

Prevention of Workplace Harassment Code of Practice 2004 – TOOL BOX TALK [notes only]

An approved code of practice is a practical guide to achieving the standards of health, safety and welfare required under the *Work Health and Safety Act 2011* (the WHS Act) and the *Work Health and Safety Regulation 2011* (the Regulation).

A code of practice applies to anyone who has a duty of care in the circumstances described in the code. In most cases, following an approved code of practice would achieve compliance with the health and safety duties in the WHS Act, in relation to the subject matter of the code. Like regulations, codes of practice deal with particular issues and do not cover all hazards or risks which may arise. The health and safety duties require duty holders to consider all risks associated with work, not only those for which regulations and codes of practice exist.

Workers have a duty to take reasonable care for their own health and safety and to take reasonable care not to adversely affect the health and safety of other persons. Workers must comply with any reasonable instruction and cooperate with any reasonable policy or procedure relating to health and safety at the workplace.

The WHS Act requires consultation, so far as is reasonably practicable, with workers who carry out work (or are likely to be) directly affected by a work health and safety matter. If the workers are represented by a health and safety representative, the consultation must involve that representative.

Sometimes there may be a shared responsibility for a health and safety matter with other business operators who are involved in the same activities or who share the same workplace. In these situations, you should exchange information to find out who is doing what and work together in a cooperative and coordinated way so that all risks are eliminated or minimised as far as reasonably practicable. Further guidance on consultation is available in the *Work Health and Safety Consultation, Coordination and Cooperation Code of Practice*.

Meaning of 'workplace harassment'

A person is subjected to 'workplace harassment' if the person is subjected to repeated [Behaviour is considered 'repeated' if an established pattern can be identified] behaviour, other than behaviour amounting to sexual harassment, by a person, including the person's employer or a co-worker or group of co-workers of the person that:

- (a) is unwelcome and unsolicited
- (b) the person considers to be offensive, intimidating, humiliating or threatening
- (c) a reasonable person would consider to be offensive, humiliating, intimidating or threatening.

'Workplace harassment' does not include reasonable management action taken in a reasonable way by the person's employer in connection with the person's employment.

Harassing behaviours can range from subtle intimidation to more obvious aggressive tactics. Detailed below are examples of behaviours that may be regarded as workplace harassment, if the behaviour is repeated or occurs as part of a pattern of behaviour:

- abusing a person loudly, usually when others are present
- repeated threats of dismissal or other severe punishment for no reason

- constant ridicule and being put down
- leaving offensive messages on email or the telephone
- sabotaging a person's work, for example, by deliberately withholding or supplying incorrect information, hiding documents or equipment, not passing on messages and getting a person into trouble in other ways
- maliciously excluding and isolating a person from workplace activities
- persistent and unjustified criticisms, often about petty, irrelevant or insignificant matters
- humiliating a person through gestures, sarcasm, criticism and insults, often in front of customers, management or other workers
- spreading gossip or false, malicious rumours about a person with an intent to cause the person harm.

There are bound to be occasional differences of opinion, conflicts and problems in working relationships – these are part of working life. However, if the workplace behaviour is repeated, unwelcomed and unsolicited, and offends, intimidates, humiliates or threatens a person, then workplace harassment exists and action must be taken to stop the behaviour.

Workplace harassment can occur between people in any direction within a workplace

What is not workplace harassment?

According to the definition, the following situations are not considered to be workplace harassment.

How workplace harassment can affect a person

There are a range of psychological and physical illnesses and injuries that an individual who continues to be exposed to workplace harassment may experience

How workplace harassment can affect a business

It makes good business sense to ensure workplace harassment is prevented or controlled. Workplace harassment can have significant human and financial costs for a business

1. If a PCBU has a duty or obligation under this Act, an officer of the PCBU must exercise due diligence to ensure that the PCBU complies with that duty or obligation.
2. Duties of workers

Risk management process

Workplace harassment can occur in any workplace, given certain circumstances. It is important that PCBUs apply the risk management process to prevent or control exposure to the risk of workplace harassment.

Identify the hazards via;

- personal observations (for example, assessment of workplace behaviours)
 - discussions with workers, including managers and supervisors, HSRs, HS committees and employee counsellors
 - anonymous organisational climate/worker opinion surveys
 - interviews with workers who leave (exit interviews)
- an analysis of human resource statistics, for example: increases in workplace harassment grievances or complaints increases in workers' compensation claims relating to workplace harassment

Indirect signs of harassment may include:

- changes in human resource management trends, for example:
- increases in levels of absenteeism and staff turnover
- increases in the use of employee counselling services
- workers leaving the organisation reporting dissatisfaction with working relationships
- negative results from organisational climate/worker opinion surveys
- the breakdown of relationships between workers, customers or management
- workers becoming withdrawn and isolated
- poor worker morale and erosion of loyalty and commitment.
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Factor	Issues
1. Likelihood of workplace harassment occurring in the workplace	<p>For example, to what extent do (a) organisational climate/worker opinion surveys, (b) discussions with workers or (c) personal observations suggest that workplace harassment is a problem?</p> <p>Are there factors that may increase the risk of workplace harassment occurring, present in your workplace? (See section 7.1)</p> <p>Does the workplace have any control measures currently in place to prevent or control exposure to the risk of workplace harassment, for example, a prevention policy and complaint handling system?</p> <p>How effective are these measures at preventing or controlling exposure to the risk of workplace harassment?</p>
2. Consequences of exposure to workplace harassment	Some of the possible consequences from exposure to workplace harassment are outlined in Section 2.

No single control measure will effectively prevent or control workplace harassment from occurring

Some of the benefits of training and education are;

1. offenders will become more conscious of their behaviour, how it may be perceived and the possible consequences of their actions. This may deter workplace harassing behaviours
2. workers will have a more accurate knowledge of what does and does not constitute workplace harassment
3. workers will become aware of the consequences of making malicious, frivolous or vexatious workplace harassment complaints
4. it can promote cultural change and a healthy and safe workplace
5. people who work at the workplace are informed and encouraged to take action against harassing behaviours.

Appendix 3: Methods to inform workers about policies and procedures

<p>There are a variety of different methods that PCBUs can use to ensure workers are aware, understand and take ownership of the workplace harassment prevention policy and complaint handling system. Some of these methods are detailed below.</p> <p>Options</p>	<p>Description</p>
<p>Distribute policies</p>	<p>Distribute a copy of the workplace harassment prevention policy and relevant sections of the complaint handling system to all workers. Translate the documentation into other languages if needed.</p>
<p>Training sessions</p>	<p>Conduct training sessions about workplace harassment, the workplace harassment prevention policy and complaint handling system (refer also to Appendix 2). Verbal communication is important in workplaces where literacy is a problem amongst workers.</p>
<p>Induction courses</p>	<p>Induction courses to include information about the workplace harassment prevention policy and other related issues (refer also to Appendix 2). Appointment letters to include workplace harassment prevention policy. Include elements of the policy in the employment contract.</p>
<p>Staff meetings and briefings</p>	<p>Managers and supervisors to regularly discuss the workplace harassment prevention policy and complaint handling system at staff meetings and team briefings.</p>
<p>Payslip attachments</p>	<p>Attach the workplace harassment prevention policy to payslips.</p>
<p>Posters</p>	<p>Place workplace harassment prevention posters on notice boards for workers and other persons. Include the details of person/s who workers can contact to obtain information, and manage and resolve workplace harassment complaints.</p>
<p>Pamphlets</p>	<p>Develop brochures or pamphlets on the workplace harassment prevention policy and display them in prominent places throughout the workplace.</p>
<p>Newsletters</p>	<p>Place information about workplace harassment in newsletters.</p>
<p>Staff manuals</p>	<p>Place the workplace harassment prevention policy and complaint handling system in staff manuals.</p>
<p>Intranet</p>	<p>Place the workplace harassment prevention policy and complaint handling system on the internal computer network system.</p>