an occupational health and safety committee that includes worker representatives.

Workers should be encouraged to document any correspondence with their supervisor or employer about their work environment. This information may be useful if problems arise in future.

If workers demonstrate some knowledge of occupational health and safety laws, it can sometimes lead an employer or supervisor to take positive action. For example, if a worker asks who the occupational health and safety representative is or who the members of the occupational health and safety committee are, this might encourage an employer to respond more actively to safety concerns.

Reporting an injury or illness

All workers who are employed by workplaces covered under the *Workplace Safety and Insurance Act* can report injuries or illnesses that involve health care and/or time off work to the Workplace Safety and Insurance Board (WSIB). It is important that workers know that, even if an employer has not taken out WSIB insurance when it should have, an injured or ill worker is still covered under the Act. If a worker goes to a hospital or another health-care provider, he or she should make sure that health-care administrators know that the injury is work-related.

Dealing with a workplace injury outside of the workers' compensation system is not a good idea. That is, if an injured worker goes through the health-care system without reporting the injury to the WSIB, it may cause problems.

For example, the consequences of an injury are not always evident at first, or an injury may reoccur after



a worker returns to work. In these cases, if the injury or illness was not first reported to the WSIB, the worker may have a harder time claiming benefits for the later injury and will have to explain to the WSIB why he or she failed to make a claim when the injury first occurred. In all cases, workers should detail (in writing) that they reported their injury to their employer when it occurred. This fulfills their obligations under the *Workplace Safety and Insurance Act*.

Essential tips for workshop leaders

- Be honest and respectful, and validate participants' concerns. Acknowledge that speaking up about unsafe work conditions or reporting an injury or illness can be difficult.
- Discuss what can be done in the event that a worker is fired without cause or subject to other reprisals, such as loss of overtime hours.
 - Emphasize the importance of keeping detailed records of conversations and events (with dates).
 - Point participants to groups and organizations that can help them understand their rights (see resource section in this package).
 - Provide information about wage replacement alternatives (e.g. Employment Insurance, social assistance, Ontario Disability Support Program).
- Remind students that an unreported work injury can affect their future. For example, if a worker does not recover from an injury or the injury gets worse over time, this may prevent the worker from doing future work.
- Acknowledge when you do not have the answers. The workers' compensation system and the *Occupational Health and Safety Act* can be complicated. The resources listed in this package (including organizations and links to relevant legislation) can help learners get the information they need. The Ministry of Labour also has a Health and Safety Contact Centre that allows members of the public to speak to an information officer about specifics of the *Occupational Health and Safety Act*: 1-877-202-0008.
- Consider asking an injured worker to come into your class/workshop to talk about his or her experiences, lessons learned and advice for others. An injured workers' group can help find a suitable individual.
- Finally, when talking with participants about refusing unsafe work or reporting unsafe work practices to the Ministry of Labour, remind them that workers are killed and/or seriously hurt on the job every day in Canada. Sometimes the fear of reprisal from an employer is well-founded, but workers need to be reminded of the importance of protecting their own lives and health.

This document does not constitute legal advice or formal training. To determine rights and obligations under the *Occupational Health and Safety Act* (OHSA) or *Workplace Safety and Insurance Act* (WSIA), contact legal counsel or refer to the legislation at:

www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90o01_e.htm (OHSA), or
www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_97w16_e.htm (WSIA).

This document is part of the *Prevention is the Best Medicine* toolkit created by a research team at the Institute for Work & Health. The team included Agnieszka Kosny, Peter Smith, Curtis Breslin, Ron Saunders and Marni Lifshen, in partnership with:

- Injured Workers' Consultants
- Skills for Change
- Workers Health and Safety Centre
- Workplace Safety and Insurance Board
- Ontario Ministry of Labour
- Workplace Safety and Prevention Services
- Occupational Health Clinics for Ontario Workers



**Institute
for Work &
Health**

Research Excellence
Advancing Employee
Health

The Institute for Work & Health is an independent, not-for-profit research organization. Its mission is to conduct and share research that protects and improves the health of working people and is valued by policy-makers, workers and workplaces, clinicians, and health and safety professionals.

The Institute for Work & Health operates with the support of the Ontario Workplace Safety and Insurance Board.

For more information, please contact:
info@iwh.on.ca

Published October 2011 (Version 1b)

© 2011

Institute for Work & Health
481 University Ave., Suite 800
Toronto, ON M5G 2E9
CANADA

www.iwh.on.ca