

FACT SHEET

Workplace bullying and inappropriate conduct

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This fact sheet is to assist mine operators and workers to understand their duties and responsibilities in relation to workplace bullying and inappropriate conduct.

Workplace bullying

Workplace bullying is repeated, and unreasonable behaviour directed towards a worker or a group of workers that creates a risk to health and safety.

It can occur in any workplace and can be harmful to you if you experience or witness it.

Some examples of potential workplace bullying include:

- abusive or offensive language or comments
- aggressive and intimidating behaviour
- belittling or humiliating comments
- practical jokes or initiation
- unjustified criticism or complaints
- deliberately excluding someone from workplace activities
- withholding information that is needed for work.

However, a single incident of unreasonable behaviour is not considered to be workplace bullying; but it may have the potential to escalate and shouldn't be ignored. The behaviour must also create a risk to health and safety. This can sometimes involve:

- dangerous acts which could harm someone
- causing a person to suffer from stress, anxiety, depression, fear or nausea.

What is not considered workplace bullying?

It is reasonable for managers and supervisors to allocate work and to give fair and reasonable feedback on a worker's performance. These actions are not considered to be workplace bullying if they are carried out lawfully and in a reasonable manner, taking the circumstances into account.

Examples may include but are not limited to:

- changes to rosters for operational reasons
- performance management
- modifying a worker's duties including transferring or re-deploying the worker
- refusing a worker permission to return to work due to a medical condition.

Sexual harassment

Workplace sexual harassment⁽¹⁾ has impacts on the long term health effects for workers. Sexual harassment can be a single event or repeated and can consist of:

- unwelcome touching, hugging, cornering or kissing
- inappropriate staring or leering
- suggestive comments or jokes
- using suggestive or sexualised nicknames for co-workers (or client's towards a worker)
- 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 physical contact
- 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

actual or attempted rape or sexual assault. Mine operators and workers are reminded that workplace bullying, and sexual harassment can be an offence under the Work Health and Safety Act 2011 (WHS Act). An investigation may find that there has been a breach of the WHS Act and significant penalties can apply to persons conducting a business or undertaking, officers of the corporation and individuals. At the national level, sexual harassment is unlawful under the Sex Discrimination Act 1984 (Cth).

Workers should also be aware that they can be held accountable for their behaviour under the work health and safety laws.

Sexual assault and physical violence.

Sexual Assault and physical violence are a serious criminal matter which can be either a single or repeated occurrence and be both physical and psychological in nature. It is also not just defined by physical face to face contact, work related sexual and physical violence can also include threatening and intimidating behaviour via any form of electronic communication such as social media, text messages and email ⁽¹⁾. These are criminal matters and all cases need to be immediately reported to police.

Mine operators and workers are reminded that sexual assault and physical violence is one of the most extreme forms of unacceptable workplace behaviour. In addition, if the offence meets the criteria of a notifiable incident under the *Work Health and Safety (Mines and Petroleum Sites) Act 2013* and the *Work Health and Safety (Mines and Petroleum Sites Regulation 2014)* than all incidents must be reported to the NSW Resources Regulator.

Prevention and management of bullying and inappropriate conduct in the workplace

Workplace bullying and inappropriate conduct is best dealt with by taking steps to prevent it from occurring and responding quickly if it does occur.

Mine operators should:

- implement a comprehensive workplace bullying and inappropriate conduct policy
- implement clear reporting frameworks and processes
- provide comprehensive training to staff about the mine's policies, policies and procedures
- provide comprehensive training to staff about building a respectful workplace behaviour
- implement early intervention strategies
- undertake independent and impartial investigations into complaints
- inform complainants about the outcome of investigations
- offer an employee assistance program (EAP)

- ensure performance management processes are clearly documented.

The [Code of practice, Managing psychosocial hazards within the workplace](#) provides a detailed process to responding to a report of a psychosocial risk or incident.

Reporting Workplace bullying and inappropriate conduct.

Everyone in a workplace have a right to be safe at work this includes, bullying and harassment, sexual harassment, violence, and sexual assault. If you have experienced or witnessed workplace bullying and inappropriate conduct, there are steps which can be taken within the workplace this includes:

- referring to the sites policy and procedures and following the required processes
- talking to someone with in the workplace that is trusted including supervisors, managers, fellow work colleagues or your health and safety representative
- Police should be contacted if you are assaulted or threatened.

Contact can also be made with the Resources Regulator by calling 1300 814 609 or by heading to the [bullying and inappropriate conduct notification](#) on the Resources Regulator webpage.

Mine operators and workers are reminded that they are not permitted to undertake discriminatory, coercive, or misleading conduct against workers who report a WHS matter under Part 6 of the Work Health and Safety Act⁽³⁾. This includes psychosocial risks or incidents. In addition, mine operators are reminded of their obligations to report if the incident is classified as a notifiable incidents in the *Work Health and Safety Act 2011* and the *Work Health and Safety (Mines and Petroleum Sites) Act 2013*.

Further information

See relevant guidance material and information, including:

- Safe work NSW – [Code of Practice: Managing psychosocial hazards at work](#)
- SafeWork NSW -[Workplace Bullying](#)
- SafeWork NSW -[Sexual Harassment](#)
- Safe Work NSW- [Harassment](#)
- Safe work NSW- [Violence](#)
- Safe Work Australia- [Guides](#)
- NSW Resources Regulator: [Bullying and inappropriate conduct](#)

References:

- (1) Safe Work NSW, Sexual harassment (<https://www.safework.nsw.gov.au/hazards-a-z/sexual-harassment>)
- (2) Safe Work Australia, Sexual Harassment (<https://www.safeworkaustralia.gov.au/safety-topic/hazards/workplace-sexual-harassment>)
- (3) Safe Work NSW, Code of Practice, Managing psychosocial hazards at work (2021) (https://www.safework.nsw.gov.au/_data/assets/pdf_file/0004/983353/Code-of-Practice_Managing-psychosocial-hazards.pdf)

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