



MCA INDUSTRY TOOLKIT

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

Possible outcomes of an investigation

There can be a number of different outcomes of an investigation. An organisation should clearly outline the actions that may result if an individual is found to have perpetrated sexual harassment, victimisation of a person reporting or witness to an incident, or in the rare case of a vexatious claim.

These actions must be communicated to the workplace and reinforce that the application of specific actions will be fair and proportionate. More than one action may be applied.

The following are examples of what may occur following the conclusion of an investigation and is adapted from the Champions of Change Coalition¹. Organisations may choose some or all of the examples listed or describe particular actions to be included in workplace policies and procedures.

Consequences for offenders

- The decision about any outcomes of a sexual harassment investigation will take all the circumstances of the case into consideration including the seriousness of the behaviour, the context, the impact on the individual, the seniority of the offender and relevant industrial instruments.
- There are a range of outcomes and implications for a person's employment that might be considered once a report of sexual harassment is substantiated. This may include, but will not be limited to:
 - Requirement to participate in education or behaviour change coaching.
 - Disciplinary action against the person found to have engaged in harassment.
 - An apology from the offender (structured with support people).
 - Consequences for the position and remuneration of the offender such as demotion; transfer to another location; withholding remuneration increases or bonus payments; removal from sponsorship or high-potential talent or leadership programs; removal of leadership responsibilities.

¹ 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 93)

- Termination of employment.
- Removal of site access

Restorative actions for the individual impacted

- Work with the impacted person to understand and implement, where possible, any actions that may help their recovery from the incident, rebuild relationships at work and continue a successful career with the organisation.

Organisation action

- On an ongoing basis take steps to identify the potential risk of sexual harassment. After an incident, it may be necessary to undertake a review of a particular work site or environment and implement targeted interventions such as culture surveys and further education.
- Transparency of the existence of incidents and sharing de-identified case studies will ensure the organisation and its employees continue to build capability in preventing sexual harassment.

Reprisals and victimisation

- If any person is found to have victimised, harassed or taken reprisal action against people because they have intervened to stop sexual harassment, reported sexual harassment or participated in any inquires or investigations relating to an allegation of sexual harassment, they may be subject to separate disciplinary action.
 - This includes any action taken for one of those reasons that treats someone adversely, such as ostracising a colleague, reducing their shifts or overtime opportunities, giving them menial jobs, relocating them against their wishes, taking them off key client accounts/key projects, and giving them a poor performance review.

Information or claims without substance

- While claims without substance are rare, if any person is found to have knowingly provided false information, knowingly made allegations of sexual harassment without any substantive merit or for vexatious or malicious reasons, they may be subject to disciplinary action.