

CHAPTER 24: MEETING WITH THE CLIENT

By Sara Forte

A. What You Need to Tell the Client: Expectations and Limitations

At the first client meeting, whether it is in person, by phone, or via video conference, make clear that your role is to help the client move forward with their legal issue. They need to know that you will provide them with confidential and non-judgmental legal advice. Discuss client and lawyer confidentiality and its limitations. (See also Chapter 26, [Limits to Confidentiality](#).) It is crucial to discuss how you can help them while managing their expectations; be clear about the limitations of SHARP Workplaces advice, especially that we cannot help clients with litigation or represent them in court or tribunals. We are limited to providing five hours of advice and referrals to relevant services. In some circumstances it is possible to extend the time available in five-hour increments, but this is not guaranteed. Make it clear to clients that they will be coached to help them do most tasks themselves. If you submit a request for more hours, SHARP Workplaces looks at a number of factors to assess the request. For example:

- The merits of the case.
- The complexity of the case.
- The stage of the case.
- The likelihood of the matter being resolved within the extended hours.
- The client's vulnerability and ability to continue the process without legal assistance.
- Service capacity (funding availability).
- Demand for services.
- Availability of alternative services (e.g., Human Rights Clinic).

If you are close to helping the client resolve their complaint, SHARP Workplaces will probably grant an extension, but this is not guaranteed. If an extension is not granted, or the client prefers, you have the option of working directly with the client under a new retainer, but you should not discuss this option until all the legal advice hours have been used up and you must be very clear with the client that the new arrangement is not connected to the SHARP Workplaces program.

SHARP Workplaces can only help people who have been sexually harassed in the context of their workplace. We do not have a mandate to assist people who have been sexually harassed outside of a work context. When you are assessing a client's claim, be aware of other issues that could be related to a workplace sexual harassment and address them if they are relevant—for example, the client has been discriminated against under another characteristic protected under the BC *Human Rights Code*, such as race or disability. SHARP Workplaces legal advice services are available only to workers and employees, not to employers, although we may be able to provide referral information to employers and provide education and training on preventing and responding to sexual

harassment in workplaces through our public legal education and information (PLEI) initiatives led by EVA BC. If a client needs counselling or a new job, for example, because of the workplace sexual harassment, SHARP Workplaces can help them with referrals to the appropriate support services, as this falls under our trauma-informed approach to holistic client services. We can also make legal referrals where there may be other legal issues beyond the workplace sexual harassment—for example, tenancy issue referrals to TRAC, family law issues to Rise Women’s Legal Centre, or for assistance with completing forms, Amicus Curiae or advocates. SHARP Workplaces staff will help lawyers identify appropriate referrals if necessary.

As noted above, a client can only receive one retainer with one SHARP Workplaces lawyer, although they may be reassigned to another lawyer in extenuating circumstances (e.g., the first lawyer has to withdraw for health reasons). If a client experiences another situation of sexual harassment that is unconnected with the original case, they can apply to SHARP Workplaces for further assistance. SHARP Workplaces will assess whether it is in the best interests of the client to refer the new case to the lawyer who assisted them with their first case or assign them a different lawyer.

Make clear to clients the limitations of the SHARP Workplaces advice services at the outset of the retainer and recognize the reality that clients may be self-representing at some point. Tailor meetings and discussions with the client to make best use of the time and empower the client to move forward alone. If you use file time to complete tasks without the client’s involvement, they are likely to struggle to understand any progress made and how to self-represent going forward. If you cannot help the client to resolve their issue within the time available, consider making appropriate referrals—for example, to CLAS’s Human Rights Clinic, Workers’ Advisors Office, Access Pro Bono—at the end of the allotted time.

B. What the Client Needs to Tell You

One way to make best use of the advice hours is to gather as much information as possible from clients before the first meeting. People who have experienced workplace sexual harassment or sexual violence have widely varying abilities to organize and communicate information about the harassment they have experienced. Some clients will be able to independently produce concise, accurate, and relevant summaries and chronological documentation; others will not be able to do this or will feel overwhelmed by the mere prospect of doing so, and pushing them to prepare information in advance of a meeting may discourage them from coming.

While there is no one-size-fits-all answer, a quick initial telephone conversation can be beneficial to both you and the client. You, or your legal assistant, can begin building rapport in the call and attempt to gauge the client’s ability to communicate and organize their thoughts. Make it clear that the client only needs to provide the information needed for conflict checks at this early stage, but any additional information that they can produce easily would be helpful—even if you only have their name and

full contact information and the names of potentially adverse parties (employer and harasser), you can still proceed with a first meeting. Review the information provided by the intake coordinator when the case is assigned to determine what further information you may need, or if you are simply connecting to schedule the first meeting and start building your relationship with the client.

C. Ideal Information to Gather Before a First Meeting: Who, What, When, Where, and Why

1. Who

Before you accept any retainer, you need to run a conflict check and open a file. The intake coordinator sends the information you need, including the client's name and identifying information as required by LSBC, the name of the harasser, and the client's employer/former employer (both the registered corporate entity name and any "doing business as" or "operating as" information).

The intake coordinator talks with the client about all the parties that may be involved, provides you with those names, and tries to broadly identify the names of other parties who may have been involved. Perform a conflict check on all the names provided for potentially adverse parties to minimize the risk of subjecting clients to an unexpected conflict as they go through their story with you or once you are into the process.

2. What, When, and Where

It can be useful to get a chronological written statement, including dates, locations, and witnesses, from clients before you meet. However, this is not mandatory, and it can be extremely difficult for some clients to produce a written account. If they already have a written statement that they created for some other purpose, they can use that. Otherwise, take a case-by-case approach to requesting one. When asking for a chronology, it is important to emphasize that it is only for your reference and that it can be very brief and in point form. In many cases, you will have to use the client's verbal account of events when you meet as the basis of your information.

It is also helpful to request in advance any related documents, including emails and texts, and any employment agreement or workplace policies the client has access to. If they would need to request these from their employer/former employer, wait until you have set the first meeting before requesting them. If the client is no longer with their employer, request related documents such as resignation or termination letters and their Record of Employment. Gather details about the client's employment including their start date, total annual compensation (a T4 or December 31 pay stub are ideal), and nature of their position. Also ask about their current employment status and their age so you can assess the notice period under the *Bardal* factors. (See [Chapter 20: Civil Actions \(Employment Law and Tort\)](#)).

If the client provides numerous documents, consider carefully which ones you need to review at the beginning of the process, and which ones can be set aside until you and

the client have agreed on a plan. For example, if the client has provided copies of texts sent by the harasser, you may not need to review the details in the texts if the client is able to initially draft their complaint themselves; or if they have provided all their documentation from their WorkSafe claim and, after a review of their legal options, they decide to pursue a human rights complaint, you may need to review only certain documents included in the WorkSafe documentation.

The “when” is particularly important to identify early as many of the legal frameworks have limitation periods and filing deadlines. (Chapter 27, [Table 1. AVAILABLE FORUMS](#) sets out limitation periods for various legal options.)

3. Why

Ask the client why they decided to get legal advice. Ask for a list of their main questions so that you can ensure they are answered. Ask the client what they are hoping for from the meeting; this may help you focus the direction of the interview. This also contributes to the client being heard and ensuring you are able to address their expectations.

D. The Stage of the Client’s Complaint

Before the first meeting, ask the client what, if anything, they have done to address their concerns so far. Contacting you may be their first step, but ask if they have:

- started any legal proceedings (e.g., WorkSafeBC, Human Rights, Civil Action),
- reported the incident or incidents to the police,
- pursued an internal complaint with their employer, or
- reported the incident or incidents formally or informally at work.

If the client has taken any of these steps and has any written correspondence, statements, documents, or outcomes relating to these proceedings, request copies of them.

E. Client Interview Guidelines

1. Review the Client’s Intake Information Before Your Meeting

Review and assess the information provided by the client before you meet. If you are familiar with the client’s case, it can help you build rapport—and subsequently trust—at your first meeting. Key information to review and assess includes:

- the timeline of events, keeping limitation periods in mind,
- employment details, including the *Bardal* factors to assess reasonable notice period (age, length of service, nature of job, and availability of alternative employment) and compare reasonable notice cases, and
- the client’s current employment status (i.e., are they still at work, on leave, quit, fired, or in a new job?).

2. Make the Client Comfortable

At the beginning of the first meeting, review the agenda with the client so they know what to expect. For many, this will be their first interaction with a lawyer, or they may have had prior negative experiences with lawyers or the justice system. Find a private location to meet and have a pen, notepad, calculator, and tissues available for the client.

Introduce yourself and your experience, and explain the solicitor-client relationship and confidentiality. Clients who are experiencing sexual harassment at work are often concerned about their privacy and that something may happen just because they are consulting with a lawyer.

Here is an example of how you might introduce yourself and try to put a client at ease:

How are you feeling about this meeting? Is there anything I can do to make it easier for you?

I run all of my meetings the same way, and I will explain that to you now so you know what to expect.

First, I would like to hear what has happened. As we go through it, I may ask you questions to get more information, and if I think you are getting off track or I don't understand the relevance of information, I may interrupt so we can stay focused.

Next, I will explain the law to you and how it applies to your situation. You can ask questions then or anytime that feels right to you.

Then we will review your options, and the pros and cons of each option, together.

And then we will pick a path and make a strategy together. You will leave here with a plan, or at the very least, a couple of options to consider.

As we have limited hours, we should consider how I can provide the most value to you. We can discuss at the end of the meeting how you want me to spend my time.

Do you have any concerns or worries about the meeting or the plan? [Address them] We can take a break at any time.

After this introduction you may feel able to ask the client what their ideal outcome looks like. What is their goal? Do they want to stay at work with the harassment stopped? Do they want to leave their job with some compensation? Some clients cannot address this at the outset of the meeting, but for many it is a good place to begin and can help to frame the rest of the meeting and strategy. If you do not address this point at the outset, circle back to it later in the meeting.

3. Listen to the Client

If the client has a certain point in their story where they would like to start, let them begin with that. Depending on where they start and the flow of the narrative, you may want to bring them back to the beginning at an appropriate point. The relevant starting point in most cases is when they started their employment. It can be useful to refer to any documents that they provided in advance or brought with them as you discuss the related events.

Some clients need direction and assistance, with reminders of where they left off. If a client is struggling to give a chronological account of events, make a note of your questions, let them finish their thought or story, and then circle back for more detail.

4. Ask About the Client's Story

You will need certain key information to assess a client's case. Ask them about:

- their working relationship or interactions with the harasser;
- the relative positions between them and the harasser in the organization (e.g., power imbalances);
- details of the workplace sexual harassment/sexual violence (what, where, when);
- witnesses or people told contemporaneously about the incident;
- the impact the harassment had on them; specifically, did they:
 - see a doctor or other healthcare provider;
 - take any time off work;
 - suffer symptoms of any kind;
 - find the situation at work or their performance at work was negatively affected;
 - experience discomfort;
 - find themselves treated differently, demoted, or sidelined; or
 - get fired?

If you did not address the client's ideal outcome or goal at the outset, do so now.

5. Explain the Law and Legal Assessment

You have to give the client some legal coaching. This is when the notepad and pen you brought for the client come into use. Most lawyers find a plain language approach to writing and speaking is challenging but it is crucial for legal coaching. Invite questions from the client throughout and check in frequently to confirm they understand what you are saying. Review the three-part test from *Janzen v. Platy* and explain each segment of the test. Confirm that the client understands the test and work with them to apply it to their situation. Review the various legal schemes that can apply to their case, and work through them to assess each one for fit, and the legal tests that apply under each. Use your discretion about schemes that seem obviously not applicable. It may be useful to mention them briefly rather than reviewing them in detail.

The Three-Part Test for Sexual Harassment

Janzen v. Platy [1989] 1 SCR 1252 sets out a three-part test for sexual harassment. In essence, the conduct must:

1. be of a sexual nature,
2. be unwelcome, and
3. result in adverse consequences for the complainant.

A good approach to talking about the law can be to explain the legal concept in abstract terms first and then apply it to your client's situation. The client may find it easier to understand if you contrast their case with a hypothetical one that has a different legal assessment.

Make a practical assessment of what financial and other outcomes there could be under the various legal frameworks, and then review some negotiated settlements and what a reasonable settlement might include (look at both financial and other outcomes). Use your calculator to walk through the calculation of damages with your client.

6. Discuss the Legal Options

Based on the legal assessment, some legal frameworks will apply better than others. It is impossible to create a complete catalogue of options, as every client's situation has both unique facts and unpredictable aspects. Collaborate with the client to compile the most complete list of options that you can come up with and then review them. Seek their ideas and input, and expressly acknowledge that they, not you, are the expert on their situation. Explain that the options are not mutually exclusive and that the client can pursue several either in parallel or in series. As you review each option, discuss the pros and cons in the context of the client's goal or ideal outcome.

The options include:

- Do nothing. This is always an option. Discuss the pros and cons of doing nothing.
- Raise the matter informally internally at work.
- Make a formal internal complaint.
- Send an email written by the client which may be reviewed, or ghost-written by counsel, about the matter, asking that it be addressed internally.
- Send a demand letter about the matter from counsel, asking that it be addressed internally.
- Start legal action(s).
- Send an email written by the client and reviewed, or ghost-written by counsel, about the matter, seeking severance package.
- Send a demand letter about the matter from counsel, demanding severance package.

When a client is weighing their options, remind them about the limited funding for legal services offered under SHARP. Many clients want "a letter from a lawyer." While you

may be able to have the consultation meeting, review the materials, and write a demand within the five-hour limit, it is very unlikely that any negotiation would conclude within those five hours. Even with a five-hour extension, a demand letter and negotiation on your letterhead could easily use all of the 10 hours, leaving no time to help the client through any legal processes. A ghost-written email (or email the client writes and you review) is a better use of time. It should be written in a simplified, plain language form, rather than as a formal demand letter, and should appear as if the client had written it. If you can provide the client with an understanding of the range of reasonable resolution outcomes, they may be able to review the employer's response and respond without further legal advice.

See [Chapter 28: Legal Coaching: Guiding Self-represented litigants to advance their case](#), for an example of a ghost-written demand.

7. Make a Plan and Fix an End Goal of Service

In most client consultations, a clear best option—or perhaps a top two or three—will emerge. Ideally, by the end of the first meeting with the client you will have a step-by-step plan. Discuss with the client how to make best use of the time available, what the client can do themselves, and where they anticipate needing assistance. For example, a client may be able to draft the complaint or demand letter themselves and ask you to review it, assist with calculating claims, or provide relevant case law to support their claim. They may be able to attend mediation with a support person and could benefit from understanding the process and the value of their claim, receiving tips about negotiation, and having assistance in reviewing the release. Depending on the client, you may be able to work with them during the meeting to ensure they have notes on the options, time limits, and overall plan. If they are unable to make notes, send a brief follow-up email summarizing the plan for them and listing links to self-help information online and forms for starting legal actions, information about limitation periods and filing deadlines, and clear statements about what each of you will each be responsible for doing.

Tips for Interviewing Clients

- If your client is unable to stop talking, or speaks very rapidly, they may need to be gently interrupted from time to time and reminded to slow down so you can take notes.
- If your client responds very slowly to questions, or appears to not respond, you may need to pause without commenting to allow them time to gather their thoughts.
- If your client gets stuck on a topic and is unable to move forward from something unrelated to the matter at hand, remind them there is only a certain amount of time available. Let them know you are there to help with the one issue you are there to address, refocus the conversation by asking them to respond to a few specific questions.

- If your client struggles to communicate a detailed narrative, you may need to ask specific questions to prod for more information. It may be helpful to ask them if there is someone who you can call to get more details or to corroborate their information.
- If your client gets agitated, angry or upset, it may help to take a brief break (time and situation permitting).
- See also [Chapter 3: Trauma-informed Practice](#).