

# **The Psychologically Safe Workplace: how EAP professionals can contribute**

Martin Shain S.J.D.

EAPAT  
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## There's a New Duty of Care in Employment/Labour Law

- It's the duty to provide a *psychologically* safe workplace

*“A psychologically safe workplace in law is one that does not permit [significant] harm to employee mental health in negligent, reckless or intentional ways”*

*Shain: MHCC 2008*

# Where is the duty showing up?

## *Cases involving:*

- Treatment of employees by supervisors e.g. TTC, Sulz v.A.G. Canada (RCMP in BC)
- Treatment of employees by fellow workers e.g Rees v.RCMP (NFLD)
- Management of employees returning to work e.g. Honda
- Management of employees while on disability leave e.g. BMO
- Management of employees with mental disorders e.g. Lane
- Dismissal and how it is done e.g. Wallace

*In less than 4 years we have seen damages go from \$15,000 to \$950,000.*

*Many cases involve employer conduct in the normal course of employment. i.e. not just in connection with dismissal*

# What is the legal basis for such claims?

- *Common Law*: torts [negligence] and contracts
- *Collective Bargaining Law*: importing terms into agreements
- *Human Rights* : new powers of commissions e.g. Ontario
- *Employment Standards*: Québec's harassment legislation
- *Occupational Health and Safety*: Saskatchewan's new rules
- *Workers' Compensation*: provincial variations

# What kind of [psychological] harm do we mean?

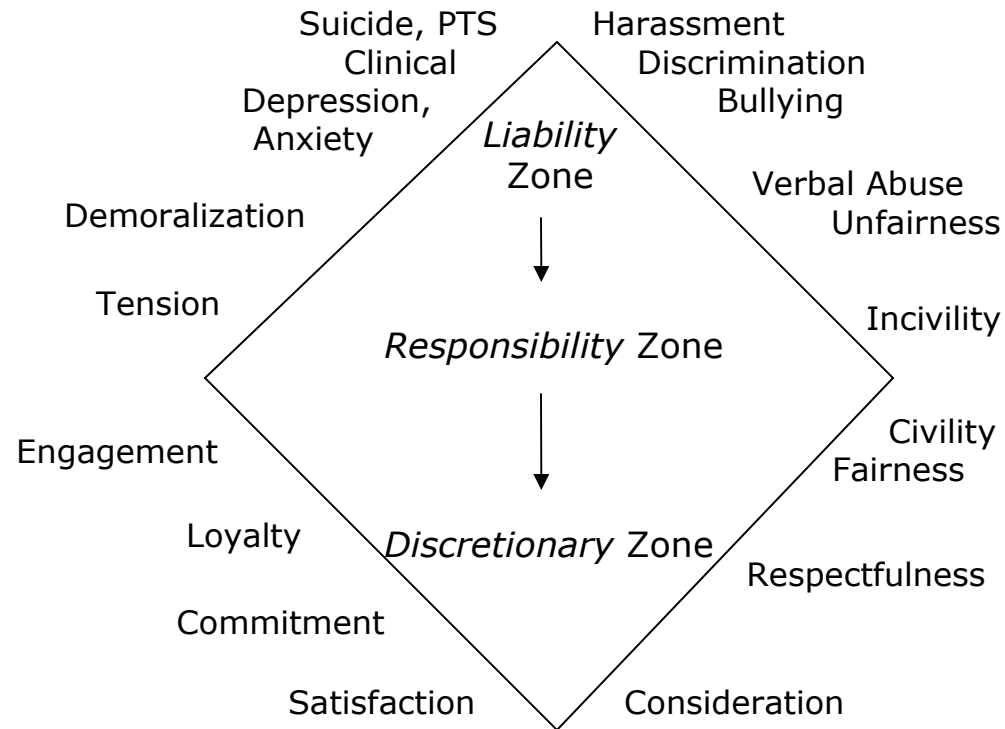
*“requirement of a visible and provable illness”*

- Aggravation of existing conditions e.g. Chronic Fatigue Syndrome
- Adjustment disorder with depressed and anxious mood (*“burnout”*)
- Depression, anxiety, loss of self-esteem, self worth
- Loss of appetite, exhaustion, mood swings, poor concentration
- Weight gain
- Suicidal thinking
- Increased diabetic symptoms
- Increased blood pressure

# What is the Standard of Care?

- Civility and respect: a *proactive* standard, not just reactive [what we *should* do as well as what we *shouldn't* do]
- Tends to be a *social* rather than a *corporate* standard
- Focus in common law is on *reasonable foreseeability of harm* (e.g. *BMO, RCMP*) relative to people in our *circles of influence*
- Goes beyond intentional or reckless infliction of mental suffering to include negligence (e.g. *Sulz*)
- In collective bargaining environments the test is more one of *fairness and reasonableness* (e.g. *TTC*)
- (Some) arbitrators are now willing to make orders that influence the exercise of management rights (e.g. *TTC*)

# Legal Views of the Psychologically Safe Workplace



***“lowering the bar on liability”  
creating an atmosphere of uncertainty and unpredictability***

## **Implications for “Return on Investment”**

- Since provision of a psychologically safe workplace is a legal duty, it is more appropriate to think in terms of a *duty to invest* in it rather than just in terms of what the return on this investment may be**
- Parallels the duty to invest in a physically safe workplace**

# How can we make this investment?

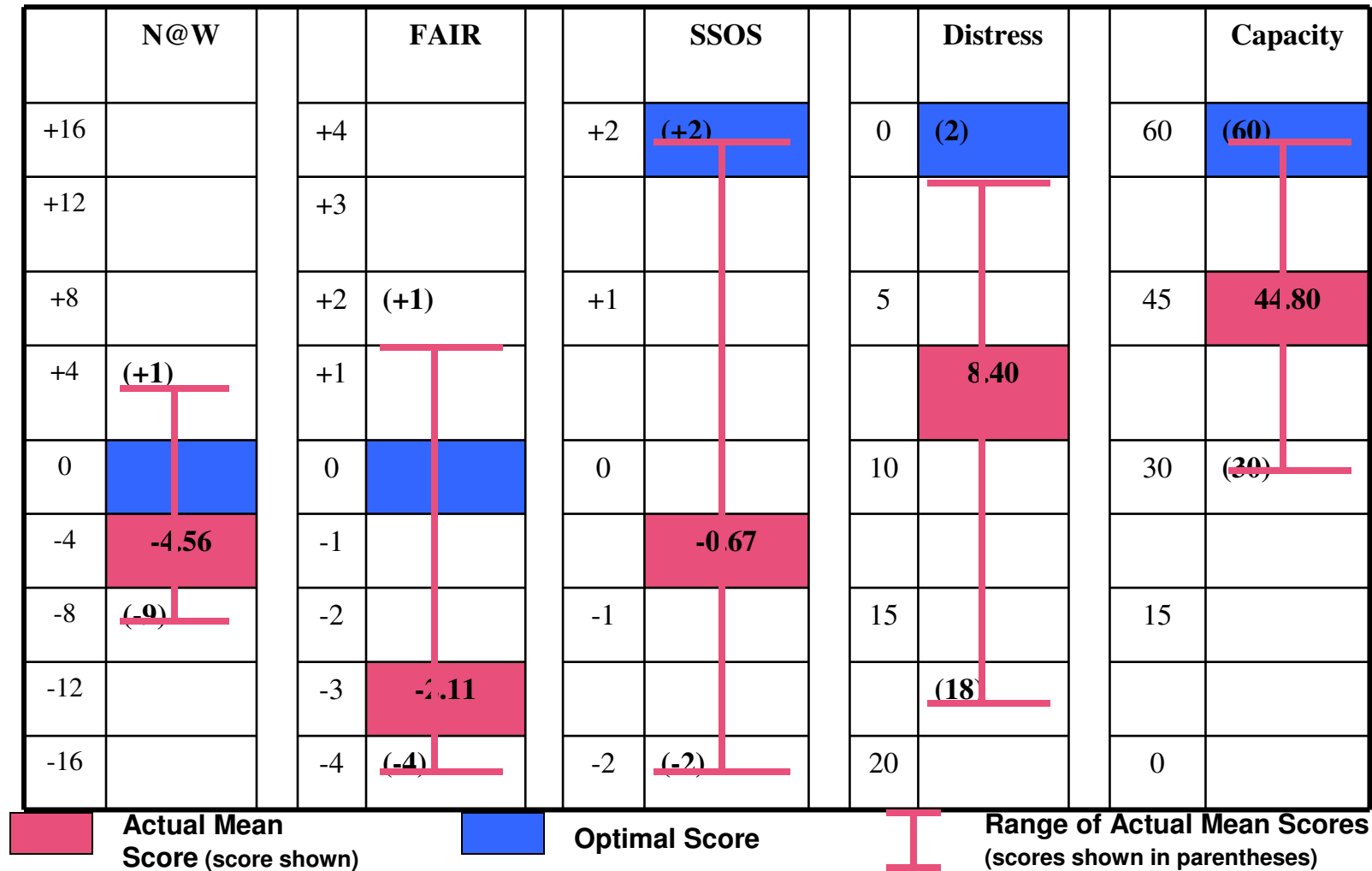
1. *Identification and measurement of risks* to psychological safety  
[we have the tools..... audits, surveys and common sense]
  
2. *Abatement of such risks* through
  - selection and recruitment practices
  - managerial training and re-training at all levels
  - promotion practices
  - employee education and training

# **1. *Identifying Risks:***

## **Warning Signs of a Psychologically Unsafe Workplace**

- **increased signs of conflict among staff**
- **increased signs of conflict between staff and clients/customers/patients**
- **increased signs and talk of stress and distress among staff**
- **increased number of misunderstandings and miscommunications**
- **increased preoccupation with apparently “minor” relationship issues**
- **increased signs of disengagement from the work and others on the team**
- **filing of grievances for all reasons**
- **increased use of abusive language and conduct**
- **unpredictable and disruptive absences from work**

# A Psychologically Unsafe Public Utility Team [Before Intervention]



# The Language of a Psychologically Unsafe Workplace

I am more fair and respectful toward you than you are toward me

I understand you better than you understand me

I know and care how I affect your feelings more than you know and care how you affect my feelings

I watch out for you more than you watch out for me

I care about you more than you care about me

I experience more stress than satisfaction from my job.

*Workplaces in which thoughts and feelings like these prevail are basically **psychologically unsafe**.*

## ***2. Abating Risks:***

**How do we gain or regain psychological safety?**

The foundations of a psychologically safe workplace lie in the quality of the relationships that are developed and protected there.

Without healthy relationships at work, all the technical expertise in the world will not create a sustainably effective organization.

To get at what is most important about relationships at work let's start at the end, with the result we want to achieve and ask ourselves:

**How do people *look, feel and behave* in a psychologically safe workplace?**

**“A”**

**How people look, feel and  
act in a psychologically safe  
workplace**

*Energized*

*Engaged*

*Enthusiastic*

*Collected*

*Creative*

*Cheerful*

*Helpful*

*Caring*

**“B”**

**How people look, feel and  
act in a psychologically  
*unsafe* workplace**

*Demoralized*

*Disengaged*

*Depressed*

*Anxious*

*Resentful*

*Angry*

*Unhelpful*

*Uncaring*

**Q. How do we get to “A” and avoid “B”?**

A. By focusing on healthy, effective *relationships* at work

**Q. How do we do that?**

A. By focusing on the *essentials* of relationships at work

**Q. What *are* the essentials?**

A. Let's look at what we know.....

We have learned from *clinical practice, practical experience, science and the law* that there are **3 basic imperatives** which, if heeded, contribute enormously to the healthiness and effectiveness of relationships at work.....

# **Three Imperatives of Healthy, Effective Relationships at Work contributing to Psychological Safety**

## **1. "*awareness*"**

**be aware of *who* is influenced by your words and actions  
and *how* they are influenced**

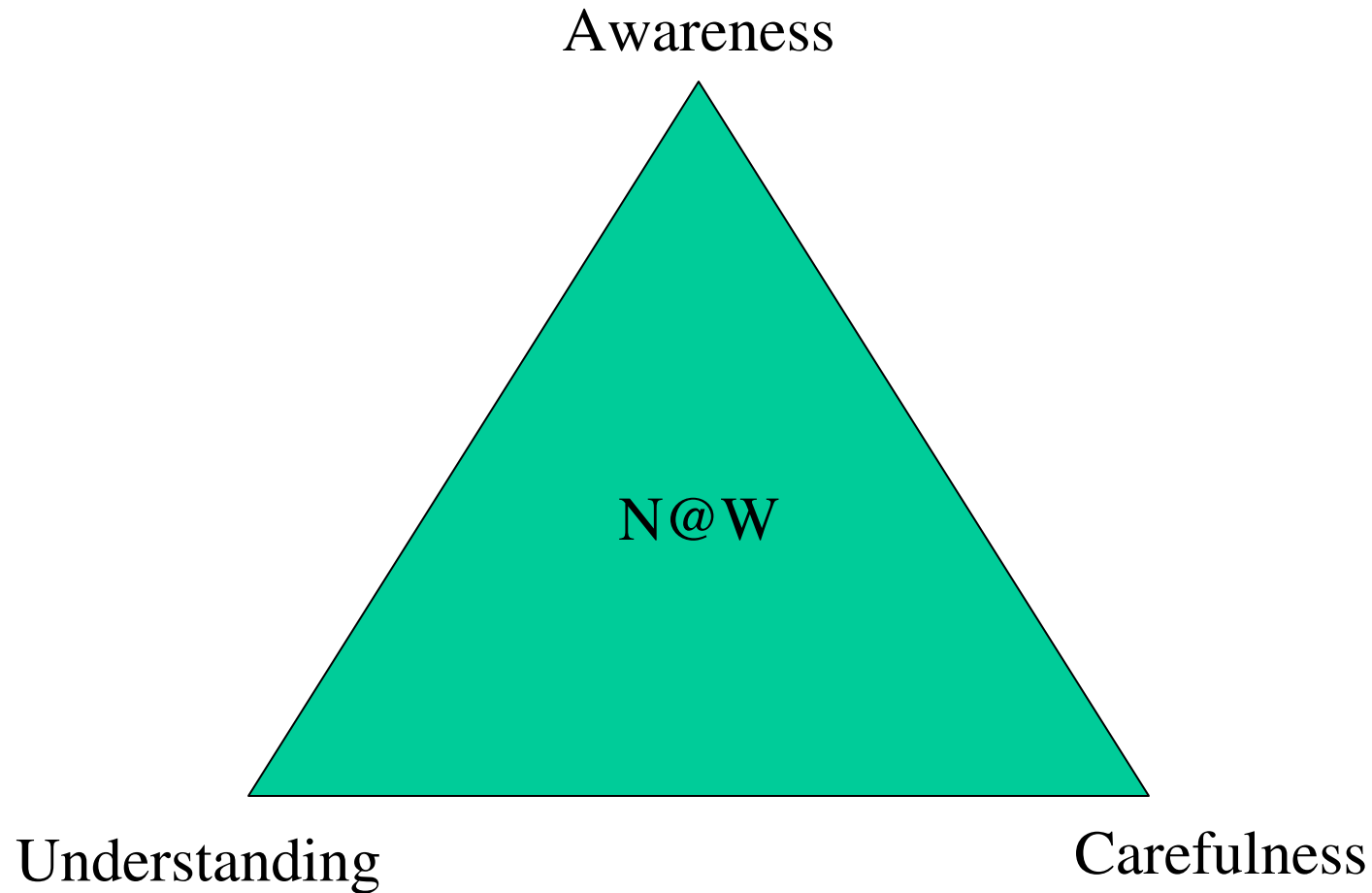
## **2. "*understanding*"**

**understand the legitimate needs, interests, motives  
and points of view of others in your circles of influence**

## **3. "*carefulness*"**

**act upon your awareness and understanding  
by being careful of others in your circles of influence  
and by doing them no reasonably foreseeable harm**

# Being a Neighbour at Work: Three Imperatives



N@W is an example of a “*Super-identity*”

## **Reframing the task: the need for emotional intelligence**

- The 3 Imperatives are also essential components of *Emotional Intelligence*
- We need to incorporate the 3 imperatives into *workplace cultures*
- That means they become part of the *shared value and belief system of the workforce*

*“shared” means by everyone from the chairman of the board to the CEO to the janitor*

**Q. How do the 3 Imperatives become part of a workplace culture?**

**A. By *recruiting, selecting, educating, training, promoting and rewarding* employees for emotional intelligence – i.e. the desire and ability to:**

- *be aware* of who is influenced by your words and actions and how they are influenced
- *understand* the legitimate needs, interests, motives and points of view of others in your circles of influence
- act upon your awareness and understanding by being *careful* of others in your circles of influence and by doing them no reasonably foreseeable harm

# The Three Imperatives in Action: intervention with a public utility team, 8 months later

	N@W		FAIR		SSOS		Distress		Capacity
+16		+4		+2	(+2)	0	(0)	60	(60)
+12		+3			+1.50		2.50		51.00
+8		+2		+1		5		45	44.80
+4		+1					8.40		
0	-0.17	0	-0.50	0		10		30	
-4	-4.56	-1			-0.67				
-8		-2		-1		15		15	
-12		-3	-2.11						
-16		-4		-2		20		0	

Mean Score at Admin 2
  Optimal Score
  Mean Score at Admin 1

## **Whose job is the creation and maintenance of a psychologically safe workplace culture?**

- The creation and maintenance of a workplace culture based on the 3 imperatives is a key responsibility of Senior Management, including the Board

***BUT.....***

- The responsibility trickles down and spreads to *everyone* in the workplace from highest to lowest rank, regardless of title
- Increasingly, the responsibility is turning into a *duty* at law
- This duty can be discharged through the implementation of policies and programs based on adherence to the 3 Imperatives

## **Summary**

The foundation of a psychologically safe work environment is high quality relationships based on the 3 Imperatives of awareness, understanding and carefulness, which are in turn the building blocks of emotional intelligence.

The 3 Imperatives need to become part of an organization's culture through the will, direction and facilitation of Senior Management and the Board.

## **Enter EAP committees and professionals.....**

What roles can/should they play in the creation and maintenance of a psychologically safe workplace?

1. Flagging psychologically “hot” zones
2. Identifying causes/contributors
3. Proposing solutions
4. Monitoring Effects

# 1. Flagging psychologically “hot” zones

**[locating areas in which problems may be more common]**

- Signs/data/evidence from clinical practice with individuals \*
- Signs from referral work †
- Signs from statistics gathered by the employer/unions
- Signs from educational/training events [e.g. stress management]
- Participation in selection of “first pass” [initial screening] measurement/assessment methods
- Offers to administer or help with surveys, focus groups etc.

\* EAP professionals primarily

† EAP committees primarily

## **2. Identifying causes/contributors**

**[Drilling down, once hot zones are flagged, to determine what the source(s) of the problem may be]**

- Interviews, feedback/discussion groups with employees and managers
- Specialized, more in depth, targeted survey methods
- Content analysis of exit interviews, grievances [can also be used to flag hot zones]

### 3. Proposing solutions \*

[When invited to do so....helping identify solutions]

*Requires knowledge of what is out there*

- Strategic [e.g. “Guarding Minds @Work”]
- Programmatic [e.g. “Vital Workplace”]
- Managerial training and re-training at all levels
- Setting new criteria for recruitment and promotion

*[\* NB this is **not** an implementation role in most cases]*

## **4. Monitoring Effects**

**[helping evaluate outcomes of attempted solutions]**

- Use of repeated measures/methods of assessment
- Re-charting the course if “Plan A” didn’t work as well as expected

## Issues

Legitimacy of the new roles: boundaries v. new duties?  
[is there a positive legal duty to intervene? E.g. Do “Tarasoff” rules apply?]

Skill base of committees and EAP professionals?  
[Reality and perception: can we do it?]

Turf [division of labour with HR, OHS, OD etc.]?

Time and Money? [will organizations pay for this? Will EAP firms need more dedicated staff?]

Other?