

| Alberta Health Services

# Report, Recommendations and Implementation Plan

of the Bilateral Complaint Resolution Working Group

July 7, 2022

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# Credits

This report has been prepared by Dr. Sharron Spicer and Mona Sikal on behalf of the Alberta Health Services Bilateral Complaint Resolution Working Group.

The recommendations and implementation plan were developed by the Bilateral Complaint Resolution Working Group.

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# Introduction

A monumental change in the perception of social justice has moved society to instate more equitable treatment of all people. The workplace is no exception. Organizations are being held to higher standards for meeting the health and safety (physical and psychological) needs of their workers. In Alberta, recent changes in Occupational Health and Safety (OHS) legislation and the Human Rights Act have increased workplace accountability for ensuring safer and healthier workplaces for all workers.

Alberta Health Services (AHS) has been called upon to improve its responsiveness to allegations of workplace harassment and violence. Recommendations detailed in numerous reports advocate for a more equitable and just process when incidents are witnessed or reported. Unions have filed grievances in regards to unsatisfactory resolution to complaints. Reports have surfaced of workers leaving their workplaces or leaving healthcare entirely following unresolved workplace conflicts. In response, AHS committed to better understand and respond to allegations of workplace harassment and violence, particularly in cases where the parties are part of the AHS workforce.

Note: The first occurrence of a defined term will be bolded. Definitions can be found at the end of this document, in the Appendix.

## Bilateral Complaint Resolution Working Group

Recognizing the need to do better for our people, the AHS Bilateral Complaint Resolution Working Group (hereafter called the “Working Group”) was formed in October 2021.

### Sponsorship and Membership

The Executive Sponsors of the Working Group are Dr. Francois Belanger, AHS VP Quality and Chief Medical Officer, and Sean Chilton, VP People, Health Professions and Information Technology. The Working Group is co-chaired by an Associate Chief Medical Officer and the Executive Director of Employee Relations. Membership includes key stakeholders from Medical Affairs, Human Resources, Workplace Health and Safety (WHS), Medical Staff, Provincial Midwifery Services, Clinical Operations, Legal and unions.

### Purpose

The term **Bilateral** was specifically included in the Working Group name to acknowledge the different types of workplace relationships and governance that apply

to different groups within the organization. The Medical Staff Bylaws and Midwifery Bylaws (hereafter referred to collectively as “**Bylaws**”) define the relationships between AHS and the Medical Staff (which includes physicians, dentists, oral and maxillofacial surgeons and podiatrists with an AHS appointment) and the Midwifery Staff respectively. In contrast, other **workers** who are employees of AHS are governed through employment contracts or collective agreements with union representation. Thus, in considering allegations that may arise between a member of the Medical or Midwifery Staff and an employee, different but overlapping guidance may apply.

This Working Group met bi-weekly from October 2021 to June 2022 with the purpose of developing intake and resolution standards and processes for allegations of workplace harassment and violence that are supported by both Medical Affairs/Provincial Midwifery and HR Business Partnerships (HRBP), using best practice with a people-centric approach. The work will enhance consistency across the province and mitigate organizational risk. This work will be consistent with AHS policy regarding allegations of **worker-to-worker** harassment and violence (Type III under the [AHS policy structure](#)) and respect the requirements of the Bylaws, OHS legislation and other legal requirements.

## Process

In seeking to achieve its purpose, the Working Group conducted a comprehensive current state review of workplace harassment and violence reporting and response processes. They undertook a scan of large Canadian organizations (healthcare and others) and sought best practices from leading authorities on workplace reporting and investigation. Additionally, they performed a scan of legal rulings on occupational safety. They then engaged the AHS Design Lab in order to better understand the complaint experience through a user-centric lens. Through these activities, they identified risks, gaps and opportunities for improvement.

The Working Group identified that cultural issues within the organization have historically and currently influenced the occurrence, experience, reporting and responses to workplace harassment and violence. Included within culture is the hierarchical structure that often exists in healthcare teams. Role is one component of the healthcare hierarchy, with physicians often (but not always) considered most powerful, but other factors may influence perceived power or vulnerability, including gender, age, race, sexual orientation, gender identity, immigration status or duration of employment. Further to the issues of culture is the past action (or inaction) related to the application of pertinent Bylaws, policies and legislation, and even the understanding of how these documents intersect. Of note, the Medical Staff Bylaws were found to be a source of varied interpretation based on the environment in which they were used, adding to confusion and inconsistency in their application when a member of the Medical Staff was involved in an allegation.

At the time of this report, there is an AHS Medical Staff Bylaw review underway to assess the Bylaws in light of changing culture and recent legislation. Of particular focus

is Part 6 of the Bylaws, which addresses the “Triggered Initial Assessment and Triggered Review” processes for Medical Staff when a worker-to-worker allegation against a physician arises. The recommendations in this report are intended to be a bridge to the future state and provide guidance to the creation of new Bylaws processes.

The Working Group recognizes that changes need to occur within AHS to ensure equity and fairness for all parties involved in instances or allegations of workplace harassment and violence. The following sections outline the Principles for Solution Development and the Recommendation and Implementation Plan that were determined by the Working Group.

## Principles for Solution Development

Four overarching principles were distilled from the Terms of Reference and the many conversations of the Working Group. These principles inform the Recommendations and Implementation Plan.

People-Centric	Equitable	Timely	Aligned
<ul style="list-style-type: none"> <li>• Ensure a people-centric approach for all parties, respecting the rights of all those involved in allegations</li> <li>• Increase transparency of processes and share appropriate information, as able, in alignment with applicable AHS Values, policies, Bylaws and legislation</li> </ul>	<ul style="list-style-type: none"> <li>• Mitigate bias, power differential and blame shifting in the reporting and response processes</li> <li>• Promote consistency and process alignment between parts of AHS</li> </ul>	<ul style="list-style-type: none"> <li>• Improve timeliness of response, follow-up and communication to all parties to lessen emotional impact and minimize disruption in the workplace</li> </ul>	<ul style="list-style-type: none"> <li>• Develop processes critically and rationally, in alignment with applicable AHS Values, policies, Bylaws and legislation</li> <li>• Be informed by best practice within the realm of workplace harassment and violence prevention and response</li> </ul>

# Recommendations and Implementation Work Plan

## Overview

The recommendations listed in this document have been grouped into five categories of high-level strategic recommendations, each with numerous detailed operational tasks. The strategic recommendations identify aspirational goals, while the operational tasks provide actions for implementation teams to use in order to develop and measure change.

These recommendations were prepared by the Working Group.

## Terminology

In these recommendations, the term “**review and/or investigation**” means a process that fulfills the requirements of an investigation under OHS legislation and the [AHS Respectful Workplaces and Prevention of Harassment and Violence policy and Type III \(Worker-to-Worker\) procedure](#), including:

- Review/investigate to determine what occurred
- Document in a report
- Share results of review and/or investigation with parties
- Take corrective action to prevent recurrence
- Share general/systems corrective actions (i.e., those that are not specific to individuals)

In relation to AHS Medical Staff, there seems to be a strong association between the word “investigation” and processes undertaken pursuant to Part 6 of the Medical Staff Bylaws. In order to provide clarity in this document, we attempt to use the term “review and/or investigation” to refer to the processes in general. In the event that these terms are used inconsistently with information contained in AHS policy, Bylaws or legislation, those documents shall be deemed as the authoritative source. Irrespective of terminology, the processes used to manage issues of harassment and violence must meet the employer’s obligations as outlined in AHS policy, Bylaws and OHS legislation.

Other defined terms are listed in Definitions (Appendix 1).

## Recommendations

**Recommendation 1. Create clear processes for assessment and review and/or investigation of allegations of harassment and violence**

**Alberta Health Services emphasizes learning and reporting to enhance safe and healthy care and/or work environments, prevent mistakes and close calls, and**

support continuous quality and safety improvement. [Just Culture | Insite \(albertahealthservices.ca\)](https://www.albertahealthservices.ca/justculture)

- 1.1 Continue and refine the central intake and assessment model for all bilateral worker-to-worker harassment and violence allegations.
  - The preliminary assessment is based on information available from the intake process. More fulsome information will be collected over the course of the review and/or investigation. It may be useful to clarify at the outset what information is used to make the preliminary assessment versus what will be sought later in the scope of the review and/or investigation, and how the intake process may impact the objectivity and credibility of the subsequent review and/or investigation.
  - A key driver of the intake and assessment process is to ensure that the statutory duty to investigate has been met. When the preliminary assessment deems that the allegations, if founded, would meet the definition of harassment or violence, the process will proceed to a review and/or investigation.
  - The statutory duty to investigate is not fulfilled until the review and/or investigation has been completed. Determination of corrective actions, consensual resolution or other **outcomes** is not made until this duty has been fulfilled.
  - The Medical and Midwifery Staff leaders will be key players in finalizing the processes, associated supports and communication regarding the bilateral processes.
- 1.2 Review the Bylaws and existing practices to determine how to better support and accommodate complainants lodging allegations of harassment and violence, including providing them with procedural information, updates and outcomes. Ensure that OHS statutory obligations to complainants are met. Respond in ways that are people-centric and trauma-informed.
- 1.3 Use the AHS Worker-to-Worker Behaviour Continuum and Workplace Concern Resolution Framework to inform leaders and workers of available options to address the issues when it has been determined that a review and/or investigation is not required.
  - To provide support for leaders, consider asking Concerns Consultants or HRBP for assistance with the preparation of documents and guidance for these conversations.
- 1.4 Consider applying, where appropriate, the conflict management processes currently in place for other AHS portfolios, including Patient Relations, Privacy, and Ethics and Compliance.
- 1.5 Develop guidance documents for Medical and Midwifery Staff leaders for when to escalate to Triggered Initial Assessment (TIA) processes, including what allegations (e.g. workplace violence) and situations (e.g. a repeated pattern) should trigger consideration of a TIA.



- 1.6 Review current practices of rolling TIA and Triggered Review into one process.
- 1.7 Ensure that review and/or investigation processes are aligned and standardized across the zones to ensure equity and fairness in the process.
  - Develop clear language and definitions for the review and/or investigation processes.
  - Develop a guidance document about the processes of a review and/or investigation, including the legal obligations of the employer.
  - Develop a template for messaging to complainants the limits of their anonymity in reporting allegations, explaining that their identity will likely be known or revealed to the respondent as part of the review and/or investigation process. Include in the messaging specific information about their requirements of maintaining confidentiality.
  - Develop guidance on engaging and reporting findings to reluctant and non-participative complainants.
  - Develop a template for communicating to complainants and respondents what specific allegations are being investigated. Include in this information specific details about their requirements of confidentiality.
  - Develop processes for investigation panels:
    - Define the composition of review and/or investigation panels, including the Medical or Midwifery leader
    - Whenever possible, the review and/or investigation panel should meet with the complainant as soon as possible to ensure the preliminary assessment and investigation can commence in a timely manner
    - A consistent investigation panel should attend all interviews, whenever possible, to have the full benefit of the information relayed by all parties
    - Subject matter experts may provide advice on a consultative basis
- 1.8 Consider a requirement that anyone responsible for reviewing/investigating allegations of workplace harassment or violence take core training and have requisite knowledge and skills to support an appropriate review and/or investigation, such as:
  - AHS Workplace Investigation training offered through Employee Relations Investigations Centre of Excellence which includes topics such as credibility assessments, balance of probabilities and other important workplace investigation topics
  - AHS Worker-to-Worker Behaviour Continuum, Unconscious Bias and Understanding Your Power, Privilege, and Intersectionality
  - AHS Discrimination Investigations training
  - Occupational Health and Safety and Human Rights Act and the responsibilities imposed on organizations through these laws
  - Medical and Midwifery Staff Bylaws
  - Trauma-informed investigation techniques
- 1.9 Clarify the process for review and/or investigation of counter-allegations that may arise while addressing worker-to-worker harassment and violence.

- 1.10 Consider whether we need to develop processes in collaboration with educational institutions regarding disclosure of complaints of harassment or violence occurring at AHS.
- 1.11 Consider how to determine and mitigate potential bias when a Concerns Consultant or HRBP is involved in a preliminary assessment and a subsequent review and/or investigation panel of the same case.
- 1.12 Provide guidance on the roles of support persons that may attend meetings with complainants, respondents, and witnesses.

## Recommendation 2. Ensure accountability of workers, leaders and the organization in managing worker-to-worker violence and harassment concerns

In Just Culture, we hold our systems, ourselves and other accountable and we learn from mistakes to improve safety and performance. [Just Culture | Insite \(albertahealthservices.ca\)](https://albertahealthservices.ca/just-culture-insite)

- 2.1 Develop, review and document a performance management process for all workers, including Medical and Midwifery Staff, that ensures a fair and consistent approach and evaluates actions with consideration of the circumstances. Intentionally and explicitly call out the culture that allows a different level of behaviour to be tolerated for different groups of workers.
- 2.2 Use AHS Just Culture and other materials, as well as external resources such as [Vanderbilt's Promoting Professionalism Pyramid](#) (Center for Patient and Professional Advocacy, Vanderbilt University Medical Center, n.d.), to inform the performance management process. The model should include steps so that all parties feel supported to openly discuss what occurred. This process should include guidance on circumstances in which low-stakes (i.e. non-punitive) awareness/performance conversations and documentation may suffice for concerns that do not exceed pre-established thresholds but that can be relied on later for escalated processes if needed.
- 2.3 Provide clear guidance on sharing relevant performance management history information with the next incumbent in leadership roles.
- 2.4 Set curriculum and training requirements for leaders responsible for performance management, including the following AHS in-house core training:
  - Conflict Resolution
  - Worker-to-Worker Behaviour Continuum
  - Unconscious Bias
  - Required Organizational Learning on Workplace Health and Safety and Respectful Workplaces policy

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<sup>1</sup> Vanderbilt Center for Patient and Professional Advocacy, Vanderbilt University Medical Center (n.d.). *Promoting Professionalism Pyramid*. Retrieved July 7, 2022 from <https://vumc.org/patient-professional-advocacy/promoting-professionalism-pyramid/>

- CMO Policy Suite (for Medical Leaders)
- Other leader-led resources such as Change the Conversation and Discover and Discuss.

### Recommendation 3. Keep people safe and supported

A just culture is an environment where everyone feels safe, encouraged, and enabled to discuss...safety concerns. Staff will be supported and treated with care, compassion, respect and dignity. [Just Culture | Insite \(albertahealthservices.ca\)](https://www.albertahealthservices.ca/justculture/)

- 3.1. Develop reference resources that identify immediate and follow-up supports available for involved complainants, respondents, and leaders. This resource will include information about culturally safe and trauma-informed supports, access to mental and physical health supports, options for time off or workplace modifications, and debriefing strategies.
- 3.2. Develop guidance for leaders to set interim behavioural expectations with respondents as per the Respectful Workplaces and the Prevention of Harassment and Violence policy and (Type III) Worker-to-Worker procedure. Concerns Consultants and HRBP have expertise in enacting these procedures and should be included by leaders in planning these processes.
- 3.3. Develop guidance for messaging about interim workforce planning and service disruption when workers are away from the workplace as a result of an allegation of harassment or violence (whether they are the complainant or respondent).
- 3.4. Explore mechanisms to ensure that all possible steps have been taken to ensure the safety of all parties. Egregious behaviour that threatens safety in the workplace must be addressed in a way that immediately protects workers.
- 3.5. Develop resources for leaders to shift the culture that exists within some healthcare systems to a more inclusive and safe working environment for all people.

### Recommendation 4. Ensure appropriate transparency, confidentiality, and sharing of information

When everyone knows what to expect when ‘something goes wrong,’ we can work together to look at the circumstances and context of the situation, identify contributing factors, make system and/or organizational changes, and share our learning.” [Just Culture | Insite \(albertahealthservices.ca\)](https://www.albertahealthservices.ca/justculture/)

- 4.1 Establish clear guidance on confidentiality with respect to information-sharing to meet legal obligations and effective management of the workplace.
  - Develop a definition that is applied consistently and equitably regarding information that is shared with the complainant, respondent, applicable leadership, and any other parties with a need to know, following OHS legislation.

- Review and update communication tools for complainants and respondents regarding procedural fairness and follow-up processes.
  - Consult with Legal and other groups to develop guidance on the content, use and disclosure of any reports prepared to comply with OHS legislation.
- 4.2 Review and implement practice changes to reconcile the “notification of the complainant” provisions in the Bylaws with the statutory requirement to provide complainants with the “results of the investigation” in allegations of harassment and violence in the workplace.
- 4.3 Provide guidance on a supportive trauma-informed process for communicating the **results/findings** and outcomes of a review and/or investigation to involved parties. Create consistent language (e.g., founded, unfounded, inconclusive) of each allegation. Using clear language supports transparency, understanding, procedural fairness and meaningful corrective action.
- 4.4 Develop a communication plan to inform leaders and external stakeholders about the bilateral complaint processes including the requirements to follow applicable OHS legislation and the Human Rights Act.

## Recommendation 5. Ensure partnership and resources for Medical Affairs and Human Resources

AHS will provide the necessary resources, supports and tools to enable staff and medical staff to become aware of, understand and apply the just culture guiding principles. In practicing the just culture guiding principles, we are living our [AHS organizational values](#). [Just Culture | Insite \(albertahealthservices.ca\)](#)

- 5.1 Continue to develop bilateral processes and associated documentation to support Medical Affairs/Provincial Midwifery and HRBP working together on worker-to-worker issues involving employees and members of the Medical and Midwifery Staff.
- Use established resources such as documentation templates and scripts, modifying as needed
- 5.2 Clarify and document roles and scope of the groups who support processes related to reviews and/or investigations.
- Update the Concerns Consultant and HRBP job descriptions and resource requirements to ensure clarity and consistency in how roles are performed across the province
  - Develop guidance for investigators and responsible leaders regarding mitigation of bias and conflict
- 5.3 Develop consistent tracking and reporting processes for bilateral matters including regular reporting to operational leaders, executive or other stakeholders.
- 5.4 Establish a metrics and evaluation strategy for bilateral processes.
- 5.5 Assess resource requirements for leaders responsible for performance management.

- 5.6 Assess administrative job descriptions and time allotment for leaders to ensure they have the capacity to perform performance management responsibilities.

## Implementation Plan

### Teams

Implementation teams will be created to lead the work outlined in the recommendations. These teams will have leadership and members similar to that of the Working Group, likely including representatives from Medical Affairs, Human Resources, WHS, Medical Staff, Provincial Midwifery Services, Clinical Operations, and Legal. Additional subject matter expertise will be sought as needed. Equity/diversity considerations and trauma-informed approaches need to be embedded within the work. Processes for inviting stakeholder feedback and incorporating it into the work will be important. Communication and change management strategy will need to be considered.

It is recommended that a progress report be completed by December 31, 2022.

### Safe Reporting and Response Steering Committee

The Safe Reporting and Response Steering Committee convened on April 1, 2022, with the specific purpose to review and enhance AHS (Type III) worker-to-worker concern intake and resolution processes. Its recommendations are due on December 31, 2022. This work will supplement the work of the Bilateral Complaint Resolution Working Group.

## The Path Forward

AHS has an obligation to its workers to provide a safe and equitable workplace for all. A culture shift is needed within AHS to bring about meaningful change. The Bilateral Complaint Resolution Working Group has identified multiple opportunities to improve the processes of recognizing and responding to allegations of worker-to-worker harassment and violence. Using Just Culture principles, we have charted a path to sustainable and scalable changes. These changes will require the commitment and support from all levels. Creating a healthier and safer environment for all workers protects our people and enables teams to provide quality care for patients, their families and AHS clients.

# Appendix – Definitions

Through the group’s work it became clear that different words mean different things to different people, and these meanings can affect emotions and responses. To support a consistent understanding of the recommendations and implementation plan, here are some important terms:

**Bilateral** means worker-to-worker (Type III under the AHS policy structure) harassment and violence matters that involve both a member of the Medical or Midwifery Staff and an employee.

**Bylaws** mean the AHS Medical Staff Bylaws and Midwifery Staff Bylaws.

**Findings/Results** means what was determined to have occurred through the review and/or investigation into allegations of harassment or violence.

**Outcomes/Corrective actions** means the action taken in response to the findings/results of a review and/or investigation.

**Review and/or investigation** means a process that fulfills the requirements of an investigation under Alberta’s OHS legislation and the AHS Respectful Workplaces and the Prevention of Harassment and Violence policy and Worker-to-Worker (Type III) procedure, including:

- Review and/or investigate to determine what occurred
- Document in a report (to be retained pursuant to AHS Records Retention Schedule)
- Share results of review and/or investigation with parties
- Take corrective action to prevent recurrence
- Share general/systems corrective actions (i.e., those that are not specific to individuals).

**Worker-to-worker** means harassment or violence that occurs between any AHS workers (Type III under the AHS policy structure).

**Worker** means AHS employees, members of the medical and midwifery staffs, students, volunteers, and workers of contracted service providers. It is inclusive of all AHS people.