



## 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

# Responding to a report of sexual harassment

There are a number of ways to respond to and resolve a report of sexual harassment. This will be influenced by the impacted person's person's wishes, the context and circumstance.

First and foremost is prioritising the safety and well-being of the impacted person.

The National Industry Code describes the response measures organisations have committed to.

Early intervention and informal pathways to achieve this should be prioritised and are the quickest way to acknowledge the behaviour, stop the behaviour and prevent it happening again.

An organisation has specific obligations when the circumstances of the issue mean it must take more formal steps to resolve the issue, such as a formal investigation or referring the matter to the police.

Decisions to escalate issues should be made after consideration of the views of the person impacted, the seriousness of the behaviour, the context, the seniority of the alleged offender, the impact on the individual, the risk to the psychological and physical safety of others, and the likelihood that the behaviour is also a criminal offence.

The below response and resolution options are reproduced courtesy of Champions of Change Coalition, *Disrupting the System: Preventing and responding to sexual harassment in the workplace* (Sept 2020)<sup>1</sup>.

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<sup>1</sup> 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](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 91-92)

<p><b>Early intervention</b></p>	<p>The objective of early intervention is to let a person know their behaviour is offensive, have the behaviour stop and prevent escalation or repeat behaviour. Responding to issues through early intervention may include:</p> <ul style="list-style-type: none"> <li>• Raise it with the person, if you feel safe and comfortable to do so.</li> <li>• Raise it with an observer, seeking help to speak to the person or intervene either in the moment or if it happens again.</li> <li>• We encourage observers and those who know of potentially offensive behaviour to:             <ul style="list-style-type: none"> <li>○ Intervene in a way that is comfortable for them and if they feel safe to do so, to redirect the conversation or stop the behaviour.</li> <li>○ If safe to do so, separate the offender from the situation, e.g. remove the offender before circumstances escalate.</li> <li>○ Speak up publicly/in the moment to address the comment or behaviour.</li> <li>○ Encourage the offender to reflect on their behaviour, including apologising to the person or people impacted.</li> </ul> </li> <li>• Seek advice or support from your preferred contact, e.g. your manager, peer contact, or your organisation's advisory/integrity team.</li> </ul>
<p><b>Informal pathways</b></p>	<p>The objective of an informal pathway is to provide the offender with the opportunity to stop their behaviour, ensuring they also get a clear message their behaviour is offensive and may constitute sexual harassment. It can provide a safe way for individuals to raise issues about behaviour without being identified.</p> <p>Informal pathways alert the organisation about the issue and understand what it needs to do to prevent escalation or repeat behaviour. Responding to issues through informal pathways may include:</p> <ul style="list-style-type: none"> <li>• A manager speaking to the offender about their behaviour.</li> <li>• Facilitating or mediating an open and respectful conversation between the parties.</li> <li>• An anonymous report.</li> <li>• Putting system changes in place to prevent further issues, such as moving or changing the shifts of the offender.</li> <li>• The organisation initiating further reviews to understand any underlying cultural issues and taking preventative action such as education.</li> </ul>
<p><b>Formal pathways</b></p>	<p>The objective of a formal pathway is to initiate fair and confidential inquiries is to fully understand the circumstances of a reported issue by impartial, capable internal or external investigators. It protects the person impacted from further harm by ensuring the person is safe and support is in place. The issue is documented, findings are made, proportionate disciplinary action can be taken and restorative action identified.</p> <p>Responding to issues through informal pathways may include:</p> <ul style="list-style-type: none"> <li>• Written statements and interviews about the incident.</li> <li>• Speaking to witnesses.</li> <li>• Gathering other relevant evidence.</li> <li>• Putting the allegations to the person and giving them the opportunity to respond.</li> <li>• Weighing up all the facts and making a decision about whether the behaviour has breached relevant policies and codes of conduct.</li> <li>• Ensuring there are proportionate consequences for substantiated sexual harassment.</li> </ul>

<p><b>External pathways</b></p>	<p>The objective of an external pathway is to provide the individual the choice to have the issues resolved by an independent, expert body that can assist the employer and the parties to reach an outcome or resolution. It is important to note that there are time limitations for lodging a complaint, for example, within six months of the incident if you wish the Australian Human Rights Commission to assist.</p> <p>Responding to issues through external pathways may include:</p> <ul style="list-style-type: none"> <li>• Participating in mediated discussions.</li> <li>• Parties agreeing to outcomes or resolutions, including compensation.</li> <li>• Escalating the issues to a formal Court or Tribunal if the matter cannot be resolved by conciliation.</li> <li>• Findings and determinations are usually made public.</li> </ul>
<p><b>Where the alleged behaviour may be a criminal offence</b></p>	<p>The most serious sexual harassment may also be considered an offence under Criminal Law. In that instance, it may be appropriate to refer the issue to the police. We will assist you in whatever way we can, such as contacting the police on your behalf or accompanying you to the make the report should you choose to do so.</p>