



APPROPRIATE WORKPLACE BEHAVIOURS *FACT SHEET*

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About This Guide Series

Inappropriate workplace behaviours including sexual harassment, bullying and harassment constitute major occupational safety and health hazards that can endanger a worker's physical and psychological safety and health. Inappropriate workplace behaviours, especially if prolonged and unresolved, can have a negative impact on worker health and must be addressed in a manner that provides appropriate support to all parties involved.

Managing the risks of inappropriate workplace behaviours should be part of an organisation's overall workplace health and safety strategy and people and culture practices.

Inappropriate workplace behaviours might raise the likelihood of psychological impacts or associated health conditions. Aside from negative health effects for workers, exposure to psychological hazards and risk factors in the workplace can also have an impact on performance, behaviour choices and engagement with colleagues and the workplace.

Psychosocial risks may be harmful to a person in both the short and long term. Furthermore, it is critical to recognise that a cumulative impact of low-level exposure to psychosocial risks can result in psychological or physical harm. As a result of their exposure, people may experience a variety of psychological and physical signs of injury.

This guide series aims to provide a practical overview including key standards, information, reference material and draw together some of the best resources on the topic from within and outside the resources and energy industry, including the following:

- Legislative background
- Definitions and examples
- Respect@Work Framework
- Integrated Approach to Inappropriate Workplace Behaviours
- Leadership and commitment
- Risk management
- Workplace consultation
- Recruiting
- Situational challenges at remote sites
- Monitoring and review
- Practical response examples
- Responding to complaints and reports
- Outcomes of the Complaint Process
- Workplace Investigations
- Mandatory reporting and notification
- Record keeping
- Post-incident follow-up and support.



Disclaimer

The information contained in this publication, including data, representations, advice, statements and opinions, expressly or implied set out in this publication, is guidance material only and does not constitute advice. It is provided in good faith and believed to be reliable and accurate at the time of publication. To ensure you understand and comply with your legal obligations, this information must be read in conjunction with the appropriate Acts and Regulations.

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This document is a general guide and does not constitute advice. Members should obtain tailored advice to manage their legislative obligations.

References

Information in boxes is cited from external sources. For brevity, these citations do not always contain all consecutive paragraphs from the source, but rather some paragraphs may be omitted.

Acts, Regulations and Codes are only referenced in-text. All other references are detailed in the reference section at the end of the document.

Gender Terminology

Where original sources and/or research specifically refer to binary genders, this terminology is retained in keeping with the source. However, it is acknowledged that gender-based inappropriate workplace behaviours are not restricted solely to scenarios where male perpetrators target female employees. Incidences of gender-based inappropriate workplace behaviours targeted towards male or non-cis-gender employees also exist, especially affecting diversity groups relating for instance to disability, sexual orientation, gender identity and intersex status. Ultimately, the goal is to eradicate all inappropriate workplace behaviours and to ensure full inclusion of all diversity groups in the workplace.



Structure

This Guide is part of a Series, which is structured as illustrated below.



Foundation

The first part, *Appropriate Workplace Behaviours – Foundations*, contains the following topics:

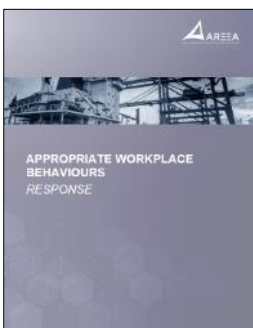
- Legislative background
- Duty of Care and penalties
- Definitions and examples
- Respect@Work framework
- Integrated approach to inappropriate workplace behaviours.



Prevention

The second part, *Appropriate Workplace Behaviours – Prevention*, contains the following topics:

- Leadership and commitment
- Risk management and workplace consultation
- Work design
- Recruiting and situational challenges at remote sites
- Monitoring and review.



Response

The third part, *Appropriate Workplace Behaviours – Response*, contains the following topics:

- Responding to complaints and reports (incl practical examples)
- Outcomes of the complaint process
- Workplace investigations
- Mandatory reporting and notification, record keeping
- Post-incident follow-up and support.



Factsheet

The final part, *Appropriate Workplace Behaviours – Factsheet*, contains the following:

- Brief overview of IR issues related to inappropriate behaviour.



Overview

Inappropriate workplace behaviours such as harassment, discrimination and bullying pose a significant physical and psychological risk to employees, contractors, and visitors. Employers face a range of legal risks if inappropriate workplace behaviour is not correctly addressed, therefore it is important line managers and human resource professionals have the knowledge and confidence to proactively manage behaviours in the workplace.

Where do obligations on appropriate workplace behaviours come from?

What laws apply?

Australia has a number of Equal Opportunity laws in place at Federal, state and territory levels that prohibit discrimination, harassment, victimisation, bullying and adverse action in various areas of public life, including in the workplace.

There are different forms of legal liability for breach of these laws, including personal liability, vicarious and accessory liability.

Policies?

Every employer should have in place a policy regarding appropriate workplace behaviour. Whilst this alone will not satisfy an employer's legal obligations it is the foundation to build expectations surrounding appropriate workplace behaviour.

Generally, the policy on appropriate workplace behaviour should apply to:

- all employees, Supervisors and Managers
- all contractors
- all clients
- all visitors to the workplace

The circumstances in which the policy should apply to are:

- at work, onsite and in the office
- at work related functions
- at client related functions

A good policy should define the terms of what is considered appropriate workplace behaviour, consequences of inappropriate workplace behaviours and mechanisms for employees to raise instances of inappropriate workplace behaviour.

Understanding and recognising appropriate workplace behaviour

Appropriate workplace behaviour is not discrimination, harassment, victimisation or bullying. The essence of appropriate workplace behaviour is that all employees should;

- be in a workplace free of discrimination, harassment, bullying, victimisation and adverse action
- be treated with dignity, courtesy and respect
- feel comfortable and safe to come to work
- comply with applicable laws and policies



- contribute to the workplace culture

Positive workforce behaviours are further enhanced when organisations reflect a diverse and inclusive workforce. A diverse and inclusive workplace is an important asset, since it acknowledges individual strengths of each employee and the potential they bring. Valuing the differences of others can be the secret to a successful and thriving workplace.

Roles and responsibilities

Employers

It is well understood employers have an obligation under various workplace laws to provide a workplace that is free from discrimination, harassment and bullying, otherwise they may be found vicariously liable for harm suffered to their employees. To meet this obligation, employers have traditionally taken practical steps such as implementing an appropriate workplace behaviours policy and addressing inappropriate behaviours as they arise. Whilst this reactive approach may have previously met their legal obligations, from December 2022, employers are required to adopt a proactive approach to inappropriate workplace behaviours.

Proactive obligation

The *Anti-Discrimination and Human Rights Legislation Amendment (Respect at Work) Act 2022* (Cth) (“the Act”) received royal assent on 12 December 2022. The Act amended an employer’s obligations to address inappropriate workplace behaviour from a reactive model to a proactive obligation. The Act provides that employers must take reasonable and proportionate steps to eliminate:

- workplace sexual harassment, sex discrimination and sex based harassment
- conduct that creates a hostile working environment; and
- certain workplace victimisation.

The Act also provides the Australian Human Rights Commission with new powers to investigate and enforce compliance with the positive duty requirements. Whilst these powers do not come into effect until December 2023, employers are encouraged to implement steps now to manage any risk.

Ultimately, an employer is responsible for promoting appropriate workplace behaviours at all times. Employers should monitor and ensure compliance with applicable laws, policies and standards.

Employees

The responsibility to provide a workplace free from inappropriate workplace behaviours does not sit solely with an employer. Employees also have responsibilities in relation to unacceptable behaviour and conduct in the workplace, which include:

- not to discriminate, harass, victimise or bully another person at work or in connection with their work
- reporting workplace or work related discrimination, harassment and bullying that occurs to them individually
- reporting workplace or work related discrimination, harassment and bullying that they become aware of
- assisting with any investigation into any discrimination, harassment or bullying claims.



Potential consequences of inappropriate workplace behaviour

There are consequences at both an individual and an organisational level when there is a failure to handle inappropriate workplace behaviour effectively. This includes;

- leaving employers open to the risk of legal claims and challenges
- impacting on the productivity and culture of an organisation
- leaving employees exposed to harm to their health, safety and wellbeing which has a flow-on effect on their performance and safety in the workplace.

Everyone has a role to play in calling out inappropriate workplace behaviour. Remember that 'action' also includes 'inaction'. Employers should remind employees about the process for raising complaints and of their obligation to report any and all occurrences of inappropriate workplace behaviour and conduct.

How AREEA can assist

AREEA advisors hold unrivalled knowledge, experience and expertise in Employment Relations in the Australian Resources and Energy sector. Our advisors have extensive knowledge of the legislative framework and case law relating to employment law in Australia.

Face to face or virtual training on appropriate workplace behaviours can be facilitated by AREEA advisors to protect your organisation by providing leaders and human resources professionals the information and processes required to confidently manage appropriate behaviours in the workplace. The training will include key insights, applications and practical activities, as well as providing participants with the opportunity to explore what can typically be difficult conversations in the workplace.

On completion of this course, participants will:

- clearly understand the legislative obligations and employers policies on workplace behaviour
- gain an understanding of what is considered appropriate workplace behaviour
- know how to recognise inappropriate workplace behaviour.
- understand the potential consequences of inappropriate workplace behaviour and failing to handle this effectively.
- develop skills and strategies on how to prevent and/or respond to inappropriate workplace behaviour.

Further support

Should you require further advice specific to your workplace please do not hesitate to contact AREEA's Workplace Relations Advisory Team. Your AREEA team is available to assist with managing appropriate workplace behaviours and undertake training for members.

For any practical support relating to workplace and employment issues get in touch via membership@areea.com.au. For information on government policy and AREEA's advocacy, contact policy@areea.com.au.

