



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

eSafety and social media

The Office of the eSafety Commissioner (eSafety)¹ operates several complaints and reporting schemes regulating online abuse. This may include workplace sexual harassment carried out via technology and social media.

eSafety also operates a reporting and civil penalty image-based abuse scheme, which provides support for Australians of all ages whose image or video has been shared or threatened to be shared without their consent².

eSafety also informally operates an adult cyber abuse scheme. This aims to assist adults who experience serious cyber abuse, where their circumstances do not fall within one of eSafety's complaints or reporting schemes, by providing information, guidance and support. Depending on the nature, context and severity of the online abuse, eSafety may also be able to draw on its cooperative arrangements with social media services to get the cyber abuse material removed.

Workers may experience sexual harassment via electronic media while at work, or when they are not at work, from risks which arise at the workplace. For example, if a worker receives offensive text messages after work from a colleague or client.

Companies can take action to reduce these risks in the workplace. For example, not requiring employees to use their private mobile phones or personal social media accounts to engage with clients.

Specific risks³ relevant to sexual harassment include:

- **Image-based abuse** - when an intimate image or video is shared without the consent of the person pictured.
- **Sexploitation** - a form of blackmail where someone threatens to share intimate images of you unless you give in to their demands.
 - Sextortion is a form of image-based abuse.
 - Depending on the situation, these demands could be for money, more intimate images or sexual favours.

¹ <https://www.esafety.gov.au/>

² *Enhancing Online Safety Act 2015* (Cth) pt 5A.

³ <https://www.esafety.gov.au/key-issues>

- **Unwanted or unsafe contact** - is any type of online communication that makes you feel uncomfortable or unsafe. It can be with a stranger or someone you know.
 - being asked inappropriate or personal questions
 - being sent offensive content
 - being asked to send intimate images or do things online that make you feel uncomfortable

- **Sending nudes and sexting** - while sharing intimate images or text messages may seem like innocent flirting, it can have serious social and legal consequences.
 - sharing of intimate images without your consent
 - It can also put you at risk of sextortion

If an employee reports an incident of sexual harassment via an electronic means, in addition to responding as a company, encourage them to:

- Report to the appropriate organisation
 - If on social media service or platform – report to them directly
 - Report it to eSafety

They provide a number of reporting options⁴, which can help you get abusive content removed or provide you with general advice and guidance.

- Collect evidence
 - It is helpful to collect evidence before the content is removed. Evidence can help you with the site or social media service it was posted on, and show the police and the courts exactly what happened.
 - Screenshots are a quick and effective way of preserving evidence.

Civil penalties⁵

The Enhancing Online Safety Act 2015 (the Act) established a civil penalties scheme to address the non-consensual sharing of intimate images, otherwise known as image-based abuse.

This scheme allows victims of image-based abuse to make a report (complaint or objection notice) to the eSafety Commissioner. In response to a report, they may take removal action and, in some cases, also take action against the person who shared, or threatened to share, an intimate image without consent.

In recognition of the serious and harmful nature of image-based abuse, the civil penalties scheme offers victims relief by helping to get intimate images quickly removed. There are also a range of civil remedies to hold the person responsible for the image-based abuse accountable.

Victims, or those authorised to act on their behalf, can report image-based abuse to the eSafety Commission by completing an online report form⁶.

eSafety may give an enforceable removal notice to the service on which the intimate image is shared, or to the person who posted the image, requiring them to remove the image.

In some cases, eSafety may take action against the person who shared, or threatened to share, intimate images. This action includes issuing a formal warning, giving an infringement notice and even seeking an injunction or civil penalty order from a court. An application for a civil penalty order must be made within 6 years of the person sharing or threatening to share the images.

⁴ <https://www.esafety.gov.au/report>

⁵ <https://www.esafety.gov.au/>

⁶ <https://www.esafety.gov.au/key-issues/image-based-abuse/take-action/report-to-esafety-commissioner>