The minerals industry is committed to eliminating sexual harassment in its workplaces and has adopted a national Industry Code that provides clear expectations on members to establish both preventative and response measures to address sexual harassment.

This document is part of the MCA Industry Toolkit that has been developed for our members and their employees and comprises a suite of Fact Sheets, Guidance and Templates.

GUIDANCE

Board reporting framework

Research commissioned by the Australian Council of Superannuation and Investors and undertaken by the Australian Human Rights Commission (AHRC), led by Sex Discrimination Commissioner Kate Jenkins was released on 16 June 2021[1].

Key findings of the research include:

- 64 per cent of companies have a mechanism that identifies and mitigates risk factors for sexual harassment.

- 19 per cent of companies report that the Board has primary accountability for the prevention and response to sexual harassment.

- While 60 per cent of respondents indicate that their company's Executive Management Team is required to undergo training on good governance and sexual harassment, only 19 per cent of respondents reported that directors undergo training on good governance and sexual harassment.

- A wide variety of data is collected that is relevant to sexual harassment.

- There is opportunity to improve how data is used in to prevent and address sexual harassment. Board discussions are more likely to be reactive to issues rather than proactive.

- Less than one third of companies publicly report information relevant to sexual harassment in line with the ASX Corporate Governance Principles, and 14 per cent of respondents do not report externally at all.

Boards should focus on oversight of prevention of as well as response to sexual harassment. Boards should take primary responsibility and accountability for ensuring the company has in place a governance framework for sexual harassment, and for monitoring performance against this framework across the organisation.

Board safety and health metrics

There are a range of metrics reported to Boards on safety, with detailed reviews conducted by the relevant committee (for example, the Health, Safety and Environment Committee) as required.

Sexual harassment reporting should be included in safety reporting to provide Boards with a full picture of the physical and psychological safety culture in their workplace.

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[1] Sexual Harassment in ASX200 companies: New research https://acsi.org.au/media-releases/sexual-harassment-in-asx200-companies-new-research/

Consistent with safety, it is incumbent on Board members to request this information and interrogate 'zero' numbers because we know under-reporting is common: low or no reporting is a more likely scenario than low or no incidents.

The table below describes current safety reporting requirements in typical ASX entities and aligns this against a potential framework for reporting to Boards on sexual harassment (Reproduced courtesy of Champions of Change Coalition, Disrupting the System: Preventing and responding to sexual harassment in the workplace (Sept 2020)[2].

Safety metric	Sexual harassment metric

Fatality/Significant Injury
 	
• Reported to the Board within 24 to 48 hours of incident occurring
• Detailed follow-up report provided along with management presentation which includes:
  ○ Details of the event
  ○ Initial management response
  ○ Root cause analysis
  ○ Corrective actions.
	Significant incident defined as:
	
	• Serious incident, e.g. sexual assault
	• Incident involving a senior employee or where there is legitimate public or stakeholder interest
	• High profile incidents.
	
	Reporting requirement:
	
	• Reported to the Board within 24 to 48 hours of incident
	• Ongoing updates at key points of the process, as required, until resolution
	• Remains on monthly report for 12 months after the incident close to understand restorative action taken for all parties (e.g. behaviour change counselling, implications for bonus/pay review) and long-term impact (e.g. resignation).
	
	Reporting to include:
	
	• Details of the incident
	• Initial management response
	• Root cause analysis
	• Corrective actions including making inquires about additional impacted people
	• Immediate outcome of the investigation
	• Value of any settlements
	• Restorative action taken for all parties
	• Long-term impact monitoring.

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[2] Champions of Change Coalition, Disrupting the System: Preventing and responding to sexual harassment in the workplace (Sept 2020), https://championsofchangecoalition.org/wp-content/uploads/2020/09/Disrupting-the-System_Preventing-and-responding-to-sexual-harassment-in-the-workplace_CCI_web-FINAL.pdf (page 98-99)

Medically Treated Injury/Lost Time Injury/Recordable Case

- Reported to the Board monthly

- Relates to an injury that has occurred and requires medical treatment, time off work or restricted duties

- Reporting seeks to understand whether the safety management system is working and uncover systemic issues and must include:
  - o Number of incidents
  - o Types of incidents
  - o Days lost by employee (an indicator of severity).

Near Miss/Potential Hazard

- Reported to the Board monthly

- Relates to something that has occurred which hasn't resulted in injury but could have, can include first aid treatment

- Reporting seeks to understand the cultural clues to the potential of injury or harm and must include:
  - o Number of incidents
  - o Types of incidents.

Recordable incident defined as:

- Incident that requires formal investigation

- Where either party requires time away from work, i.e. respondent stood down, stress leave.

Reporting requirement:

- Reported to the Board monthly.

Reporting to include:

- Number of investigations: open, closed

- Key themes/issues

- Length of investigation to resolution

- Number of employee days lost, e.g. standdown, stress leave

- Outcomes of investigation

- Corrective actions including risk assessments

- Value of any settlements

- Restorative action taken for all parties

- Long-term impact monitoring.

Cultural indicators defined as:

- Issues informally raised, not requiring investigation

- Information derived from a range of tools the organisation may employ depending on the maturity of feedback systems in place, including:
  - o People and Culture (HR) operations
  - o Whistleblowers
  - o Employee Assistance Program reports
  - o Online reporting tools for peer feedback on behaviour
  - o Internal advisors, e.g. Contact Officers
- Results of climate, engagement or pulse surveys; everyday sexism surveys.

Reporting requirement:

- Reported to the Board monthly

- Supported by a detailed discussion with the CEO speaking to key aspects of the reporting every six months.

Reporting to include:

- Number of incidents

- Key themes

- Corrective actions including risk assessments.