

Unresolved Health and Safety Concerns: Guidelines re: When to Call the Ministry of Labour

**Action: Raise unresolved health and safety concerns as high as necessary
and as quickly as necessary to make workers safe**

Introduction

Among their functions, Ministry of Labour (MOL) inspectors are expected to investigate:

1. Internal Responsibility System (IRS) failures and other complaints.
2. Critical and fatal injuries/illnesses.
3. Work refusals/work stoppages.

When the inspector finds sufficient evidence, s/he can enforce the law by issuing orders and/or laying charges under the *Occupational Health and Safety Act (OHSA)*.

This document is designed to assist ONA members with deciding when it is appropriate to call the MOL for help in their workplace.

Who Can Call the Ministry of Labour?

Anyone can call the Ministry of Labour. There is nothing in law prohibiting a worker, union representative/official, or anyone from calling the MOL at any time.

When Should the MOL be Called?

1. When the IRS fails to resolve concerns

Employers, supervisors, workers, Joint Health and Safety Committee (JHSC) members and others must perform their duties as expressed in the *OHSA*, and may exercise the rights that are outlined. The government established this legal system of “internal responsibility” in hopes that workplace parties would work together to achieve safe and healthy workplaces without formal intervention (see **Appendix A** for diagram of IRS).

ONA recommends that wherever possible, use the IRS. But don't let issues drag on.

When:

- a. exposure to a serious **hazard is imminent** or
- b. there is **prolonged potential or actual exposure** to a hazard due to the **failure or the sluggishness of the IRS**.
 - Raise the issue with the employer as high as necessary (e.g. JHSC, director, CEO, Board of Directors) and as quickly as necessary (e.g. phone, e-mail, in person) to protect a worker.

- Work with your Labour Relations Officer (LRO), who will assist in raising the issue within the union as high as necessary and as quickly as necessary to protect a worker (e.g. JHSC, Local Coordinator, specialists, manager, Strategy Team, Board of Directors, Communications and Government Relations Team).
 - Consider grieving where appropriate/available, but don't just rely on the grievance process to save someone from injury/illness. Use the law and the MOL.

When internal workplace efforts to resolve a health and safety concern fail, call the MOL.

2. When an employer fails to notify the MOL of a fatal or critical injury and/or does not permit the JHSC to investigate

The employer is required by sections 51-53 of the *OHS Act* to report critical and fatal injuries to the MOL, the union and the JHSC, and section 9 empowers the JHSC to investigate. When an employer does not comply with these sections, call the MOL.

3. When work refusal reaches “second stage”

When a worker exercises her/his right to refuse unsafe work, the supervisor or employer must immediately investigate in the presence of the worker and a JHSC worker member. (*OHS Act* section 43). If the concern is not resolved and the worker has reasonable grounds that the work continues to be unsafe, the worker can continue to refuse. At this “second stage” of the refusal, the MOL must be notified.

When bilateral work stoppage is not resolved

A certified JHSC member who has reason to believe that “dangerous circumstances” (defined in *OHS Act* section 44) exist may request an investigation by a supervisor, and thereafter by a second certified member. If the investigations do not resolve the concern, the MOL must be notified.

How to Make Your Call to the MOL Effective

Be aware that MOL intake officers often ask a caller if s/he has exhausted the IRS before calling the MOL.

If the caller answers in the negative, some of these officers have been known to refuse to pass on the information or send an inspector. ONA has convinced upper levels of the MOL that the IRS is generally not working in health care facilities and that we need the assistance of the MOL to prod employers to comply with their legal duty to establish functioning Internal Responsibility Systems. If necessary, remind the MOL that because our members have a limited right to refuse unsafe work, and the only thing between her/him and imminent jeopardy may be the MOL, the Ministry long ago committed to responding to our members' complaints on a “priority complaint basis” (see memo at **Appendix B**).

Also, the IRS is implicit in the *Occupational Health and Safety Act*. While it is the preferred process of resolving health and safety concerns, there is nothing in law prohibiting a worker, union representative or anyone from calling the MOL at any time.

For a listing of Ontario Ministry of Labour telephone numbers, see **Appendix C**.

Worker to Suffer no Reprisals for Calling the MOL

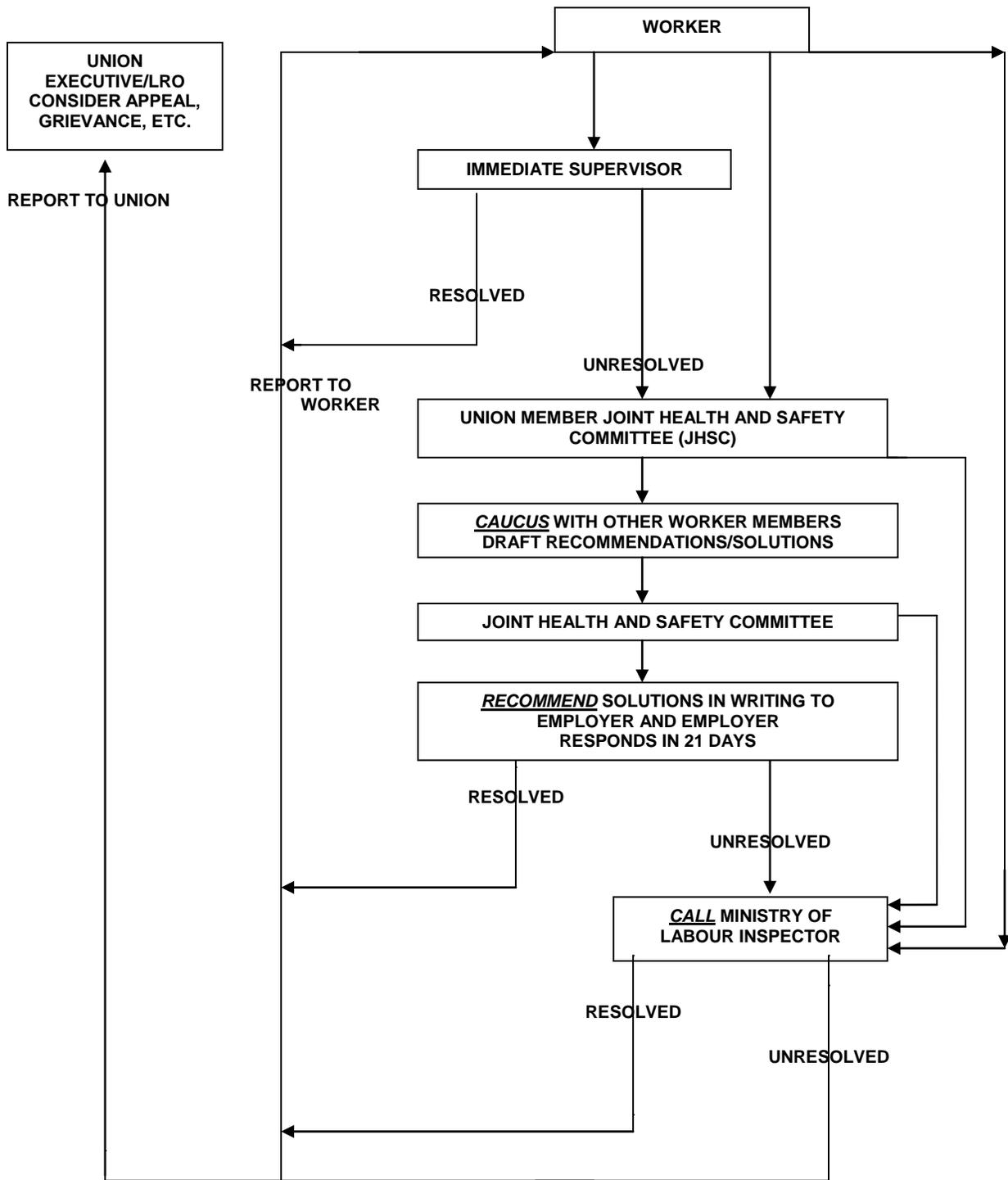
The *Occupational Health and Safety Act* has a section (50) that is intended to protect you from reprisals by your employer when you obey the law or exercise your rights. The Ministry of Labour website says you also cannot be penalized if you provide information to a MOL inspector, follow an order of an inspector, or testify in a legal proceeding. If you think you or your members have suffered a reprisal, you or your members can file a complaint to the Ontario Labour Relations Board (OLRB) or file a grievance. The employer has the onus to prove that they did not act illegally.

Unsatisfactory MOL Decision

When **not satisfied with an inspector's decision**, work with your LRO who will assist in your and your union's efforts to raise the issue within the MOL/government as high as necessary and as quickly as necessary to protect a worker (e.g. MOL manager, director, Assistant Deputy Minister, Deputy Minister, Premier)

- With your LRO, consider appeal of inspector decision (**30-day time limit**) as appropriate.

Appendix A – Internal Responsibility System Procedure for Resolving Health and Safety Problems



Raise unresolved health and safety concerns as high as necessary and as quickly as necessary to make workers safe. Consult your LRO as needed.

APPENDIX B

MOL Memo Confirming Priority Response to Complaints

-----Original Message-----

From: Savoia, Filomena (MOL)
Sent: Monday, April 25, 2005 4:56 PM
To: Ballanger-Michaud, Candys (MOL); Dennis, Sophie (MOL); Lemire, Brian (MOL); McCloskey, Ed (MOL); Medeiros, Margaret M. (MOL); Pakalnis, Vic (MOL); Tosine, Helle (MOL); Walker, David (MOL)
Cc: Nagalingam, Nax (MOL); Hall, Don (MOL); Deck, Bernie (MOL); U, Dominica (MOL); Medeiros, Margaret M. (MOL); Lynett, Bridget (MOL); Pelosi, Pina (MOL)
Subject: Revisions to Work Refusal Policy
Importance: High

To Directors
Program Managers
Regional Program Coordinators
Field Staff

From: Fil Savoia
A/Director
OHSB

Re: Work Refusals - limited right to refuse

Revisions to the Work Refusal and Complaints Policies are in the process of being finalised. Please be advised that the revised version of the Work Refusal and Complaints Policies will reflect the following policy statement to ensure protection for those workers who have a limited right to refuse unsafe work.

As an interim policy, all complaints and work refusals, including complaints of workplace violence from workers with a limited right to refuse unsafe work, must be investigated on a priority complaint basis.

Please advise all appropriate staff accordingly.

Thank you

cc: Helle Tosine, ADM, Operations

APPENDIX C

Ontario Ministry of Labour Telephone Numbers

Established in 1919 to develop and enforce labour legislation, the mission of the Ministry of Labour (MOL) is to advance safe, fair and harmonious workplace practices that are essential to the social and economic well-being of the people of Ontario.

Through the Ministry's key areas of occupational health and safety, employment rights and responsibilities, labour relations and internal administration, the Ministry's mandate is to set, communicate and enforce workplace standards while encouraging greater workplace self-reliance. A range of specialized agencies, boards and commissions assist the Ministry in its work.

Ministry of Labour Main Office – Toronto Occupational Health and Safety Branch

505 University Ave., 19th Floor
Toronto, ON M7A 1T7
Tel: 1-877-202-0008
Fax: (416) 326-7761
Website: www.labour.gov.on.ca

Ministry of Labour Health and Safety Contact Centre

There is a new toll-free number to call anywhere in Ontario – 1-877-202-0008 – to report workplace health and safety incidents or unsafe work practices, critical injury, fatality or work refusal. You can also call if you suspect unsafe work practices or for general inquiries.

The number operates 24 hours a day, seven days a week.

MOL Regional Offices

To report fatalities and critical injuries during day-time hours, contact the number for the region applicable to you. To report fatalities and critical injuries after hours (after 5 p.m. on weekends or holidays), call toll-free 1-877-202-0008.

Northern Region

North Bay

101 McIntyre St. W.,
2nd Floor,
North Bay, ON P1B 2Y5
Tel: (705) 497-5234
Toll-free: 1-877-717-0778
Fax: (705) 497-6850

Timmins

Ontario Government Complex
Complex D Wing
5520 Highway 101 E.
South Porcupine,
ON P0N 1H0
Tel: (705) 235-1900
Toll-free: 1-800-461-9847
Fax: (705) 235-1925

Sault Ste. Marie

70 Foster Dr., Ste. 480
Sault Ste. Marie,
ON P6A 6V4
Tel: (705) 945-6600
Toll-free: 1-800-461-7268
Fax: (705) 949-9796

Sudbury

159 Cedar St., Suite 301
 Sudbury, ON P3E 6A5
 Tel: (705) 564-7400
 Toll-free: 1-800-461-6325
 Fax: (705) 564-7437

Thunder Bay

435 James St. S., Suite 222
 Thunder Bay, ON P7E 6S7
 Tel: (807) 475-1691
 Toll-free: 1-800-465-5016
 Fax: (807) 475-1646

Western Region**Hamilton/Halton/Brant**

Ellen Fairclough Building
 119 King St. West
 Hamilton, ON L8P 4Y7
 Tel: (905) 577-6221
 Toll-free: 1-800-263-6906
 Fax: (905) 577-1200

London/Sarnia

217 York St., 5th Floor
 London, ON N6A 5P9
 Tel: (519) 439-2210
 Toll-free: 1-800-265-1676
 Fax: (519) 672-0268

Kitchener-Waterloo

155 Frobisher Dr., Unit G213
 Waterloo, ON N2V 2E1
 Tel: (519) 885-3378
 Toll-free: 1-800-265-2468
 Fax: (519) 883-5694

Niagara

301 St. Paul St., 8th Floor
 St. Catharines, ON L2R 7R4
 Tel: (905) 704-3994
 Toll-free: 1-800-263-7260
 Fax: (905) 704-3011

Windsor

4510 Rhodes Dr., Suite 610
 Windsor, ON N8W 5K5
 Tel: (519) 256-8277
 Toll-free: 1-800-265-5140
 Fax: (519) 258-1321

Central Region**Central Region Office**

5001 Yonge Street, Suite 1600
 North York, ON M7A 0A3
 Tel: (647) 777-5005
 Fax: (647) 777-5010

Central Region West

1110 Stellar Drive, Unit #102
 Newmarket, ON L3Y 7B7
 Tel: (905) 715-7061
 Toll-free: 1-888-299-3138
 Fax: (905) 715-7140

2275 Midland Avenue, Unit #1
 Scarborough, ON M1P 3E7
 Tel: (416) 314-5300
 Fax: (416) 314-5410
 or (416) 314-5405

1290 Central Parkway West, 4th Floor
 Mississauga, ON L5C 4R3
 Tel: (905) 273-7800
 Toll-free: 1-800-268-2988
 Fax: (905) 615-7098
 or (905) 615-7078

Eastern Region**Ottawa**

347 Preston St.,
 Tower III, 4th Floor
 Ottawa, ON K1S 3J4
 Tel: (613) 228-8050 or
 Toll-free: 1-800-267-1916
 Fax: (613) 727-2900

Kingston

Beechgrove Complex
 51 Heakes Lane
 Kingston, ON K7M 9B1
 Tel: 613-545-0989
 Toll-free: 1-800-267-0915
 Fax: (613) 545-9831

Peterborough

300 Water Street North
 3rd Floor, South Tower
 Peterborough, ON K9J 8M5
 Tel: 705-755-4700
 Toll-free: 1-800-461-1425
 Fax: (705) 755-4724