

RESPECT @WORK



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

Reporting sexual harassment

A positive reporting culture enables an organisation to address issues and prevent a repeat.

There are multiple avenues for reporting sexual harassment or concern about someone's behaviour,

Reports can be made by people directly impacted or others who observe or know of sexual harassment. Reports may also be made by employee representatives.

The Respect@Work Report¹ found that most people who experience sexual harassment never report it. Only 17% of people make a formal report or complaint about sexual harassment. People in the mining industry were comparatively more likely to (at 24%).

There are many reasons why there is significant under-reporting of sexual harassment and people will share their experience when they feel comfortable. It may take time to process what has happened and for people to feel ready to talk.

Where the drivers of under-reporting are within the control of an organisation, for example, concerns related to future employment and career advancement, confidentiality, reputation within the industry, systems and procedures can be put in place to address those drivers.

The National Industry Code requires organisations to develop a culture of respect that empowers individuals to raise concerns in a supportive and protected way.

Industry knows that honest, respectful and open communication is the key to eliminating sexual harassment.

Internal reporting

Letting the organisation know about sexual harassment is an important first step for a reporter and to allow the organisation to respond. A range of responses are available, from a formal investigation to more informal measures. Support, advice and early intervention should always be a priority, and they will also help the organisation understand what has happened, why prevention measures weren't effective and what additional controls are needed even if a formal investigation is not what is wanted by the individual involved.

Each organisation will have specified roles for incident reporting. Below are examples of specific roles (adapted from the Champions of Change Coalition, *Disrupting the System: Preventing and responding to*

¹ Respect@Work: Sexual Harassment National Inquiry Report (2020)

sexual harassment in the workplace (Sept 2020)²) within an organisation that can be set up to provide safe, respectful and confidential avenues for workers to report.

Safe and Respectful Workplace Leaders/Contact Officers

- Dedicated personnel with appropriate training who can listen to concerns, talk about options, advise where to get personal support, how to make a report to external authorities, and the different ways the organisation could help to resolve the issue.

Managers

- This can be a direct manager, or if that is not appropriate, any member of the leadership team.
- Managers can listen to concerns, talk about options, advise where to get personal support, how to make a report to external authorities, and the different ways the organisation could help to resolve the issue.
- Managers can also provide feedback to the person who engaged in the behaviour on behalf of the impacted person or support them to have a conversation with that person.
- In many cases a manager may need to refer the issue to the organisation's expert advisory team.

People and Culture/Professional Standards/Integrity Team

- These individuals can provide all of the above support and advice.
- In addition they can initiate a formal process to investigate, where appropriate (using an internal or external investigator), make formal findings and take disciplinary action where appropriate.

Anonymous reporting

- Some organisations may have an anonymous platform where an issue can be reported without any identifying knowledge.
- This gives an organisation awareness of an issue and can trigger specific broad actions such as increased workplace training and leadership reminders about appropriate behaviours.

External reporting

There are a range of avenues for workers to obtain support and information on sexual harassment outside of their workplace.

If dealing with a report of sexual harassment and discussing referral to other agencies, it is very important to respect the complainant's desired outcome and preferred way of managing the complaint.

Workers should be supported if they wish to contact the:

- Australian Human Rights Commission
- Relevant State Equal Opportunity Commission
- Relevant State Workplace Health and Safety Body
- Relevant State Police

² Champions of Change Coalition, Disrupting the System: Preventing and responding to sexual harassment in the workplace (Sept 2020) <https://championsofchangecoalition.org/resource/preventing-and-responding-to-sexual-harassment-resources/>

It is important to note that there are time limitations for lodging a complaint with an external body, for example within six months of the incident if the individual wishes the Australian Human Rights Commission to assist.

Depending on the circumstances, even if a matter has been referred to Police or another agency, the WHS Regulator may still be involved. For example, you may need to notify your state or territory WHS regulator if the incident is a 'notifiable incident'.

Organisations may also decide to contact the WHS Regulator or another agency for assistance and information. This will assist the organisation in assessing whether the existing risk controls to prevent sexual harassment are effective, if the response procedures worked the way they were supposed to and whether new risks have been identified that also need to be managed to prevent future incidents.

Reporting a crime

Acts such as indecent exposure, stalking, sexual assault and obscene or threatening communications (e.g. phone calls, letters, emails, text messages and posts on social media) may be offences under criminal law and should be referred to Police as well as managed under WHS laws and as employment matters.