

Workplace Law Bulletin

AIRD & BERLIS LLP
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A Year in Review: Top Issues in Employment Law – A Webinar Recap

As we begin a new year, we reflect on the past and remember those things that had a meaningful impact on us. For those of us working in the area of labour and employment, and for human resource professionals in particular, there were a number of big issues that came to the fore in 2016 and that we expect to continue to be prominent in 2017.

In our recent Workplace Law Webinar, [Lorenzo Lisi](#), [Michael Horvat](#), [Fiona Brown](#) and [Meghan Cowan](#) addressed some of these issues and provided the practical implications for employers in Ontario so that organizations can be managed efficiently and avoid liability.

Here are three key areas that we hear about quite frequently and that are of particular importance to many of us:

Family Status Discrimination – A Growing Area

Family status, which is defined as “the status of being in a parent and child relationship,” is a two-way street that goes both up and down. Employees with children have a parental responsibility to take care of their children. At the same time, there are employees who have an obligation to take care of elderly or ailing parents.

In order to fulfil their obligations, employees may approach their employer to ask for accommodation. So what do employers need to do to address issues of workplace accommodation?

- Have a protocol in place to deal with these matters
- Remember that the process must be the same for everybody who makes accommodation requests
- Have a clear understanding of their employees’ needs
- Make sure you ask questions so that the employee can demonstrate their need for accommodation
- Determine what support the employee attempted to obtain from other individuals or other family members
- Find out if the employee has a plan in place to assist the employer in modifying the schedule as minimally as possible to meet the needs of both the workplace and their own personal accommodation needs
- Keep in mind that employees are not entitled to perfect accommodation

Workplace Harassment

Throughout the last few years, the media and the Canadian public have scrutinized several high-profile allegations of workplace sexual violence and harassment. Issues of workplace harassment are quite common. In fact, many employers receive allegations of a workplace harassment issue on a weekly basis! Here are some tips for employers to follow to ensure that they are prepared to deal with workplace harassment issues:

- Employers are obligated to develop a written program to respond to issues of harassment and sexual harassment in the workplace, and this program must be reviewed on an annual basis
- The Ministry of Labour now has the power to order an employer to have an impartial individual to come in and investigate, at the employer's expense
- Employers should be prepared to do an assessment of what has occurred, to figure out if it falls within the category of harassment and sexual harassment in the workplace, and then determine how they will conduct the investigation
- You must collect all the facts, see what has occurred and see how it's impacting the workplace, determine whether or not you're going to be conducting an investigation, and if so how, how that investigation is going to be set up

Unfortunately for employers, complaints of workplace harassment are quite common. It is important for employees to feel safe at all times and for employers to convey to them that policies have been put in place to protect them.

Social Media Harassment

The use of social media is on the rise and, because of this, we're seeing repercussions in the workplace. Many of us have LinkedIn, Facebook, Snapchat, Twitter and more, and we access our accounts every day. It is important that employers review their existing policies and have an appropriate social media policy in place.

When drafting or reviewing your policy, make sure to keep these following tips in mind:

- Make sure the policy sets out clear expectations for employees' usage of computers, the internet, email and social media
- The policy should also set out acceptable behaviour
- Ensure that you communicate this policy with your employees
- Have a communication strategy to deal with things that blow up
- If there is a complaint, know how you will deal with it both internally and externally
- Have a protocol in place to respond to inappropriate use

With the prevalence of smartphones these days, employers have to look at social media usage as a fact, not an exception. It is important that employers follow their protocol and do not overreact when dealing with matters pertaining to social media.

Overall, the key for employers is to have open communication with employees and to let them know that the protections that you have put in place are for their benefit. Keep an open door policy so that if employees have concerns, they feel comfortable approaching the appropriate people and they know that their concerns will be taken seriously.

If you have questions regarding any aspect of workplace law, please contact any member of the Aird & Berlis LLP Workplace Law Group:

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