

Prevention of Workplace Harassment Code of Practice 2004

Workplace Health and Safety Queensland

Department of Justice and Attorney-General



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Important information about this code of practice

- The code was made on 19 April 2004.
- The code commenced on 1 June 2004.
- The code was amended on 28 April 2006 and 5 December 2008.
- The code expires 10 years after it commenced.

What is this code of practice about?

This code of practice provides practical advice about ways to prevent or control exposure to the risk of death, injury or illness created by workplace harassment.

Who should read this code of practice?

You should read this code of practice if you are:

- a relevant person who is an employer or self-employed person
- a workplace health and safety representative or officer
- a workplace health and safety committee member
- a manager or supervisor
- a person concerned about workplace harassment.

Obligations and the *Workplace Health and Safety Act 1995*

The *Workplace Health and Safety Act 1995* (the Act) places obligations on certain persons to ensure workplace health and safety. Workplace health and safety is ensured when persons are free from death, injury or illness (and the risk of death, injury or illness) created by workplaces, relevant workplace areas, work activities or plant or substances for use at a workplace. Ensuring workplace health and safety involves identifying and managing exposure to risks at the workplace.

Obligations of a person who conducts a business or undertaking (a 'relevant person')

The *Workplace Health and Safety Act 1995* places obligations on a person who conducts a business or undertaking. The Act refers to a person who conducts a business or undertaking as a 'relevant person'. The obligation applies whether or not:

- the relevant person conducts the business or undertaking as an employer, self-employed person or otherwise
- the business or undertaking is conducted for gain or reward

- a person works on a voluntary basis.

‘Relevant persons’ have an obligation to ensure:

- the workplace health and safety of their workers and any other persons is not affected by the conduct of the relevant person’s business or undertaking
- their own workplace health and safety.

The term ‘relevant person’ is also used in the *Workplace Health and Safety Regulation 2008*.

How can you meet your obligations?

Under the act, there are three types of instruments to help you meet workplace health and safety obligations – regulations, ministerial notices and codes of practice.

If there is a regulation or ministerial notice about a risk, you **must** do what the regulation or notice says.

If there is a code of practice about a risk, you **must** either:

- do what the code says
- do all of the following
 - adopt and follow another way that gives the same level of protection against the risk
 - take reasonable precautions
 - exercise proper diligence.

If there is no regulation, ministerial notice or code of practice about a risk, you must choose an appropriate way to manage exposure to the risk and take reasonable precautions and exercise proper diligence to ensure that your obligations are met.

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1. What is workplace harassment?

1.1. Meaning of 'workplace harassment'

1. A person is subjected to 'workplace harassment' if the person is subjected to repeated 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.
2. 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.
3. In this section:
'sexual harassment' see the *Anti-Discrimination Act 1991*, section 119.

This definition is intended to cover a wide range of behaviours that can have an adverse impact on the workplace health and safety of workers and other persons. 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. This is not an exhaustive list – however, it does outline some of the more common types of harassing behaviours. Examples include:

- 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.

1.2. Who may experience workplace harassment?

Workplace harassment can occur between people in any direction within a workplace, for example:

- laterally (a co-worker harassing another co-worker)
- upwards (a worker harassing a manager/ supervisor; a nurse harassing a doctor)
- downwards (a supervisor/manager harassing a worker; a doctor harassing a nurse).

1.3. What is 'repeated' behaviour?

'Repeated' refers to the constant nature of the behaviour, not the specific type of harassing behaviour. Behaviour is considered 'repeated' if an established pattern can be identified. It may involve a series of diverse incidents – for example, verbal abuse, sabotaging a person's work and unreasonable threats of dismissal.

1.4. What is not workplace harassment?

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

1.4.1. Single incidents

A single incident of harassing type behaviour is not considered to be workplace harassment. Nevertheless, single incidents of harassing type behaviour should not be ignored or allowed. Well-managed intervention in response to single incidents will help prevent the situation from escalating.

1.4.2. Managerial actions

This code of practice does not cover situations where a worker has a grievance about reasonable management actions, taken in a reasonable way. Reasonable management actions include legitimate:

- performance management processes
- action taken to transfer or retrench a worker
- a decision not to provide a promotion in connection with the worker's employment
- disciplinary actions
- allocated work in compliance with systems and policies

- injury and illness processes
- business processes, such as, workplace change or restructuring.

However, these management actions may still be relevant to the code of practice where:

- managerial actions are primarily used to offend, intimidate, humiliate or threaten workers
- processes create an environment where workplace harassment is more likely to occur.

1.4.3. Discrimination and sexual harassment

Acts of unlawful discrimination¹, vilification² or sexual harassment³ are not covered under this code of practice. In situations where such acts are involved, a complaint may be made to the:

- Anti-Discrimination Commission Queensland under the *Anti-Discrimination Act 1991*
- Australian Human Rights Commission under the *Commonwealth Disability Discrimination Act 1992*, *Racial Discrimination Act 1975* or *Sex Discrimination Act 1984*.

2. Impact of workplace harassment

Workplace harassment can have a significant negative impact on both people and businesses, as outlined in the following sections.

2.1. 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. The effects of workplace harassment on a person may include:

- high levels of distress, impaired ability to make decisions and poor concentration
- loss of self-confidence and self-esteem and feelings of social isolation at work
- panic attacks, anxiety disorders, depression, social phobia (withdrawal from usual social interaction) and deteriorating relationships with family and friends
- reduced output and performance, incapacity to work, loss of employment
- sleep disturbances, such as, insomnia or severe tiredness.

¹ Discrimination on the basis of the following attributes— (a) sex; (b) relationship status; (c) pregnancy; (d) parental status; (e) breastfeeding; (f) age; (g) race; (h) impairment; (i) religious belief or religious activity; (j) political belief or activity; (k) trade union activity; (l) lawful sexual activity; (m) gender identity; (n) sexuality; (o) family responsibilities; (p) association with, or relation to, a person identified on the basis of any of the above attributes.

² Vilification refers to a public act which incites hatred towards, serious contempt for, or severe ridicule of, a person or group of persons on the ground of the race, religion, sexuality or gender identity of the person or members of the group.

³ Sexual harassment is any form of unwelcome attention of a sexual nature that is humiliating, intimidating or offensive

2.2. 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 and can lead to:

- the breakdown of teams and individual relationships
- poor worker health
- reduced efficiency, productivity and profitability
- bad publicity, poor public image – becoming ‘known’ as a difficult workplace environment
- increased absenteeism and staff turnover
- poor morale and erosion of worker loyalty and commitment
- increased costs associated with: counselling, employee assistance, mediation, recruitment and training of new workers
- increased legal costs and workers’ compensation claims.

3. Legislation covering workplace harassment

The WHS Act imposes health and safety obligations on people at workplaces to ensure workplace health and safety. The following section defines and outlines the obligations of relevant persons (employers) or persons in control of workplaces or workers and other persons, under the WHS Act. It also provides an explanation of the obligations of labour hire organisations and host employers. For more information refer to sections 28 to 36 of the WHS Act.

3.1. *Workplace Health and Safety Act 1995*

3.1.1. Obligations of persons conducting a business or undertaking (employers)

An ‘employer’ is a person who conducts a business or undertaking and in the conduct of the business or undertaking, engages someone else to do work, other than under a contract for service, for or at the direction of the person. A person is considered to have ‘engaged someone else’ to do work even when the person works on a voluntary basis.

Under the Act, a relevant person who is an employer has an obligation to ensure the workplace health and safety of the person, each of the person’s workers and any other person is not affected by the conduct of the relevant person’s business or undertaking.

Workplace harassment may harm the health and safety of workers and other persons. Therefore, obligations of a relevant person who is an employer include identifying and managing exposure to the risk of death, injury or illness created by workplace harassment.

3.1.2. Persons in control of workplaces

Obligations of a person in control of a workplace include ensuring the risk of injury or illness from the workplace is minimised for persons coming onto the workplace to work.

3.1.3. Workers' and other persons' obligations

A person is a 'worker' if the person does work, other than under a contract for services, for or at the direction of an employer. A person may be a 'worker' even though the person is not paid for work done by the person. However, a person is not a 'worker' merely because the person does work for an organisation of which the person is a member.

An 'other person' includes any person whose workplace health and safety may be affected by the business or undertaking.

Under the Act, a worker, contract worker, subcontractor, or anyone else at a workplace has the following obligations:

- (a) to comply with the instructions given for workplace health and safety by the employer at the workplace and, any principal contractor for construction work at the workplace
- (b) for a worker - to use personal protective equipment if it is provided by the employer and the worker is properly instructed in its use
- (c) not to wilfully or recklessly interfere with or misuse anything provided for workplace health and safety
- (d) not to wilfully place at risk the workplace health and safety of any person at the workplace
- (e) not to wilfully injure himself or herself.

3.1.4. Labour hire organisations⁴ and host employers⁵

Essentially, labour hire organisations and host employers have a 'shared responsibility' for their workers and other persons in the workplace.

⁴ A labour hire organisation can be either a business entity or a person who contracts with a client (host employer) to supply labour in the form of a contract worker or subcontractor to work at the host employer's workplace.

⁵ A host employer can be either a business entity or a person (client) who contracts with a labour hire organisation for the supply of labour in the form of a contract worker or a subcontractor, or with a group training scheme for the training of apprentices and trainees.

Labour hire agencies provide contract workers to their clients (host employers). They do not supervise the conduct of the work or control the workplace at which it is performed. However, this does not diminish their obligation to ensure that contract workers and subcontractors are not put at risk of death, injury or illness while working for a host employer.

A host employer who hires a contract worker has the same obligations as an employer and therefore must ensure the workplace health and safety of the contract worker. A subcontractor, who works for a host employer, has the same obligations as a self-employed person.

Contract workers must comply with the instructions given by the labour hire company as well as the host employer. Although subcontractors are responsible for their health and safety, they must also comply with the instructions of the host employer and labour hire organisation.

4. Risk management process

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

The risk management process involves:

1. **identifying** the hazards
2. **assessing** the risks that may result because of the hazards
3. **deciding** on control measures to prevent or control the level of the risks
4. **implementing** control measures
5. **monitoring** and **reviewing** the effectiveness of the control measures.

This process, which is illustrated in Figure 1, should always be performed in consultation with workers and other persons (see Section 5.1).

Refer to the *Risk Management Code of Practice* for further information about this process.

Risk management process

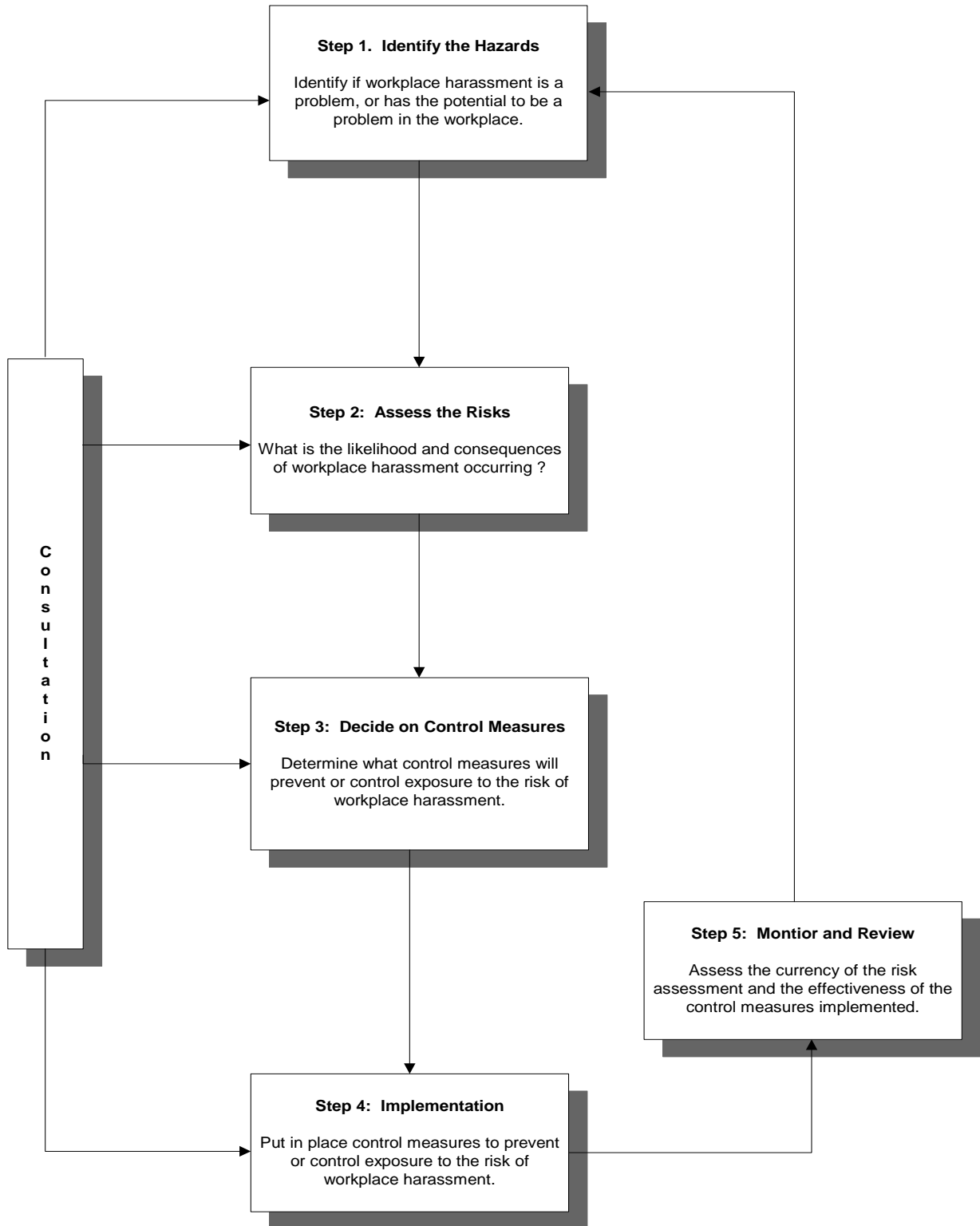


Figure 1 The workplace health and safety risk management process.

5. Consultation

5.1. Who to consult

Under the Act, a relevant person who is an employer has an obligation to consult with their Workplace Health and Safety Officer (WHSO) and Workplace Health and Safety Representative (WHSR), where appointed, on any issue that affects or may affect the workplace health and safety of persons at the workplace. It is also important that consultation occur with:

- workers, including managers and supervisors
- workplace health and safety (WHS) committees, where appointed.

5.2. Why consult

Consulting with workers and other persons will help relevant persons who are employers to:

- increase awareness about workplace harassment and promote open communication about the issue
- identify the hazards and assess if workplace harassment is a problem
- determine the most appropriate control measures
- gain support, acceptance and commitment to the control measures implemented at the workplace
- determine the effectiveness of the control measures.

5.3. How to consult

Consultation can take the form of informal on-the-job discussions with a work unit, WHS committee meetings, staff meetings, special working parties or anonymous surveys.

5.4. What to consult about

Consultation should occur at all stages of the risk management process, particularly when:

- identifying hazards and risk factors
- identifying suitable measures to prevent or control the risks
- determining the best way to raise awareness of the issue
- developing the workplace harassment prevention policy
- developing complaint handling procedures, including reporting, investigation, resolution and appeal processes.

6. Identify the hazards

This step involves finding out if there is a problem with harassment in the workplace, or the potential for a problem. It should not be assumed the workplace is free of harassment just because there are no obvious signs of workplace harassment.

Workplace harassment is often subtle or hidden, making it difficult to detect in the workplace. Workers may also be reluctant to report harassment because they fear 'payback' from the harasser, believe that they will be labelled as 'weak' or that no one will act on the problem.

Hazards that may cause or contribute to workplace harassment can be identified through:

- personal observations (for example, assessment of workplace behaviours)
- discussions with workers, including managers and supervisors, WHSRs, WHSOs, WHS 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.

6.1. Indirect signs of workplace harassment

Signs of workplace harassment may appear indirectly. These signs may not always be linked with workplace harassment and need to be considered within the overall workplace environment.

Indirect signs of harassment may include:

- changes in human resource management trends, for example:
 - (a) increases in levels of absenteeism and staff turnover
 - (b) 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.

7. Assess the risks

Relevant persons who are employers who identify hazards in the workplace will need to assess the risk (**likelihood** and **consequences**) of these hazards causing death, injury or illness to a person at the workplace. Some of the factors that can affect the risk of workplace harassment occurring are outlined in table 1.

Table 1 Factors to consider when determining the risk of workplace harassment

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.

Answering these questions will help you rate the risk level of the hazards.

7.1. Other factors that may increase the risk of workplace harassment occurring

A number of workplace factors have been linked with incidents of workplace harassment. The presence of these factors does not necessarily mean workplace harassment exists, but may increase the risk of workplace harassment occurring now or in the future.

7.1.1. Organisational change

Research has established a relationship between levels of workplace harassment and organisational change, particularly where several factors are present⁶. These include a new manager or supervisor, a change in ownership of the company, a reorganisation of the company or the introduction of new technology. Organisational change may inadvertently create an environment that increases the risk of workplace harassment occurring.

⁶ Irish Taskforce on the Prevention of Workplace Bullying (2001). Dignity at work – The challenge of workplace bullying. The Stationery Office: Dublin.
This observation was also drawn by the Queensland Workplace Bullying Taskforce following a review of the relevant literature.

7.1.2. Workplace relationships

Poor workplace relationships and ineffective communication (for example, inadequate information flow or a lack of consultation with workers) may create an environment where workplace harassment is more likely to occur.

7.1.3. Workplace culture

Workplaces that condone teasing or practical jokes against workers, initiation practices for new workers, or are generally complacent about harassing type behaviours are more likely to experience workplace harassment.

7.1.4. Human resource systems

Human resource system factors that may increase exposure to the risk of workplace harassment include:

- ineffective policies and complaint handling procedures to manage workplace harassment grievances and appeals
- poorly-defined jobs and high levels of uncertainty about job requirements.

7.2. Recording the outcomes of risk assessments

Relevant persons who are employers should keep a record of the risk assessment. Keeping a written record is useful because it provides evidence that you are meeting part of your workplace health and safety obligations, and can help you when undertaking future risk assessments.

The risk assessment record should include the:

- name/s of assessor/s
- date of the risk assessment
- hazards that have been assessed
- evaluation of the risk of workplace harassment
- action that needs to be taken to prevent or control exposure to the risk of workplace harassment.

8. Decide on and implement control measures to prevent or control exposure to the risks

Where workplace harassment has been identified and assessed to be a risk, relevant persons who are employers must decide on and put in place control measures to prevent or control this risk.

Preventative measures should be aimed at the source of the risk, and may include a broad organisational response, as well as more targeted initiatives that address symptoms in a specific area.

A strategy aimed at preventing or controlling exposure to the risk of workplace harassment should include:

- a workplace harassment prevention policy
- a complaint handling system
- a review of human resource systems
- training and education.

No single control measure will effectively prevent or control workplace harassment from occurring. It is important these control measures are used together, as part of a broader strategy to prevent or control exposure to the risk of workplace harassment.

8.1. Workplace harassment prevention policy

Relevant persons who are employers should ensure a workplace harassment prevention policy is developed and implemented in the workplace. The policy should outline the workplace's commitment to address harassment and expectations regarding appropriate workplace behaviour. The policy may be a stand-alone policy or form part of an existing health and safety policy, or code of conduct for all workers.

The prevention policy should be:

- easy to understand
- provided in languages other than English, if required
- displayed where all workers can read it
- consistent with the workplace's other health and safety policies and objectives.

An effective workplace harassment prevention policy should include the elements outlined in Table 2.

Table 2 Elements of a workplace harassment prevention policy

Elements	Description
1. Value statement	State the workplace’s commitment to providing workers and others with a healthy and safe work environment, free from workplace harassment.
2. Define workplace harassment	Reference this code’s definition of workplace harassment and provide examples of harassing behaviours. Clearly outline what is not considered to be workplace harassment.
3. Impact of workplace harassment	Outline the health and safety risks to persons and the business from workplace harassment.
4. Encourage reporting of workplace harassment	Encourage workers who experience workplace harassment to report it.
5. Obligations of relevant persons, workers and other persons	Detail the obligations of relevant persons, workers and other persons under the WHS Act.
6. Workplace strategies to prevent or control workplace harassment	Outline the control measures that the workplace will implement to prevent or control exposure to the risk of workplace harassment.
7. Commitment to investigate allegations promptly	State that any allegations of workplace harassment will be treated seriously, and investigated promptly and impartially.
8. Consequences of breach of policy	Outline the remedial/disciplinary action ⁷ that will be taken against a person who: <ul style="list-style-type: none"> • harasses a worker • victimises someone who has made a complaint • makes malicious, frivolous or vexatious complaints⁸.
9. Support services	Provide details of the assistance or support available to workers to manage and resolve workplace harassment complaints.
10. Management commitment	Have the employer/chief executive/management to sign and date the policy to demonstrate their commitment.
11. Policy review	Include details of when the policy will be reviewed.

Refer to Appendix 1 for an example of a workplace harassment prevention policy.

⁷ In taking action, employers must ensure they comply with the *Industrial Relations Act 1999*.

⁸ Malicious, frivolous or vexatious complaints include complaints that are deliberately harmful, spiteful, trivial or unworthy of serious attention or resources.

8.1.1. Gain commitment to the policy

The workplace harassment prevention policy is more likely to be effective if you gain workers' support and commitment to the policy. You can facilitate this commitment by:

- developing a policy that is relevant to your workplace, its needs, people and conditions
- developing the policy in consultation with workers, including managers, supervisors, WHSRs, WHSOs and WHS committees
- securing the support of the employer/ chief executive/management
- ensuring the policy is followed, and consistently and fairly applied.

8.2. Complaint handling system

An important part of managing incidents of workplace harassment is to develop and implement a complaint handling system to manage informal and formal workplace harassment complaints. Having agreed procedures in place will help ensure consistency in your approach to these complaints.

When developing and implementing your complaint handling system, ensure the principles of natural justice⁹ are maintained.

8.2.1. Informal complaint handling procedure

An informal complaint handling procedure may simply encourage workers to raise their harassment complaint with an appropriate contact person at the workplace (for example, immediate supervisor, manager, WHSO or WHSR) so that it may be managed and resolved in an informal and fair manner.

Having an informal resolution process in place is good for health and safety and business. Resolving complaints informally is generally more effective, requires fewer resources, is more expedient and often prevents further escalation of the issue. Interpersonal conflicts are often effectively resolved through open discussion between parties. This should be encouraged as the first step in every complaint, unless otherwise requested by the complainant.

⁹ The principles of natural justice are:

- (a) The person alleged to have committed workplace harassment is presumed to be innocent until allegations are proved to be true.
- (b) All allegations of workplace harassment are investigated promptly.
- (c) The person who has allegedly committed the workplace harassment is informed of all the allegations and given an opportunity to explain his or her version of events.
- (d) Should the complaint be proven to be true, then remedial action must be taken.

8.2.2. Formal complaint handling procedures

Some workplace harassment grievances may warrant the lodgement of a formal workplace harassment complaint. It is important that relevant persons who are employers establish procedures to manage these complaints. A formal complaint handling system should include:

- a formal reporting procedure
- an investigation procedure
- a complaint resolution procedure
- an appeals process¹⁰.

Workplaces that already have a complaint handling system in place will need to check the effectiveness and suitability of the system for handling workplace harassment grievances.

8.2.3. Encourage reporting of workplace harassment allegations

Relevant persons who are employers should encourage workers to report allegations of workplace harassment once a complaint handling system has been established. This benefits employers, workers and others as it allows employers to:

- take immediate action to address the complaint
- provide prompt assistance or counsel to the complainant and respondent
- obtain a more accurate picture of the nature and extent of workplace harassment.

Workers will be encouraged to report allegations of workplace harassment if they believe the complaint handling system can be trusted and offers fair treatment to those involved. Employers should consult with the individuals and groups identified in Section 5.1 to ensure the complaint handling system is effective and meets the needs of all persons who work at the workplace.

8.3. Human resource systems

Effective human resource systems can help prevent or control workplace harassment from occurring. Ensuring the workplace has effective and reasonable performance management processes and open communication systems are two ways you can achieve this.

¹⁰ An appeals process provides an avenue for workers to communicate, where possible, to a higher level of management their dissatisfaction with any decision or process considered to be unjust or unfair (for example, inadequate or ineffective managerial action taken in response to a workplace harassment complaint).

8.3.1. Performance management processes

Performance management processes are generally used to:

- provide timely and accurate feedback about job performance in a reasonable way
- identify a person's strengths, and training and development needs for current and future positions
- set mutually agreed goals and competencies.

Because of the often sensitive nature of the feedback, performance management should only be conducted by persons who have the knowledge, skills and abilities to conduct them in a reasonable way. Issues to consider when providing feedback include:

- encouraging open communication, allowing the receiver to also voice their opinions and concerns
- ensuring the person conducting the performance management process is supportive, delivers constructive feedback, and provides justification of observations and decisions made.

8.3.2. Establish open communication systems

Workplace harassment is more likely to occur in conditions of secrecy and poor communication. Many forms of workplace harassment, such as spreading false, malicious rumours, or withholding important information from a worker to their disadvantage, prosper in poorly communicating workplaces.

You can prevent or control exposure to these forms of workplace harassment by:

- encouraging good channels of communication, for example, through regular staff meetings
- consulting and discussing with workers issues that may affect them, particularly during periods of organisational change or restructure
- encouraging 'open door' management styles
- implementing transparent decision making processes.

8.4. Training and education

Under the Act, relevant persons who are employers have an obligation to ensure workplace health and safety. This may include making sure that workers are provided with the appropriate information, instruction, training and supervision to ensure health and safety.

Training and educating workers on issues of workplace harassment is important for the following reasons:

- workers including supervisors, managers, WHSRs, WHSOs and WHS committees become more aware of their roles and responsibilities

- 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
- workers will have a more accurate knowledge of what does and does not constitute workplace harassment
- workers will become aware of the consequences of making malicious, frivolous or vexatious¹¹ workplace harassment complaints
- it can promote cultural change and a healthy and safe workplace
- people who work at the workplace are informed and encouraged to take action against harassing behaviours.

8.4.1. Create awareness of workplace harassment

Creating awareness of workplace harassment helps to reinforce management's commitment to ensuring a healthy and safe working environment, even in workplaces with good practices and no record of problems.

To create awareness of workplace harassment, relevant persons who are employers should provide training to all workers on general workplace harassment issues, including the prevention policy and procedures for making complaints. The most appropriate combination of information, instruction, training and supervision will depend on the needs of workers and the workplace. Appendix 2 suggests topics for training according to the target group being trained. Appendix 3 proposes ways to inform workers about policies and procedures.

Employers will also need to tailor training to meet the special needs of workers with respect to gender, age, disability, work experience, and language and literacy levels.

8.4.2. Effective people management training for supervisors

Workers will generally work more efficiently and productively if they are treated fairly and respectfully, and given an opportunity to use their initiative and judgement. People with supervisory responsibilities need to demonstrate their understanding and acceptance of this through their management behaviours.

It is important that relevant persons who are employers identify any workers with ineffective managerial styles as these behaviours may contribute to workplace harassment. Employers should address any concerns they have with particular management behaviours, in a reasonable manner, through the performance management process.

Workers with supervisory responsibilities should also be provided with training that focuses on developing a greater understanding of human behaviour, communication and

¹¹ Malicious, frivolous or vexatious complaints include complaints that are deliberately harmful, spiteful, trivial or unworthy of serious attention or resources.

people management. Assessment should also be conducted to ensure that supervisory staff are able to apply their newly acquired knowledge, skills and abilities in the workplace.

8.4.3. Keep training records

Keep records of any training conducted on workplace harassment. Training records should include:

- the date of the training session/s
- the topics addressed at the training
- whether knowledge, skills and abilities were attained
- the name/s of the person/s who conducted the training
- the name/s of the worker/s who attended the training.

Training should be updated following any significant changes to a workplace harassment prevention policy, complaint handling system, or amendments to relevant legislation.

9. Monitor and review

Regularly checking the effectiveness of the control measures implemented and monitoring for signs of workplace harassment, is an important part of preventing and controlling exposure to the risk of workplace harassment.

Relevant persons who are employers can achieve this by checking if performance indicators are being met, for example:

- increases in reported levels of work satisfaction
- increases in percentage of workers who have completed training and assessed to be competent
- increases in percentage of complaints resolved internally
- decreases in percentage of workplace harassment complaints.

9.1. Review risk assessment

It is also important to check that the initial hazards identified and assessed are still valid. Significant changes to work and work systems could affect the risk profile of the workplace. Hazards may have changed and control measures may need to be updated.

Evaluate the appropriateness and currency of the risk assessment, for example, by:

- Reviewing the workplace's complaint and investigation records, and exit interviews for signs of common workplace problems. Do the risk assessment again if the hazards and risks are different to those originally identified.
- Consulting with workers including managers, supervisors, WHSRs, WHSOs and WHS committees to determine changes in people's experiences of harassment.

If results indicate the control measures are not effective, then you will need to adjust them or look for different ways of preventing or controlling exposure to the risk of workplace harassment.

9.2. Keep records of the monitor and review process

It is important to document all monitoring and reviews of the risk assessment, and any measures used to prevent or control exposure to the risk of workplace harassment. A record of any decisions and the reasons for those decisions should also be kept. Failure to review the risk assessment and control measures could increase the vicarious liability of relevant persons who are employers, should workplace harassment occur.

Appendix 1 Workplace harassment prevention policy: Example

Ethical statement

[Name of workplace] is committed to ensuring a healthy and safe workplace that is free from workplace harassment. Workplace harassment is unacceptable and will not be tolerated under any circumstances.

Definition of workplace harassment

- (1) A person is subjected to 'workplace harassment' if the person is subjected to repeated 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.
- (2) '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.
- (3) In this section 'sexual harassment' see the *Anti-Discrimination Act 1991*, section 119.

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. This is not an exhaustive list – however, it does outline some of the more common types of harassing behaviours. Examples include:

- 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.

Actions that are not workplace harassment

Legitimate and reasonable management actions and business processes, such as, actions taken to transfer, demote, discipline, redeploy, retrench or dismiss a worker are not considered to be workplace harassment, provided these actions are conducted in a reasonable way.

Effects of workplace harassment on people and the business

Workplace harassment has detrimental effects on people and the business. It can create an unsafe working environment, result in a loss of trained and talented workers, the breakdown of teams and individual relationships, and reduced efficiency. People who are harassed can become distressed, anxious, withdrawn, depressed, and can lose self-esteem and self-confidence.

Workplace strategies to eliminate workplace harassment

[Name of workplace] will take the following actions to prevent and control exposure to the risk of workplace harassment:

- provide all workers with workplace harassment awareness training
- develop a code of conduct for workers to follow
- introduce a complaint handling system and inform all workers on how to make a complaint, the support systems available, options for resolving grievances and the appeals process
- regularly review the workplace harassment prevention policy, complaint handling system and training.

Responsibilities of workers

[Name of workplace] requires all workers to behave responsibly by complying with this policy, to not tolerate unacceptable behaviour, to maintain privacy during investigations and to immediately report incidents of workplace harassment to [insert details of appropriate contact person, for example, immediate supervisor, manager, WHSR or WHSO].

Managers and supervisors must also ensure that workers are not exposed to workplace harassment. Management are required to personally demonstrate appropriate behaviour, promote the workplace harassment prevention policy, treat complaints seriously and ensure where a person lodges or is witness to a complaint, that this person is not victimised.

Where workers can go for assistance

A worker, who is being harassed, can contact [insert details of appropriate contact person, for example, immediate supervisor, manager, WHSR or WHSO] for information and assistance in the management and resolution of a workplace harassment complaint.

Commitment to promptly investigate complaints

[Name of workplace] has a complaint handling system which includes procedures for reporting, investigating, resolving and appealing workplace harassment complaints. Any reports of workplace harassment will be treated seriously and investigated promptly, fairly and impartially. A person making a complaint and/or who is a witness to workplace harassment will not be victimised.

Consequences of breach of policy

Disciplinary action will be taken against a person who harasses a worker or who victimises a person who has made or is a witness to a complaint. Complaints of alleged workplace harassment found to be malicious, frivolous or vexatious¹² may make the complainant liable for disciplinary action.

Review of policy

This policy and the actions outlined above will be reviewed by [insert date], unless required earlier because of changes to the risk profile of the workplace or relevant legislation. If necessary, further changes and actions may be introduced to ensure that workplace harassment is prevented and controlled.

Endorsement

I/We have committed to this policy and its implementation, and to ensuring a healthy and safe work environment that is free from workplace harassment.

[Chief Executive/Senior
Management/Employer signatures]

[date]

¹² Malicious, frivolous or vexatious complaints include complaints that are deliberately harmful, spiteful, trivial or unworthy of serious attention or resources.

Appendix 2 Suggested topics for training according to target group

Type of training/ target group	Topics to cover
<p>Awareness For everyone</p>	<p>What workplace harassment is and is not – participants’ views, the effects and risk factors.</p> <p>Workplace harassment prevention policy and how to comply with the policy.</p> <p>Control measures to prevent and control exposure to the risk of workplace harassment.</p> <p>Information on the complaint handling system, including how to make informal and formal workplace harassment complaints and options for resolving and appealing such complaints.</p>
<p>Induction For all new workers</p>	<p>Topics covered in awareness training.</p> <p>Workers’ roles and responsibilities with respect to preventing workplace harassment.</p> <p>Legal obligations of relevant persons who are employers, workers and other persons.</p>
<p>Workplace harassment For all supervisors and managers</p>	<p>Topics covered in induction training.</p> <p>Supervisor/manager’s role in the implementation of the workplace harassment prevention policy, including identifying warning signs, actions to be taken when workplace harassment is reported, and knowledge, skill and ability to apply the complaint handling procedures.</p> <p>Training and assessment in topics, including people management, communication, mediation and conflict resolution, leadership, managing diverse workforces, stress management, team building and performance management processes.</p>

The above topics may be covered through training programs alone or through a mix of information, instruction and training.

Appendix 3 Methods to inform workers about policies and procedures

There are a variety of different methods that relevant persons who are employers 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.

Options	Description
Distribute policies	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.
Training sessions	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.
Induction courses	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.
Staff meetings and briefings	Managers and supervisors to regularly discuss the workplace harassment prevention policy and complaint handling system at staff meetings and team briefings.
Payslip attachments	Attach the workplace harassment prevention policy to payslips.
Posters	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.
Pamphlets	Develop brochures or pamphlets on the workplace harassment prevention policy and display them in prominent places throughout the workplace.
Newsletters	Place information about workplace harassment in newsletters.
Staff manuals	Place the workplace harassment prevention policy and complaint handling system in staff manuals.
Intranet	Place the workplace harassment prevention policy and complaint handling system on the internal computer network system.