

Mental Health Issues
A Labour Perspective

**Accommodations for
Workers with Mental
Health Issues**

- **Objective 1:** To provide knowledge to activists that will enable them to lessen the stigma and fear associated with working with persons that have mental health issues.
- **Objective 2:** To have participants gain an understanding of mental health issues and basic needs for accommodation in order to advocate effectively.
- **Objective 3:** To provide an overview of current developments in mental health policy and case law regarding accommodations for persons with mental health issues.

Introduction – A holistic approach

To give effect to the principle of full participation in society as a constitutional right, the labour movement must now start to seriously grapple with the issues faced by people who are trying to work in a society that has traditionally criminalized, abused and misunderstood them.

"Of all persons with disabilities, those with a serious mental illness face the highest degree of stigmatization in the workplace, and the greatest barriers to employment. Many and varied employment obstacles face adults with psychiatric disabilities, such as gaps in work history, limited employment experience, lack of confidence, fear and anxiety, workplace discrimination and inflexibility, social stigma and the rigidity of existing income support/benefit programs." 1

The labour movement is in a unique position to address the societal inequities that create barriers to employment for people with mental health issues. The collective experience gained from legal challenges and policy submissions in the fight for persons with "other" disabilities, needs to now be directed at the discrimination against people who suffer with a mental illness. One person puts it this way.

"...Mental health is integrated with one's physical, social, spiritual and economic well-being. Hope for a future is truly realized if there are genuine expectations that inequities within society will be addressed." 11p7

In addition to removing barriers to employment, the labour movement will need to continue pressing for human, labour and employment "accommodation" rights within our workplaces. These rights must be extended to specifically include accommodations for mental illness. After a person becomes employed, "accommodation" law becomes an important "rights based" anchor to employment.

In order to advocate for effective accommodation arrangements, advocates need to better understand what people who have a mental illness need from their employers. To this end labour activists should become familiar with some of the facts about mental illness. We hope that this workshop will provide you with some of those facts and will add to your advocacy resources. After all, people who suffer with a mental disability or limitation want what we all want... a home, a friend and a job.

The importance of work to mental health

"It is in the workplace that the human and the economic dimensions of mental health and mental illness come together most evidently. On the one hand, the workplace can contribute positively to mental well-being — it is where we derive a good part of our sense of social integration. As Merv Gilbert, a psychologist at the Mental Health Evaluation and Community Consultation Unit, Department of Psychiatry, University of British Columbia, told the Committee:

Work provides a sense of structure, social meaning, social supports, a place to go outside the home...and it also provides an income, which we do know is good for your mental health.

Work has also been found to play an important role in recovery from mental illness. Employment decreases the rate and duration of hospitalization and enhances quality of life. Surveys show that most persons living with serious mental illness want to work and see employment as a primary goal. ²

But few are employed. In fact, unemployment for persons living with serious mental illness is estimated to be as high as 90%. In addition to unemployment, exclusion from the workforce often results in dependency on income security programs for survival. Unemployment leads to impoverishment and reduced social engagement, which in turn may worsen mental and physical illnesses. It also contributes to feelings of worthlessness and depression, and can lead to substance abuse.

While participation in the workforce can contribute positively to mental health it can also contribute to the development of mental health problems, including stress, depression and anxiety. Mr. Gilbert added that:

Therein we have one of the fundamental paradoxes we face today: Work is good for your mental health and work can make you crazy.

The issues surrounding mental health and the workplace are complex and multifaceted. As professor Romaine Malenfant from the Université du Québec en Outaouais told the Committee:

Research increasingly shows that we must not only counter the lack of work, or unemployment, in preserving mental health, but also preserve the quality of work so that work plays its full role in building identity and enabling people to achieve their full potential."²



Stigma

“Powerful and pervasive, stigma prevents people from acknowledging their own mental health problems, much less disclosing them to others.”

US Surgeon General, 1999 3

What is stigma?

"Stigma is a serious impediment to the well-being of those who experience it. It affects people while they are ill, while they are in treatment, and healing, and even when a mental illness is a distant memory.

On a systemic level, stigma as a social phenomenon has a strong influence on the policies that govern the nature of, access to and funding for treatment and support, eligibility for social assistance or the right to refuse treatment. At the level of the community, stigma may affect how organizations including social service agencies, employers, health care providers, or schools respond to individuals with a mental illness and to their families.

At the individual level, stigma prohibits people from seeking the treatment they need, creates profound changes in identity and changes the way in which they are perceived by others. There is no doubt that reducing stigma is a daunting and complex process." 4

The suffering caused by stigma in relation to work life, has been described in many ways. The following quotes illustrate some of its more discriminatory effects.

" I wanted to say that I left my job last year sobbing [...]. I worked with the federal government. I left my job, July 9. I have not been back. I am on the status of leave without pay, leave undetermined. I have to fill out questionnaires monthly to prove that I am still mentally ill". 11p1

...you are not allowed to overcome your illness or any depression that you might have had. If you have indeed seen a psychologist or a psychiatrist at one point in your life, that will be brought out in order to diminish the claim or the extent of the claim when establishing PTSD or chronic pain syndrome, as in my case.

This abuse is so extreme, and so heavy, that I have come to the conclusion that there is no way that it could be dealt with when it is done on purpose without opening up the human rights portion of the Charter. We have no powers as individuals to access our Charter rights. We do not." —Darrell Powell 11p13

Where labour arbitration decisions and human rights tribunals have produced positive accommodation precedence, employment law is still abysmally lacking in rights based accommodation decisions. The lack of recognition by the courts of accommodation issues, allows systemic stigmatization to continue unfettered in workplaces that are not unionized.

How is Stigma Manifested

Stigma is manifested by bias, distrust, stereotyping, fear, embarrassment, anger, and/or avoidance. Stigma leads others to avoid living, socializing or working with... or employing people with mental disorders, especially severe disorders such as schizophrenia

Some of the ways in which stigma is manifested include:

- Avoidance of seeking treatment
- Decreased employment
- Low self worth
- Stigma by association ⁴

Employment Impacts

- Stigmatization is generally associated with decreased employment. Consumer Experience with Stigma: Results of National Survey was the first to focus on the experience of individuals with severe mental illness and details pervasive discrimination in the workplace that prevents them from reaching their full professional and personal potential. Seven out of ten said they have been treated as less competent by others when their illness is revealed. Three out of four said they avoid disclosing their illness to anyone outside their immediate families. Three quarters also stated that they have learned not to reveal their psychiatric histories on job applications.
- Although this survey focused on the experience of those with severe mental illness, we now know similar fears exist about disclosure to employers for those who experience more mild forms of mental health problems as well. 4

Impact on feelings of self-worth

- Stigma leads to low self-esteem, isolation, and hopelessness. ⁴

Factors that contribute to stigmatization

Consistent with a comprehensive health promotion framework which acknowledges that barriers to health can be wide-ranging, a review of the literature finds that there is a broad range of factors which contribute to the way in which people with mental illness are viewed. Some of the common factors include:

- Label of mental illness
- Appearance
- Illness related behavior
- Characteristics of treatment
- Socio-economic status
- Media depiction 4

Public Perceptions of People with Mental Illness

It's important to understand the nature and scope of the problem. Surveys which examine public attitudes and beliefs of individuals with mental illness show that people commonly:

- Hold negative and exaggerated views regarding predictability and dangerousness
- Have negative views of decision making ability
- Lack understanding of the conditions and their causes. ⁴

Perceptions of Violence and Mental Illness

There is a commonly held perception that individuals with mental illness are significantly more likely to commit violent crimes. A less acknowledged fact is that the proportion of societal violence attributable to schizophrenia is small. The myths of the relationship between violence and mental illness contribute to:

- Exaggerated fears of dangerousness.
- Reluctance to seek help
- Exclusion to housing, jobs, and social supports.
- ...“public perceptions of mentally ill persons as criminally dangerous are exaggerated. In fact, 80 to 90percent of people with mental illness never commit violent acts. They are actually more likely to have acts of violence committed against them,...If the symptoms of mental illness continue to be linked to fears of violence, people with mental illness will be negatively affected through rejection, through a reluctance to seek professional help for fear of stigmatization, and through fear-based exclusion.” 4

*“The shame is in the secrecy.
Shame is the illness and recovery
is dignity. By sharing the secret,
the power of the illness is gone”.*

Dr. Graeme Cunningham – Recipient, 2001 Courage to Come Back Awards

The injustices created by stigma in society and in workplace environments, have inspired many groups to come together and support a different approach to mental health issues . To fight stigmatization people with mental illness have declared that they will no longer hide. They have adopted "The Emerging into Light logo that symbolizes the legend of the phoenix, a great bird that rose from its own ashes to live again."⁵

This is a good start.

As activists we too can raise the bar and put the removal of stigmatization on the socio-political agenda, in addition to continuing to fight to that end in our own workplaces. As advocates we too can promote acceptance and understanding of mental health issues at work through the education of our members.

What is a Mental Illness?

In the area of mental health, the word "disorder" is used to describe a mental health condition that matches a defined list of signs and symptoms.

(Sign, an outward action or behavior showing that a person may be ill.)

(Symptom, a feeling that a person may describe to others showing that he or she may be ill.)

These defined lists usually come from one of two handbooks:

- The Diagnostic and Statistical Manual of Mental Disorders (DSM)
- The International Statistical Classification of Diseases and Related Health Problems (ICD).

For people working in the mental health field, having agreed-upon definitions of disorders makes it easier to create a program of treatment that is most likely to help a person with the disorder.

Generally, when people have patterns of behaviour that cause a lot of distress to themselves and others, and they have trouble changing their behaviour even though it causes problems, it has become a disorder. 6

What Are the Different Types of Mental Disorders?

Mental disorders take many forms, including:

- mood disorders (e.g., depression, bipolar disorder)
- anxiety disorders (e.g., obsessive-compulsive disorder, phobias)
- schizophrenia
- personality disorders (e.g., antisocial personality disorder)
- eating disorders (e.g., anorexia nervosa, bulimia). ⁶

Signs and Symptoms of Mental Disorders

Signs and symptoms vary depending on the type of mental disorder, but any of the following may be cause for concern:

- major changes in eating or sleeping habits
- having strong feelings of anger
- having strange beliefs not based in reality (delusions)
- hearing or seeing things that aren't there (hallucinations)
- a growing inability to cope with daily problems and activities
- thinking about harming or killing oneself
- not admitting to obvious problems
- having many physical ailments that have no clear cause
- substance abuse
- confused thinking
- feeling sad or irritable for more than two weeks
- feelings of extreme highs and lows
- excessive fears, worries and anxieties
- spending more time alone or avoiding others. 6



What is mental retardation?

What is the difference?

How Are Mental Health Problems Treated?

- If someone decides to use mental health services, he or she will likely need to have an assessment. The assessment may be done through tests and interviews. It may also include a medical examination.
- The assessment helps to identify the types of difficulties a person may be having and what kind of services he or she thinks would be helpful.
- A person may be offered medication to help treat their mental health problem and/or a range of services to help address problems associated with their mental health problem, which may include help finding better housing or employment. The treatment is tailored to the individual's needs and preferences. 6

Principles of Rights to Employment and Accommodation

People with mental health issues have had to struggle for the recognition of their basic human rights. Stigma, inadequate social supports and underdeveloped accommodation rights, have all contributed to the struggle to achieve or maintain employment. However, it has been Unions that have had significant success in forwarding the recognition of human and labour rights for people who suffer from mental illness and other disabilities.

"Labour arbitration has become the leading forum for the application of the disability accommodation principles in Canada... First, unions have been assertive in promoting human rights through collective bargaining, campaigns and grievances ... unions have the resources to litigate a broad spectrum of disability accommodation issues, and the staying power to police the implementation of disability accommodation settlements and orders. Second, the very fact that unions and employers have a long-term mandatory relationship ... means that they have been compelled to creatively co-operate with each other to make the accommodations, and the relationship, work over the long haul ... Out of this often emerges progressive and detailed accom-modation policies and programs which create templates for human re-sources elsewhere in Canada. And third, labour arbitrators have had the remedial power ... to order the reinstatement of terminated employees, and they have actively used it..." 7

Accommodation – Practical Ideas

“There is no comprehensive list of accommodations for people who are dealing with mental health issues. Accommodations tend to be based on the individual needs of employees as well as on the resources available to the employer. In some instances a small employer will be unable to provide the same type of accommodation as a larger employer. In most cases accommodations are inexpensive and involve workplace flexibility rather than capital expenditures.”⁸

As worker reps, you should understand some of the possible accommodation requirements for persons who suffer from mental illness. These may include strategies for maintaining stamina and concentration, staying organized and triggering memory, dealing with personal interactions and stress, maintaining attendance and dealing with changes in the workplace.



Mental Health Rights in the Current Legal Environment - An Overview

Positive reasons that establish accommodation rights for persons that have a mental health disability have recently been upheld by the Ontario Human Rights Tribunal in its decision in the case of [Lane v. ADGA Group Consultants Inc. of Ottawa](#) .

This is an important decision for all accommodation cases and specifically for accommodation cases related to mental disabilities.

The “Public Interest Remedies” in this case will act as a warning to employers that they must apply due diligence in relation to mental health accommodation issues. In his reasons for the decision, David J. Mullan the adjudicator in the case, commented on the obligations of the employer.

"This was an instance where the Respondent's lack of awareness of its responsibilities under the Code as an employer was particularly egregious. There were no workplace policies in place on dealing with persons with disabilities. Moreover, senior management were singularly oblivious to those obligations...As a consequence, the Commission was justified in seeking a broad range of public interest remedies for the purposes of ensuring inculcation in the values of the Code and aimed at avoiding the discrimination that formed the basis of this Complaint. Those public interest remedies are set out in my Order, which follows." 9

ORDER

"Having found that ADGA violated Mr. Lane's rights to equal treatment and to be free from discrimination on the basis of disability by reference to section 5 of the Code, the Tribunal orders:

- (6) The Respondent shall retain at its own expense a qualified consultant (approved by the Commission) to provide training to all employees, supervisors, and managers on the obligation of employers under the Code and, in particular, the accommodation of persons with disabilities with a special focus on mental health issues.
- (7) The Respondent shall within three months of this Order establish a comprehensive written anti-discrimination policy that conforms with the requirements of the Code, and that addresses discrimination on the ground of disability.
- (8) The Respondent shall post the policy ordered under (7) in plain and obvious locations at all places where the Respondent does business and will include the policy in the orientation materials that it provides to new employees.
- (9) The Respondent shall also provide copies of the policy ordered under (7) as part of any request for proposal." 9

Unfortunately, the respondent in this case, ADGA, has indicated that it will appeal the decision. The decision however, is the most progressive to date, concerning accommodation rights for persons who have a mental illness.

As a movement that fights for social justice, Labour is on the right track. We have been very successful in achieving recognized human and labour accommodation rights decisions for our unionized brothers and sisters. However, we need to continue to fight for enforcement of the legal rights for employment and accommodation for people with mental health issues at all levels of society.

There have also been recent developments at the federal level that should go a long way toward formally recognizing the inherent dignity and worth of people who suffer from mental illness. The "Canadian Mental Health Commission" has now been officially formed and their work will include advocacy for social policy, that supports people who suffer from mental illness, to lead full and productive lives. The following material illustrates the Commissions intent to work at the federal level to eliminate the injustices, at work and in society, that persons with mental disabilities face.

"The *Charter* rights of persons living with mental illness and addiction, and in particular their right to equality, must be respected. These affected Canadians are full members of our society. Questions concerning their mental capacity cannot be used as a pretext for watering down or stripping away any of their civil liberties or human rights. 11p67

CHAPTER 8: WORKPLACE AND EMPLOYMENT

- **Recommendation 31 (page 182):**
- That the Canadian Mental Health Commission (see chapter 16) work with employers to develop and publicize best management practices to encourage mental health in the workplace.
- **Recommendation 32 (page 184):**
- That the Knowledge Exchange Centre to be created as part of the Canadian Mental Health Commission (see Chapter 16) assist employers, occupational health professionals and mental health care providers in developing a common language for fostering the management of mental illness in the workplace and in sharing best practices in this area.
- **Recommendation 33 (page 188):**
- That employers increase the number of counseling sessions offered through Employee Assistance Programs (EAPs), especially in communities where access to other mental health services is limited.
- That research be undertaken to evaluate EAPs, and that the results be shared through the Knowledge Exchange Centre that the Committee recommends be created as part of the Canadian Mental Health Commission (see Chapter 16) with a view to strengthening the effectiveness of these programs.
- **Recommendation 34 (page 192):**
- That the Department of Human Resources and Social Development, through the Opportunities Fund for Persons With Disabilities, facilitate the establishment of a nation-wide supported employment program to assist persons living with a mental illness to obtain and retain employment.
- That this program promote the development of, and provide support for, alternative businesses that are both owned and operated by persons living with mental illness.
- That the Department of Human Resources and Social Development report on how many people living with mental illness are assisted through the Opportunities Fund for Persons With Disabilities.¹⁰