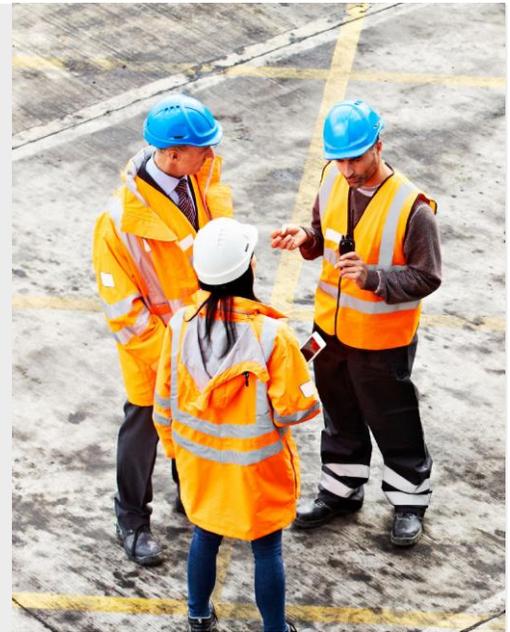




OHS & Workers' Compensation Group

You've Had a Workplace Accident! Risk Management Essentials



IMMEDIATE STEPS FOR FRONT LINE STAFF	
NOTIFY MANAGEMENT AND APPOINT ACCIDENT COORDINATOR	Notify senior management and appoint an Accident Coordinator (a management representative who knows these procedures and can go to the scene immediately) in case of any serious accident or injury. Notify senior management first before dealing with OHS or WSIA reporting duties. Upon arrival, all investigators should be provided with the name of, and put in contact with, the Accident Coordinator as their primary contact. Requests for documents, materials, statements, should all be dealt with and recorded by the Accident Coordinator, and coordinated with other management representatives appointed to assist in the matter.
MEDICAL AID, SECURE AREA, DO NOT DISTURB SCENE	Provide medical aid where needed. Where a fatal or critical injury (defined in Ontario OHS, Regulation 834) has or may have occurred, secure the area, turn off any machinery involved and do not touch anything at the scene unless to save a life or relieve human suffering; maintain an essential public utility service or public transportation system; or prevent unnecessary damage to equipment or other property.
NOTIFICATION OF GOVERNMENT OFFICIALS	Where a fatal or critical injury has occurred, immediate notification must be made to the Ministry of Labour, joint health and safety committee safety representative, and union (as applicable). See section 51 Ontario OHS. Consult senior management or the Accident Coordinator so that the Ministry is advised immediately by telephone. Ensure that the injury meets definition; if in doubt exercise reasonable discretion in reporting.
WRITTEN ACCIDENT REPORT TO MINISTRY OF LABOUR AND WORKPLACE SAFETY & INSURANCE BOARD	
MINIMUM STATUTORY REQUIREMENTS	In addition to telephone notification, a written accident report must be provided to the Ministry of Labour within 48 hours of a fatal or critical injury. Disabling injuries and other specified accidents require written notice to the joint health & safety committee, safety representative, and union (as applicable) within 4 days. See section 52 Ontario OHS. Limit content of all reports to only the information required by law. A Form 7 Notice of Accident must be provided to the WSIB within 3 days of learning of a workplace injury necessitating health care. OHS accident reporting is more than filing the Form 7 report with the WSIB.

Managing Internal & External Investigations Through An Accident Coordinator	
COOPERATION WITHOUT INCRIMINATION	Cooperate fully with all government investigators. The Ontario OHSA contains a prohibition against obstructing or interfering with any aspect of an investigation. However, cooperation does not mean self-incrimination. No documents, materials, or any internal investigation report (however brief or preliminary) should be released, nor information or statements given by management without first contacting and organizing this through the Accident Coordinator and possibly through legal counsel. Corporate representatives, particularly supervisors and managers should know that any and all requests for information, documents, materials should be directed through the Accident Coordinator.
SHADOW THE INVESTIGATORS	The police and several regulators may be involved. Detailed notes of all government investigations including all observations, persons interviewed, comments made, tests performed and results should be kept. All theories, conclusions, requests, and comments should be recorded. Where appropriate, identify and correct any negative information. Provide any positive information relevant to reasonable care taken to prevent the event, which is not gathered or requested by investigators. Keep all notes regarding government investigations in a file marked "privileged and confidential" to maintain privilege over these materials.
SEARCH WARRANTS	Search warrants may be obtained to search for items, documents or to interview individuals. If the police or inspectors arrive with a warrant, the Accident Coordinator should review the warrant to see if the request or item is listed in the warrant, record all items seized, and ask to copy materials seized before they are taken, where possible.
DOCUMENT REQUESTS WITHOUT A SEARCH WARRANT	Keep detailed notes of all items requested by and given to investigators. Keep a log and copies of all documents and materials provided for reference and use by legal counsel if necessary. For all items handed over, the Accident Coordinator should communicate, ideally by accompanying letter, the expectation that the items not be used in a prosecution against the organization or any individual.
IMMEDIATE COMPANY INVESTIGATION	Commence an investigation on behalf of the company as early as possible (not once officials have completed their investigation and left the scene) to preserve physical evidence and evidence from any witnesses. If possible, immediately obtain photographs (or video if appropriate) of the accident scene or any reconstruction of the accident. Gathering evidence may include preserving damaged equipment and other items in a safe place where not seized by investigators. The investigation should include interviews with workers to ask questions regarding what happened and make detailed inquiries into all relevant "due diligence" steps such as knowledge of hazards, knowledge of rules, details of training, reminders of rules or warnings. Investigation into supervisory competence and due diligence steps taken by relevant supervisors should also be explored.
DETERMINE NEED FOR THIRD-PARTY EXPERT ASSISTANCE	Assess whether the scene should be reviewed by an expert such as an engineer, explosion expert, consultant or other party who might provide a professional opinion on causation, potential remedial steps, and who could preserve measurements, tests and physical evidence should this be required in an OHSA or other proceeding. Any third party consultant or expert report provided should be marked "privileged and confidential—in contemplation of litigation" or provided to legal counsel as "solicitor-client privileged" for the purpose of counsel providing legal advice. Ideally consultation should occur with legal counsel regarding whether consultant or expert reports can be maintained as privileged documents. Any orders to the organization to produce an engineering or expert report should ideally be discussed with counsel.

ATTENDING INTERVIEWS BY INVESTIGATORS	Government officials will interview individuals about various issues relating to the accident, workplace practices and due diligence. Request the opportunity to be present and to obtain a copy of the statement. If this request is granted, take detailed notes of the interview and statement-taking process. If not granted, witnesses should be interviewed promptly after the inter-view by the investigator and asked details of questions and answers provided during the interview and about matters necessary for the organization's investigation. This post-interview "debriefing" should be recorded.
STATEMENTS FROM SUPERVISORS OR MANAGEMENT	If the investigator(s) wish to take statements from supervisors or members of senior management who were not direct witnesses to what occurred, these individuals have the right to know whether the investigator may be considering charges. They should confer with legal counsel before providing any statement. Explore whether information requested can be provided by means other than a signed supervisory statement.
PRIVILEGED AND CONFIDENTIAL RECORDS	Mark all notes of interviews and of the company's investigation and the file or location where they are kept as "privileged and confidential - in contemplation of litigation".
ASSESS INVESTIGATION AND PROVIDE POSITIVE INFORMATION	Assess the internal investigation report, the materials seized or taken and witness statements, as early as possible after the external investigation is substantially complete. Any misinformation can be corrected, letters can be written to clarify points, and further due diligence information should be provided to the investigator, as necessary and appropriate. Such information can potentially satisfy investigators that reasonable care or due diligence to prevent the event was taken.
REVIEW ORDERS	All orders issued by investigators should be forwarded immediately to the appointed Accident Coordinator and management so they can be reviewed and immediate corrective action taken. They should also be reviewed promptly by legal counsel to determine whether there is a basis for appeal. The Ontario OHSA provides only 30 days to appeal.

These guiding steps are specific to the provisions of the Ontario OHSA. Their principles can be applied generally to serious workplace accidents across Canada. Specific legal advice and guidance is always recommended in the case of a serious workplace accident.

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Need Immediate OHS Assistance?

Call 1.855.MDC.4.OHS (1.855.632.4647) available 24/7.

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