



INFORMATION SHEET

Gendered violence: Sexual harassment

This information sheet is intended to assist persons conducting a business or undertaking (PCBUs) to prevent and respond to incidents of workplace gendered violence.

Background

Exposure to psychosocial hazards, including gendered violence, poses risk of significant harm to the psychological and physical health of workers. Under the *Work Health and Safety Act 2020* (WHS Act), PCBUs must ensure, so far as is reasonably practicable, the health and safety of workers they engage or cause to be engaged. These obligations include controlling workplace risk factors that increase the risk of workers' exposure to psychosocial hazards, such as gendered violence.

The [*Respect@Work: Sexual Harassment National Inquiry Report*](#) published by the Australian Human Rights Commission in 2020 identified trends in relation to the prevalence of sexual harassment in Australian workplaces; it is estimated that around one third of people reported exposure to workplace sexual harassment in the previous five years. This report identified workplace settings which lead to a higher risk of sexual harassment, including those with a male-dominated workforce or with a high level of worker contact with customers, clients or patients.

Summary of hazard

Gendered violence at work is any behaviour, directed at a person or that affects a person, because of their sex, gender or sexual orientation, or because they do not adhere to socially prescribed gender roles, that creates a risk to health and safety. Sexual harassment can be by a co-worker or manager, or by a third party such as a client, patient or the public. Types of work-related gendered violence can range in severity from sexual harassment, through to sexual assault. This information sheet is designed to provide guidance on managing the risk of exposure to sexual harassment as a workplace psychosocial hazard. Please refer to the *Information sheet – Gendered violence: Sexual assault* for further information on managing the risk of workplace sexual assault.

Sexual harassment includes any unwelcome or inappropriate behaviour of a sexual nature, where a reasonable person, having regard to all the circumstances, would expect the person being harassed to be offended, humiliated or intimidated. Some forms of sexual harassment are also a criminal offence. It can include:

- unwelcome touching, hugging, cornering or kissing
- inappropriate staring or leering
- suggestive comments or jokes
- using suggestive or sexualised nicknames for co-workers
- sexually explicit pictures, posters or gifts
- circulating sexually explicit material
- persistent unwanted invitations to go out on dates
- requests or pressure for sex
- intrusive questions or comments about a person's private life or body
- unnecessary familiarity, such as deliberately brushing up against a person
- insults or taunts based on sex
- sexual gestures or indecent exposure
- following, watching or loitering nearby another person
- sexually explicit or indecent emails, phone calls, text messages or online interactions
- repeated or inappropriate advances online
- threatening to share intimate images or film without consent.

Sexual harassment at work is not limited to people sharing the same workplace. It can occur at work-related events, at employer-provided accommodation and by phone, email or online (such as through social media platforms). Sexual harassment at work isn't always obvious, repeated or continuous; it can be a one-off incident.

Sexual harassment is a workplace hazard due to the harm it can cause to the person experiencing it and to anyone witnessing the behaviour. The severity of the impact of sexual harassment can vary and potentially lead to a number of significant physical and psychological outcomes for affected persons, including:

- psychological injuries including depression, anxiety and post-traumatic stress disorder (PTSD)
- physiological health affects (e.g. sleep, appetite, muscular tension)
- feelings of isolation, social isolation or family dislocation
- loss of confidence and withdrawal
- suicidal thoughts.

Contributing factors

There are a number of individual, organisational and work environment factors that contribute to the risk of sexual harassment at work, including:

- poor understanding among workplace leaders of the nature, drivers and impacts of sexual harassment
- a workplace culture that supports or tolerates sexual harassment, homophobia and sexism
- work involving interaction with clients/customers, such as the retail and hospitality sectors and the health care and social assistance industry
- low worker diversity, including gender imbalances in the workforce and management
- workplaces organised according to a hierarchical structure
- use of alcohol in a work context
- isolated workers, living in employer provided accommodation or working from remote locations with limited supervision
- small workplaces with a high degree of informal and personal interactions.

Some groups are also more at risk of experiencing sexual harassment at work. The factors which increase the risk of exposure include:

- gender – women are significantly more likely to experience sexual harassment than men
- workers under 30 years of age
- workers who identify as lesbian, gay, bisexual, transgender, intersex, queer or asexual (LGBTIQ+)
- Aboriginal or Torres Strait Islander workers
- workers with a disability
- workers from culturally and linguistically diverse backgrounds
- migrant workers or temporary visa holders
- people employed in insecure working arrangements, such as casual or labour hire employment.

The interaction of these organisational, work environment and individual risk factors increases the likelihood of exposure to sexual harassment and other inappropriate workplace behaviours at work.

Incidents of gendered violence including sexual harassment are significantly underreported by workers due to a number of factors, including fear of negative repercussions, reporting and investigation processes that are not suitable for this type of hazard and a belief it will make no difference. For this reason, it is essential not only to encourage incident reporting, but proactively identify factors which increase the risk of sexual harassment, and control these factors as far as is practicable.

Risk management

A PCBU is required to eliminate or minimise the health and safety risks of sexual harassment in the workplace so far as is reasonably practicable. Workers also have a duty to take reasonable care to ensure that their behaviour does not adversely affect the health or safety of other people.

All workplaces need to apply a risk management process by:

- identifying the hazards
- assessing the associated risks
- implementing control measures to eliminate or minimise risks
- regularly reviewing control measures to ensure they remain effective.

Identifying hazards and assessing risks

An officer is a person who has the ability to make, or participate in making, decisions that affect the whole, or substantial part, of a PCBU or its financial standing. For more information, see the [*Interpretive guide: The health and safety duty of an officer*](#).

Officers are required to proactively seek information on hazards in the workplace, including sexual harassment and gendered violence. Ways to gather information include:

- analyse workplace data including sick leave utilisation, exit interview data, worker's compensation applications, grievances and incident reports
- observe the culture of the workplace to see whether sexual harassment is accepted as normal behaviour e.g. sexual or gendered jokes and teasing are part of daily working life
- conduct regular anonymous worker surveys to evaluate workplace culture and worker exposure to sexual harassment, or behaviours that have caused discomfort
- consult with health and safety representatives (HSRs) and worker representatives, if you have them, about whether concerns have been raised by workers.

Risk assessment involves determining the likelihood that someone will be harmed by sexual harassment, taking into account potential exposure to the organisational and environmental risk factors identified in the hazard identification process. Consideration should be given to the following:

- How often are particular tasks done? Does this make harm more or less likely to occur?
- Has gendered violence, including sexual harassment, happened before in this workplace? If so, how often, where and what contributory factors may still be present?
- Are there workplace factors which may increase risk, for example low worker diversity, use of alcohol in a work context, or an authoritarian organisational culture?
- Are there industry specific risk factors for sexual harassment? For example, interaction with higher risk members of the public and/or clients, or isolated work?
- How is the online working environment used? Are workers using social media for work purposes? How do workers interact with each other, managers and third-parties?

Where workers are at risk of sexual harassment from people external to the workplace, such as customers, clients, patients or members of the public, inspecting the physical work environment for security risks, and identifying work practices which might increase risks is recommended. Further information on managing risks associated with violence or aggression from external parties can be found in the [*Code of practice: Violence and aggression at work*](#).

Eliminating or controlling the risks

To address exposure to psychosocial hazards such as sexual harassment, preventative controls should be implemented with regard to all organisational and work environment factors that may increase the likelihood of exposure. This includes taking into consideration those workers and groups who may be at greater risk of exposure. There must also be systems in place to monitor the effectiveness of these controls and to make changes as required. Some controls relevant to this issue include:

- establishing and maintaining a respectful and inclusive workplace culture where disrespect and incivility is not tolerated. Leadership, values, language, attitudes and interactions all contribute to a respectful and inclusive workplace culture
- prioritising wellbeing and support to workers who report sexual harassment and using an approach centred around the affected person when investigating a report of sexual harassment
- implementing workplace behaviour policies and practices that promote a respectful and inclusive workplace culture from all levels of the organisation – policies should include a clear statement that sexual harassment or assault will not be tolerated, including from third parties such as clients
- applying appropriate consequences for sexual harassment misconduct, such as disciplinary action consistent with other workplace misconduct, and accountability for managers, to create a safe and respectful workplace free from sexual harassment
- implementing security features in high risk areas, for example CCTV, security personnel or duress alarms
- providing information, instruction, training and supervision to support the overall prevention strategy, for example training in standards of behaviour, sexual harassment and how to intervene as a bystander, as well as training for first aiders and managers in relation to responding to reports of sexual harassment
- using recruitment and promotion strategies to create a diverse workforce
- implementing a policy and operational processes to ensure any consumption of alcohol is controlled, and alcohol is not consumed to excess, at workplaces, work-related accommodation and work events
- providing support for affected persons, such as an employee assistance program (EAP)
- monitoring and reviewing the effectiveness of control measures
- consulting, cooperating and coordinating with other businesses you work with or share premises with about managing this risks, for example how security will be managed in common areas
- ensuring a safe working environment for workers during travel, including when workers are in a vehicle together, at conferences, off site, at client or customer premises and any other location where work is performed
- refusing service to third parties with a history of sexual harassment against workers, or if that is not practicable implement additional control measures such as additional staff or security
- training workers and managers in how to deal with difficult third parties including how to escalate the response.

PCBUs can encourage workers to report sexual harassment by providing reporting systems which support a timely response to psychosocial hazard exposures. These reporting systems should be well promoted and accessible to all personnel, especially those who may be at higher risk of exposure. This may be done by:

- providing workers with a range of accessible and user-friendly ways to report sexual harassment informally, formally, anonymously and confidentially
- talking to workers to make sure they understand how to report sexual harassment or behaviours of concern and the support, protection and advice available
- training key workers (contact persons) to receive reports of sexual harassment and give support and advice
- helping workers understand the process of how reports of sexual harassment will be dealt with
- implementing systems to prevent retaliation and victimisation of people involved in reports of sexual harassment.

Incident response

Sexual harassment is best managed by responding as soon as possible after suspecting or becoming aware there is a problem. If an exposure to a psychosocial hazard such as sexual harassment does occur controls should be in place to reduce the impact of the hazard exposure, support the psychological health of the people affected and assist in their recovery or return to work if required.

Individual reactions to gendered violence such as workplace sexual harassment can be delayed and continue for a long time after the incident. If the incident and workers' reactions are not actively managed, the impact of the incident on individuals and the organisation can be significant. Some organisations offer one or more contact officers as a first point of contact for workers who experiencing or witnessing sexual harassment; alternatively, early access to psychological support services should be prioritised as this can assist with harm mitigation.

PCBUs should create and maintain a supportive work environment in which workers feel safe to discuss their concerns about any inappropriate workplace behaviour which could cause harm to health.

Workplace investigations

As with any workplace incident, you should review your risk management systems after a reported incident, to identify and address factors that may have increased the risk of sexual harassment, evaluate what worked and identify areas for improvement. Consider the following:

- Privacy and confidentiality must be managed when keeping information and records.
- Investigate as soon as possible after reports of sexual harassment, so that you can gather information while the people involved can remember events and the order in which they occurred.
- Collect information such as what occurred, where it occurred and the circumstances by conducting interviews, reviewing any written reports, training records and workplace policies.
- Identify contributing factors by considering all aspects of the incident such as the environment, work tasks, systems and procedures, responses and people involved.
- Review the risk control measures to identify if they worked as intended and how they could be improved. This process is best undertaken in consultation with HSRs if you have them.

Any conclusions you reach in relation to contributing factors and risk control measures to change or implement should be documented and communicated to all relevant parties, such as HSRs, health and safety committees and affected workers. It is important to de-identify information communicated within the organisation and to maintain the privacy and confidentiality of affected workers.

In response to a reported incident of sexual harassment, workplace investigation activities should focus particularly on contributing organisational and work environment risk factors, the frequency and likelihood of repeat exposure to the hazard, and the identification of controls that can assist in preventing recurrence of workers' exposure to these hazards. These factors can be assessed without identifying or requiring the direct involvement of the affected person. Additionally, records should be managed so that the confidentiality of persons reporting gendered violence, and the respondent(s), is maintained.

Consideration should be given to the welfare of all parties involved in a report of sexual harassment. This may include the provision of support and consideration for the management of the alleged perpetrator and their employment so as not to cause disadvantage to that person. Standing down parties who are accused of sexual harassment without taking steps to identify factors which may have contributed can compromise the ability of PCBUs to provide a safe work environment.

Notification to WorkSafe

Sections 36 and 38 of the WHS Act provides that certain injuries and incidents must be reported to the regulator immediately after becoming aware of the incident. If the workplace sexual harassment causes injuries of a type specified in the WHS Act, then the incident is notifiable.

Additionally, for sites to which the WHS Mines Regulations apply, there is a requirement that the regulator is notified of reportable incidents, including a workplace incident that could have caused serious harm to a person (r. 675V, with definitions provided in r. 5). More information is available in the [Information sheet – Gendered violence: Notification of sexual harassment and/or assault to Mines Safety](#).

Workers and other persons affected by workplace sexual harassment can also report any incidents or concerns to WorkSafe directly on 1300 307 877 or via wscallcentre@dmirs.wa.gov.au

Role of WorkSafe

WorkSafe receives and responds to notifications and complaints about workplace sexual harassment. As a risk based regulator, WorkSafe makes decisions about which matters to investigate, based on its *Compliance and enforcement policy* and *Triaging policy*. An education and information approach is used for matters that are not referred for investigation. All reports are recorded and the data is analysed to inform WorkSafe's ongoing compliance work.

WorkSafe investigations into reports of gendered violence, including sexual harassment, focus on the contributing organisational and work environment factors and compliance of the PCBUs with WHS laws in relation to these hazards. WorkSafe inspectors take into consideration the impact of enquiries on affected workers and the sensitivity of the information that may be required from the duty holder.

To establish whether duty holders, including PCBUs or workers, are meeting WHS legislative requirements, WorkSafe focusses on workplace risk factors that may increase the likelihood of gendered violence occurring. This may require contacting affected persons and providing them with optional invitations to speak with inspectors. These enquiries with the affected person, focus on the controls available and supports provided relevant to the hazard, rather than the detail of what the person experienced. WorkSafe inspectors can arrange for the WorkSafe Family Support Liaison Officer to contact the affected person and provide assistance in getting any support they need.

Actions taken by WorkSafe are targeted at preventing and managing psychosocial hazards in the workplace and may not directly impact an individual's specific situation. Actions taken may include providing the workplace with information, issuing notices to require the workplace to make improvements, or (less commonly) taking evidence for a potential prosecution. WorkSafe does not provide a mediation or conciliation service, however, the [Equal Opportunity Commission](#), [Fair Work Commission](#) or the [WA Industrial Relations Commission](#) may be able to provide this depending on the circumstances.

Further information

Department of Mines, Industry Regulation and Safety

- [Mentally healthy workplaces hub](#)
- [Work health and safety laws](#)
- [Code of practice: Mentally healthy workplaces for fly-in fly-out \(FIFO\) workers in the resources and construction sectors](#)
- [Code of practice: Violence and aggression at work](#)
- [Code of practice: Workplace behaviour](#)
- [Code of practice: Psychosocial hazards in the workplace](#)
- [Guideline: Accident and incident reporting](#)
- [Information sheet: Gendered violence – Sexual assault](#)

Safe Work Australia

- [Guide: Preventing Workplace Sexual Harassment](#)

Australian Human Rights Commission

- [Australian Human Rights Commission website](#)
- [Respect@Work Report: Sexual Harassment National Inquiry Report \(2020\)](#)