**CODE OF PRACTICE**

Workplace behaviour

COSH and DMIRS logos

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# Foreword

This code of practice is issued by the Commission for Occupational Safety and Health, under provisions of the *Occupational Safety and Health Act 1984* (the OSH Act). The introduction of the OSH Act enabled the establishment of the Commission. It comprises representatives of employers, unions and government, as well as experts, and has the function of developing the occupational safety and health legislation and supporting guidance material, and making recommendations to the Minister for Mines and Petroleum; Commerce and Industrial Relations for their implementation. To fulfil its functions, the Commission is empowered to establish advisory committees, hold public inquiries and publish and disseminate information.

The Commission’s objective is to promote comprehensive and practical preventive strategies that improve the working environment of Western Australians. This code of practice has been developed through a tripartite consultative process and the views of employers and unions, along with those of government and experts have been considered.

**Legislative framework for occupational safety and health**

***Occupational Safety and Health Act 1984***

The OSH Act provides for the promotion, coordination, administration and enforcement of occupational safety and health in Western Australia. It applies to all workplaces with the exception of mining and petroleum.

With the objective of preventing occupational injuries and diseases, the OSH Act places certain duties on employers, employees, self-employed people, manufacturers, designers, importers and suppliers. These broad duties are supported by further legislation, commonly referred to as regulations, together with non‑statutory codes of practice and guidance notes.

<https://www.legislation.wa.gov.au/legislation/statutes.nsf/law_a555.html>

**Occupational Safety and Health Regulations 1996**

The Occupational Safety and Health Regulations 1996 (the OSH Regulations) set out specific requirements of the legislation. They prescribe minimum standards and have a general application, or define specific requirements related to a particular hazard or type of work. They may allow licensing or granting of approvals and certificates.

If there is a regulation about a risk in the OSH Regulations, it must be complied with.

<https://www.legislation.wa.gov.au/legislation/statutes.nsf/law_s4665.html>

**Codes of practice published under the OSH Act**

Codes of practice published under the OSH Act provide practical guidance on how to comply with a general duty or specific duties under the legislation. Codes of practice may contain explanatory information. However, the preventive strategies outlined do not represent the only acceptable means of achieving a certain standard.

A code of practice does not have the same legal force as a regulation and is not sufficient reason, of itself, for prosecution under the legislation, but it may be used by courts as a standard when assessing other methods or practices used.

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

* do what the code of practice says, or
* adopt and follow another way that gives the same level of protection against the risk.

If there is no regulation or code of practice about a risk, choose an appropriate way and take reasonable precautions and exercise proper diligence to ensure obligations are met.

*Note: There may be additional risks at the workplace not specifically addressed in this code of practice. The OSH Act requires identification and assessment of them and implementation of control measures to prevent or minimise risk.*

**Scope**

The code focuses on the general principles applied to the prevention and management of inappropriate or unreasonable behaviour in the workplace. The intent of this code of practice is to provide practical guidance for workplaces where people may be exposed to various forms of inappropriate or unreasonable workplace behaviour including physical assault, verbal abuse, threats, intimidation and harassment.

The guidance in this code of practice should be considered in conjunction with the general duties in the *Occupational Safety and Health Act 1984*.

**Who should use this code of practice?**

Everyone who has a duty to prevent, so as far as practicable, hazards at workplaces should use this code. This includes employers, employees, self-employed people, safety and health representatives and safety and health committees.

**Using this code of practice**

Inappropriate or unreasonable workplace behaviour is the overarching term for different types of behaviour at work that can create a risk to the safety and health of workers.

These workplace behaviours include:

* misconduct
* prolonged conflict
* discrimination
* harassment (including sexual harassment)
* bullying.

These behaviours can occur through various modes of interpersonal communication including social media, texting, email, telephone and in person.

Inappropriate or unreasonable behaviours are defined in section 1 of this code of practice.

This code of practice includes information on hazard identification and risk assessment for incidents involving inappropriate or unreasonable behaviour.

A checklist is provided that can be used to identify areas for improvement in the way your workplace manages inappropriate or unreasonable behaviour.

The appendices at the end of the code of practice provide examples using the hierarchy of control, and list relevant legislation and other sources of information.

# Introduction

**Inappropriate or unreasonable workplace behaviour**

Misconduct, prolonged conflict, discrimination, harassment, sexual harassment and bullying are serious occupational safety and health issues. This code of practice is designed to help employers and employees identify and manage workplace behaviour that creates a risk of harm to health of employees and others at the workplace.

As part of workplace hazard management required under the Act, situations involving inappropriate or unreasonable workplace behaviour should be assessed for risks and steps taken to minimise the risk. This also applies to situations where the potential for these situations exists.

Employers should develop plans and policies in consultation with employees and other workers to eliminate and manage types of inappropriate or unreasonable workplace behaviour.

Inappropriate or unreasonable behaviour is a psychosocial hazard as exposure to misconduct, unresolved conflict, discrimination, harassment, sexual harassment and bullying at the workplace creates a risk of harm to health to employees.

For further guidance on psychosocial hazards, refer to the Code of Practice *Mentally Healthy Workplaces*.

# Legislative context

Due to the effect on the safety and health of workers and others at the workplace, inappropriate or unreasonable workplace behaviour constitutes a hazard and is unlawful under the *Occupational Safety and Health Act* *1984* (the Act).

Employers have a duty under the Act to minimise worker exposure to hazards in the workplace as far as practicable. This applies to situations where the potential for inappropriate or unreasonable workplace behaviour exists. While inappropriate or unreasonable workplace behaviours cannot occur without people, the risk depends upon the circumstances and environments where people interact; therefore, the inappropriate or unreasonable workplace behaviours are considered as the hazard as opposed to the person exhibiting the behaviours.

The Act also contains general duties and responsibilities placed upon people to ensure their own safety at work, and that of others who are at the workplace or who might be injured by the work.

Inappropriate or unreasonable workplace behaviour can attract criminal charges, and can also be unlawful under State and Federal equal opportunity legislation.

Employers (including principal contractors and labour hire agents) must report certain injuries or diseases to WorkSafe including any injury, which, in the opinion of a medical practitioner, requires 10 or more days of lost time at work.

# 1 What is inappropriate or unreasonable behaviour?

Inappropriate or unreasonable workplace behaviours are behaviours that can create a risk of harm to health and may include misconduct, unresolved conflict, discrimination, harassment, sexual harassment, and bullying. These behaviours can occur through various mechanisms including social media, mobile phone texting and SMS, email communication, telephone and in person.

## 1.1 Who is at risk?

Everyone at a workplace is potentially at risk of being subjected to inappropriate or unreasonable behaviour. However, some groups may be more at risk and these can include young or inexperienced workers as well as people from culturally and ethnically diverse and marginalised backgrounds.

A workplace is any location where work is carried out for a business or undertaking and includes any place where an employee goes, or is likely to be, while at work. It can include:

* a home office
* work vehicles and private vehicles used for work purposes, such as transporting clients
* private homes and other community settings where clients are based
* accommodation camps for fly-in fly-out (FIFO) workers
* work-related events such as training, conferences, and social activities.

## 1.2 Types of inappropriate or unreasonable workplace behaviour

### 1.2.1 Misconduct

Misconduct may be defined as any improper or unacceptable conduct or behaviour, which fails to meet the requirements of relevant regulations, codes and policies, procedures, or all lawfully given directions, whether verbally or in written form, and has the potential to cause a risk to safety and health.

Organisations can use policies and procedures to outline core values and expected conduct of workers that set out the attitudes and behaviours that should be demonstrated in the workplace.

Policies and procedures can be used to create a respectful and courteous workplace where workers know what is expected of them, that they will be treated fairly, their skills, abilities and contributions are recognised, valued and supported, and they can work cooperatively with others.

Policies and procedures are a reasonably practicable control that all businesses can put in place to reduce the potential risk of inappropriate or unreasonable behaviour occurring within the workplace that could pose a risk of harm to health.

For small businesses, examples of expected behaviours are generally communicated through inductions, staff meetings and noticeboards.

For larger organisations and the public sector, examples of expected behaviours are typically covered within policies or a workplace code of conduct.

A code of conduct generally summarises what standard of behaviour and integrity is expected at work and what behaviour is unacceptable. An effective code of conduct should help to build a workplace with a culture of support and integrity that has a clear and transparent environment in which to operate. For example, under public sector codes of conduct, all public sector staff must act with integrity, be reliable and trustworthy and demonstrate proper courtesy, consideration and sensitivity when dealing with members of the public and other staff.

Having an organisational code of conduct, policy or procedure relating to workplace behaviour provides employees and employers an opportunity for early intervention in addressing behaviours that have the potential to create a risk to safety and health.

### 1.2.2 Unresolved conflict

In general, conflict involves two or more people of approximately equal power or roles with behaviours occurring from both parties towards each other.

Unresolved or unmanaged relationship conflict is one of the strongest contributors for workplace bullying occurring. Conflict may also result in the experience of work-related stress, which creates a risk of harm to health of workers. In a working environment where there is low trust among workers, disrespectful behaviour is more likely to be perceived as a relationship conflict or workplace bullying.

If conflict is prolonged, unresolved or escalates and the behaviours become unreasonable or inappropriate, it may create a risk to safety and health. Therefore, inappropriate or unreasonable workplace conflict should be addressed as soon as practicable.

There are two forms of workplace conflict:

1. Task conflict – where people have differences of opinion or disagreement about resource allocation, ideas, decisions or actions relating directly to the job.
2. Relationship conflict – where two people have differences of opinion about values, societal issues, politics, interpersonal styles.

Where cases of unresolved conflict arise, efforts should be made to determine the severity of the conflict and establish an appropriate mechanism to respond to it. This may include either informal or formal resolution processes, or by the employer making a decision in relation to the matter which is the subject of the dispute.

Factors in the work environment that can contribute to workplace conflict can include:

* lack of clarity about position responsibilities
* organisational change
* high work demands
* low support
* job insecurity.

However, people can have differences and disagreements in the workplace without it being a problem. Generally, infrequent, respectful conflict has been found to result in positive outcomes, such as:

* boosting team performance
* encouraging information gathering and sharing
* providing a platform for problem solving and better solutions
* strengthening relationships at work.

Where conflict is unreasonable or inappropriate, or results in unreasonable or inappropriate behaviours, matters should be addressed in accordance with Section 3 of this code of practice – Reporting and responding to incidents.

### 1.2.3 Discrimination

Discrimination occurs when a person, or a group of people, are treated less favourably than another person or group because of their background or certain personal characteristics. This is known as direct discrimination.

Discrimination can be against the law if it is based on a person’s protected attributes, whuich include age, disability, race (including colour, national or ethnic origin or immigrant status), sex, pregnancy, marital or relationship status, political conviction, religious conviction, family responsibilities or breastfeeding, sexual orientation, gender identity or intersex status, and spent conviction.

It does not matter if the behaviour is intentional or unintentional. It is unlawful to discriminate against someone (i.e. treat less favourably) due to a protected attribute or ground covered under current equal opportunity employment laws.

It is also discrimination when an unreasonable rule or policy applies to everyone but has the effect of disadvantaging some people because of a shared personal characteristic. This is known as indirect discrimination or systemic discrimination.

Discriminatory actions have the potential to create a safety and health risk on their own, or in combination with other inappropriate or unreasonable behaviours, such as bullying. When discriminatory actions create a risk to safety and health, the Act will apply in addition to other State and Federal legislation. Appendix 2 outlines other legislation that may be applicable.

Workplace discrimination can occur at different stages of the employment relationship, including:

* during the recruitment process and in hiring staff
* to a new or prospective employee if offered unfair employment terms, benefits or conditions compared to other employees
* to an employee during their employment, which can include:
* who is provided training and the type of training offered
* who is considered or selected for a promotion, transfer or secondment
* who is considered or selected for retrenchment, redundancy or dismissal.

Discriminatory actions can include threatening or organising to:

* fire an employee
* not provide an employee with their legal entitlements
* change an employee’s job in a way that disadvantages them
* treat an employee differently than others
* not hire someone.

### 1.2.4 Harassment

Harassment generally involves behaviour that is not welcome and offends, humiliates or intimidates a person in circumstances where a reasonable person would have anticipated that the person would be offended, humiliated or intimidated. It may involve a repeated pattern of behaviour or it may be just a single act, and is defined by the impact of the behaviour on the person, not the intent.

Harassment can create a hostile work environment that may impact upon others in the workplace and can become a hazard under the Act when it has the potential to create a risk to safety and health. Other State and Federal legislation may also be applicable to incidents involving harassment – see Appendix 2 for further information

Harassment may be perpetrated by a person in a position of power over another, for example by a supervisor at work, or it may occur where there is no power relationship, for example among work colleagues. Anyone can be harassed, including women or men, and people of any age or race.

Harassment can involve physical conduct, verbal conduct and visual conduct, which can be written or drawn, in the form of posters, email or SMS messages, including:

* material that is displayed in the workplace, for example, on a noticeboard
* material put on a computer, sent by email, SMS or put on a website, blog or on social networking
* verbal abuse or derogatory comments
* intrusive personal questions
* offensive jokes or comments
* offensive gestures
* ignoring, isolating or segregating a person or group – for example not inviting someone to a work event in which everyone else is invited
* initiation ceremonies that involve unwelcome behaviour.

Where harassment involves physical conduct perpetrated by a co-worker (internal sources of violence), see section 1.2.6 Violence and aggression at work within this code of practice for further information. Where harassment involves physical conduct perpetrated by a client or member of the public (external sources of violence), see the Code of Practice *Violence and aggression at work* for more information.

### 1.2.4.1 Racial and sexual harassment

In Australia, racial and sexual harassment are legally recognised forms of discrimination.

Unlawful racial or sexual harassment can be a one-off incident or repeated and continuous occurrences.

Racial and sexual harassment can occur without it involving discrimination when there is no apparent connection or reasonable grounds for the person the behaviour is directed at to believe they will be disadvantaged in the areas of public life including employment, education and accommodation.

Factors that can contribute to the likelihood of racial and sexual harassment at work include:

* lack of leadership and management capabilities to address inappropriate or unreasonable behaviour
* authoritarian leadership styles and hierarchical workplace structure
* homogeneous workforce characteristics
* workplace culture
* lack of policies and training
* patronage system of training, job opportunities and career progression
* hazing or abusive initiation ceremonies targeted at new or young workers
* lack of opportunities for employee voice
* attitudes which are supportive of violence, including behaviours that are supportive of violence and aggression in the workplace
* conservative norms of gender or sexuality, including the sexualisation and subordination of women in traditionally feminine roles
* a perceived or actual lack of accountability or consequences for conducting racially or sexually harassing behaviour
* excessive consumption of drugs and especially alcohol which is a potential risk factor for sexual assault.

### 1.2.4.2 The difference between discrimination and harassment

Discrimination, such as on the basis of sexual harassment, can occur when the person subjected to the harassment is disadvantaged, or has reasonable grounds for believing they will be disadvantaged, by taking objection.

Harassment can occur without it involving discrimination when there is no apparent connection or reasonable grounds for the person to believe they will be disadvantaged in the areas of employment, education, and accommodation.

For example, if a worker declines an invite to participate in a sexual relationship from their supervisor and then the supervisor denies the worker’s promotion based on this rejection, this is discrimination. Whereas, if the supervisor continues to engage in behaviours of a sexual nature to the worker after the rejection (which becomes unreasonable or inappropriate behaviour), and there is no actual or perceived disadvantage to the worker, this is harassment.

### 1.2.5 Bullying

Bullying at work is defined as repeated, unreasonable or inappropriate behaviour directed towards a worker, or a group of workers, that creates a risk to safety and health.

Bullying is defined by the effect of the behaviour, not the intent of the behaviour, as there may not be any specific intent to bully.

Due to the effect on the safety and health of employees and others at the workplace, bullying is unlawful under the Act.

### 1.2.5.1 Types of bullying behaviour

There are two main types of bullying behaviour, overt and covert.

Examples of overt bullying include:

* abusive, insulting or offensive language
* behaviour or language that frightens, humiliates, belittles or degrades, including criticism that is delivered with yelling and screaming
* inappropriate comments about a person’s appearance, lifestyle, or their family
* teasing or regularly making someone the brunt of pranks or practical jokes
* interfering with a person’s personal effects or work equipment
* harmful or offensive initiation practices
* isolation of workers from others
* physical assault or threats.

Covert behaviour that undermines, treats less favourably or disempowers others is also bullying, for example:

* unreasonably overloading a person with work or not providing enough work
* setting timelines that are unreasonable to achieve or constantly changing deadlines
* constantly setting tasks that are below or beyond a person’s skill level
* ignoring or isolating a person
* deliberately denying access to information, consultation or resources
* unfair treatment in relation to accessing workplace entitlements such as leave or training.

In situations where workers complain of seemingly trivial examples of bullying behaviours, employers and managers should be aware that this might be indicative of complex bullying behaviours at the workplace.

**1.2.5.2 Factors associated with workplace bullying**

Autocratic and laissez-faire leadership styles are strongly associated with an increased risk of workplace bullying.

Autocratic leadership typically involves a single leader making all decisions for an organisation, group or team, with little to no input from others, which can lead to a lack of trust, poor delegation and interpersonal skills and a strict, directive work environment.

Laissez-faire leaders, on the other hand, refrain from providing direction and making decisions, and allow team members the freedom to choose how they complete their work, which can lead to a lack of direction, clarity, responsibility, clear systems, procedures and processes.

Both leadership styles can have benefits for worker wellbeing and performance, but when applied inappropriately or to an extreme, they can create a stressful work environment that may result in inappropriate or unreasonable behaviours arising.

Workplace culture may become a risk factor for workplace bullying occurring if it involves a fear-based (unjust) and punitive culture where workers experience negative consequences for raising concerns and making mistakes.

Other factors that can contribute to workplace bullying include role conflict and ambiguity; unresolved conflict; adverse environmental conditions that affect worker performance and comfort; lack of reward and recognition for efforts; monotonous tasks; intolerable work demands, lack of autonomy and lack of support; and exposure to a stressful work environment.

Supportive leadership, which involves providing practical and emotional support to workers, and workplace culture, can be protective factors for reducing the risk of workplace bullying and further detail is provided in the section [Overview of risk management approach](#_2__Overview) of this code of practice.

### 1.2.6 Violence and aggression at work

Violence and aggression is also a hazard involving inappropriate or unreasonable behaviour that may physically or psychologically harm another person in the workplace.

Work-related violence and aggression is any incident where a person is threatened, attacked or physically assaulted in circumstances relating to their work. It covers a broad range of actions and behaviours that create a risk to health and safety of workers.

These actions and behaviours are present in situations where employees or other people at the workplace are threatened, verbally abused, intimidated, harassed, attacked or physically assaulted, and these may be one off or repeated incidents occurring in person or through correspondence.

All employees and other people at workplaces are potentially at risk of experiencing some form of violence and aggression, especially those who have regular contact with the general public or provide direct services to clients. However, violence and aggression can also occur between employees within the same organisation.

Therefore, as part of workplace hazard management required under the Act, situations that have the potential to involve violence and aggression should be assessed for risks, with steps taken to minimise those risks.

Whether the violence or aggression was intended or not, or whether the perpetrator has the capacity to recognise that their actions could cause harm, does not reduce the risk of harm from the violence.

Acts such as indecent exposure, physical and sexual assault, stalking and obscene or threatening communications (e.g. phone calls, letters, emails, text messages and posts on social media) may be offences under criminal law and should be referred to the police as well as managed under OSH laws.

For more information, refer to the *Code of Practice: Violence and aggression at work*, which provides practical guidance on the general principles applied to the prevention and management of violence and aggression in the workplace.

Anyone who has a duty to prevent, so far as is practicable, hazards at workplaces should use the code, and this includes employers, employees, self-employed people, safety and health representatives or committees.

## 1.3 Why do people engage in workplace bullying and harassment?

There are three main characteristics of why people engage in workplace bullying and harassment and these can be individual or organisational.

* People who have a high self-esteem and are confronted with an unfavourable evaluation of themselves from others or perceive a threat to their reputation may engage in bullying and harassing behaviours to protect their self-esteem.
* People who lack social competencies, such as emotional control, may engage in bullying and harassing behaviours and may not be aware of what they are doing and how their behaviour affects other people. For example, a supervisor may vent their anger and disappointment at a team when a mistake has been made, by yelling, slamming doors, and making sarcastic and humiliating comments about a person’s particular protected attribute.

When workplace culture may encourage certain behaviours in workers, for example, by leaders tolerating inappropriate or unreasonable behaviour or rewarding the behaviour through inaction, people may engage in micro political behaviours when they feel the need to improve or protect their status within an organisation and to influence decision-making.

Addressing the organisational or workplace risk factors is extremely important to minimising the risks of bullying behaviours in the workplace. The organisation must take responsibility for preventing and managing the organisational risk factors and look beyond the personal characteristics of the individual’s involved.

## 1.4 What is not inappropriate or unreasonable behaviour at work?

It is important to distinguish between what is considered reasonable management action and what might be considered inappropriate or unreasonable behaviour at work. Employers have a right to manage performance, assign work and provide instruction in how they want the work to be achieved.

Performance management is generally not considered inappropriate or unreasonable unless it is conducted in a harsh and unreasonable manner.

If a manager or supervisor has concerns about an employee’s performance, the manager or supervisor should speak with the employee about the performance concerns in a constructive and objective way that does not involve personal insults or derogatory remarks. In situations where an employee is dissatisfied with management practices, the problems should also be raised in a manner that remains professional and objective.

## 1.5 How does harm to health occur from inappropriate or unreasonable workplace behaviour?

Inappropriate or unreasonable behaviour at the workplace creates a risk of harm to health to employees, as it is perceived as a threat by our brain, which prompts the alarm system in our body to switch on.

This alarm response system is a physiological response, commonly known as fight, flight and freeze. The alarm system prompts the body to release a surge of hormones, including adrenaline and cortisol, which increase heart rate and blood pressure.

Most people have probably experienced this physiological response. Under normal circumstances, once the exposure to the threat is over, hormone levels return to normal and we go back to usual functioning.

However, when exposure to inappropriate or unreasonable workplace behaviour of low severity is sustained over a long period, it can increase the risk of harm to health. This is because the physiological response to a threat remains and results in the body being overexposed to adrenaline and cortisol, disrupting almost all of the body’s systems including cognitive functioning, which can affect decision-making ability, ability to relate to others, problem solving, assessment of risk and memory.

This overexposure to adrenaline and cortisol can also increase wear and tear effects on a person’s body, and it is possible that workers exposed to a hazard from inappropriate or unreasonable workplace behaviour will experience harm to health such as digestive conditions, heart disease, sleep disorders, skin conditions, anxiety, panic attacks, depression and in extreme cases, suicide.

Minimising the risk of harm to health that can result from inappropriate or unreasonable workplace behaviour is critical to maintaining a mentally healthy workplace.

## 1.6 Why inappropriate or unreasonable workplace behaviour goes unreported

There are many reasons why workers may not report inappropriate or unreasonable behaviour or cooperate in inquiries. These include:

* lack of response by employer
* lack of knowledge about behaviours that can be reported to the employer
* uncertainty or lack of awareness about the correct procedure to report these behaviours
* uncertainty about where to seek help
* fear of retribution
* feelings of intimidation or embarrassment
* belief that the behaviour is part of the workplace culture
* feeling that nothing will change
* feeling that their opportunities for promotion in the organisation or the industry will be affected.

Employers can examine whether current reporting and resolution mechanisms are understood and utilised by employees. Employers can encourage a reporting culture by addressing any perceived barriers to reporting through consultation with employees, for example, engagement surveys, toolbox discussions, exit interviews and focus groups.

# 2 Overview of risk management approach

Inappropriate or unreasonable workplace behaviour that constitutes a hazard should be treated like any other hazard and therefore, this behaviour needs to be managed.

It is important to establish a systematic approach to prevent and respond to inappropriate or unreasonable workplace behaviour and reduce the risk of exposure as far as is practicable.

A preventative approach can be adopted towards inappropriate or unreasonable behaviour in the workplace. However, it is equally important to establish a systematic approach for when these behaviours may occur.

Figure 1 below illustrates the risk management approach for hazards and risk factors:

1. identify the hazards and risk factors
2. assess the risks
3. control the risks by making the changes necessary to eliminate the hazards or risk factors or, if not practicable, minimise the risk of harm
4. monitor and review the effectiveness of controls.

Where the risks associated with a hazard are known, recognised controls can be applied directly.

Leadership commitment and supportive, capable management and supervision are key to the successful management of risks. Communication and consultation are important at all stages.



*Figure 1. Overview of the risk management process (adapted from Safe Work Australia).*

## 2.1 Leadership and workplace culture

### 2.1.1 Demonstrating commitment

Everyone contributes to the culture of their workplace, not only by what is said, but also by what they do and how they behave. Effective leadership and a positive workplace culture set the tone for workplace relationships, and drive the allocation of resources to support effective implementation of preventative actions and controls.

An ongoing commitment from leaders that is visible across the workplace is a key factor for success in reducing the risk of employees being exposed to inappropriate or unreasonable workplace behaviour.

Key messages that promote leadership commitment need to be supported by appropriate action, especially by leaders and managers, to ensure the behaviours underpinned by these messages are valued and become part of the prevailing culture.

Leaders and others involved in management and supervision should model behaviours and interactions to encourage positive work practices and demonstrate to workers that adhering to expected workplace behaviour standards is required.

### 2.1.2 Supportive and capable management and supervision

Employees are more likely to support and promote a culture that does not tolerate inappropriate or unreasonable workplace behaviour if management and those with supervisory responsibilities are respected and trusted by the workforce.

Respect is gained by having the knowledge, skills and support to be able to manage inappropriate or unreasonable workplace behaviours and risk factors, influence workplace culture positively, and address inappropriate behaviours and interactions with integrity and credibility.

A willingness to listen to and respond to workers’ safety and health concerns, and be engaged in a genuine dialogue about them, is fundamental to creating trust in working relationships.

Competencies shown to influence positive outcomes in the workplace are based on being respectful and responsible, managing and communicating existing and future work, leading teams, modelling desired behaviours and values, having difficult conversations and resolving conflict.

Providing practical and emotional support is a critical protective factor against harm to health from exposure to inappropriate or unreasonable workplace behaviour hazards and risk factors.

### 2.1.3 Training and education

Training and education may be required for leadership and those with management and supervisory responsibilities to achieve the desired competencies and effectively prevent and manage harm from inappropriate or unreasonable workplace behaviour hazards and risk factors in the workplace.

While training that relates to intervention and rehabilitation, such as anti-bullying awareness session, is important, as for any other hazard, training should target preventative strategies to eliminate or reduce harm from inappropriate or unreasonable workplace behaviour and risk factors.

Those with management and supervisory responsibilities should understand how they can contribute to a positive safety and health culture. This may include the identification of risk factors to understand the workplace risk profile and apply good work design principles that incorporate how the work is performed, the physical work environment and the physical, emotional and mental capacity and needs of workers.

## 2.2 Consult with workers and safety and health representatives

Employers should establish whether inappropriate or unreasonable behaviour exists in their workplace or whether there is the potential for this to occur.

Employers may seek the cooperation of workers to identify inappropriate or unreasonable behaviour. These behaviours are more likely to be reported and cooperation achieved if managers, supervisors and other workers have been involved in the process from the beginning.

It may be useful to consult with workers who have experienced these types of behaviour at work and talk to people who have experience with managing workplace behaviour.

Consultation with safety and health representatives and committees, if applicable, should also be part of the process used to develop prevention and management plans and the ongoing monitoring and review of their effectiveness.

Strategies to encourage communication and reporting include:

* role modelling of desired behaviours and values by managers and supervisors
* actively encouraging workers to provide feedback
* consulting workers about workplace updates and changes
* being responsive to worker reports
* empowering a safe, supportive and learning culture
* checking in regularly with workers
* maintaining confidentiality.

Examples of activities to support effective communication and consultation include:

* using focus groups
* having a standing agenda or discussion item at safety and health committee meetings
* holding team or toolbox meetings
* providing regular updates to the workforce via emails, posters or newsletters etc.

## 2.3 Risk management approach

By applying a risk management approach, inappropriate or unreasonable workplace behaviour can be prevented and the risk of exposure reduced, as far as practicable.

Some hazards and risk factors relate to the job as a whole, such as organisational change or workplace conflict, whereas others may be relevant to some tasks. To address this, a systematic approach is required to achieve effective control.

Some controls are more effective than others and they can be ranked from highest level of protection and reliability to the lowest. This ranking is known as the hierarchy of control – see Figure 2 below for further information.

Elimination controls are the most effective and reliable form of control, followed by risk minimisation controls (engineering, substitution and isolation) then administrative and personal protective equipment (PPE) controls.

To minimise the risk to as low as reasonably practicable, employers should apply elimination controls supplemented by risk minimisation, administrative and PPE controls.

Employers should focus on workplace sources of risk that are within their influence, such as organisational and environmental factors.



*Figure 2. Diagram showing the hierarchy of control.*

The key steps in conducting a risk assessment for inappropriate or unreasonable workplace behaviour include:

1. identifying types of potential inappropriate or unreasonable workplace behaviour, their contributing risk factors, source and existing controls
2. assessing the risks
3. controlling the risks by making the changes necessary to eliminate the hazards or risk factors, or, if not practicable, minimise the risk of harm through systems of work
4. monitoring and reviewing the effectiveness of the controls and amending as necessary.

See Appendix 1 Hierarchy of control for further information.

### 2.3.1 Identifying types of inappropriate or unreasonable workplace behaviour, their contributing risk factors, source and existing controls

The first step in the risk management process is identification of the types of inappropriate or unreasonable workplace behaviour that may be present in the workplace, the contributing risk factors and their source.

This may require input from operational groups, such as work teams, safety and health representatives, and subject matter experts including organisational psychologists, organisational development consultants and human resources consultants.

When starting the identification process, it is important to:

* identify who will take part – e.g. management, workers, safety and health representatives, subject matter experts, families, community representatives
* gather workplace data that will inform the process – e.g. incident reports, complaints, absenteeism rates, baseline health data, survey results
* understand legislative requirements and determine what the workplace is already doing to meet those requirements – e.g. policies, procedures, training
* use a variety of sources to identify and understand the risk criteria – e.g. access online resources, engage a subject matter expert
* consider how to maintain confidentiality and trust.

A valuable source of data comes from consulting with the workforce. As the people who do the job, workers can provide useful feedback about how their work and work environment could be improved.

Trends that are workplace-wide or specific to work groups, such as frequent absenteeism or repeated reports of inappropriate or unreasonable workplace behaviour, should be identified during the identification stage.

### 2.3.2 Risk factors for inappropriate or unreasonable behaviour at work

Organisational risk factors are the most significant contributors to the occurrence of inappropriate or unreasonable workplace behaviour. This means that incidents cannot be attributed solely to the individuals involved and the employer must take responsibility for preventing and managing inappropriate or unreasonable behaviour at an organisational level.

**Leadership styles** are key risk and protective factors associated with inappropriate or unreasonable workplace behaviours. While there are many different styles of leadership, which have their own strengths and weaknesses, autocratic and laissez-faire are two types that pose a high risk of increasing the occurrence of inappropriate or unreasonable workplace behaviour.

Leadership styles can also be a protective factor. Leadership styles, which include respectful interactions, trust, modelling desired behaviours and values, having difficult conversations and resolving conflict, are examples of how to provide practical and emotional support to workers to reduce the risk of harm to health from inappropriate or unreasonable workplace behaviours.

**Organisational culture and climate** may become risk factors where they permit inappropriate or unreasonable workplace behaviour and reward it through a lack of consequences or tolerance of the behaviours from managers and supervisors. This can create a hostile work culture that may result in the socialisation of new or existing employees adopting the shared destructive norms and values, leading to a continued cycle of harmful behaviour.

**Work organisation and job design** can contribute to inappropriate or unreasonable workplace behaviours arsing, particularly where employees perceive conflicting expectations, demands, and values in their jobs and where expectations are perceived as unclear or unpredictable.

**Physical characteristics of the work environment**, particularly noisy, hot or cold situations, and cramped working conditions are risk factors for inappropriate or unreasonable workplace behaviour.

**Reward systems and competition** have been found to contribute to inappropriate or unreasonable workplace behaviour in instances where people try to improve their status or protect it through organisational politics, and internal competitive systems, such as performance-based rewards systems, are used to reward these types of behaviour.

**Organisational change** can also contribute to inappropriate or unreasonable workplace behaviours, as a stressful work environment is a risk factor for inappropriate or unreasonable behaviour. This may include restructures, changes to the employee’s duties, changes in reporting lines, changes to resources and major technological change.

### 2.3.3 Identifying existing controls and adequacy

Following the identification of the types of inappropriate or unreasonable workplace behaviour and contributing risk factors, the next step in the process is identifying existing controls and their adequacy.

It is important to firstly identify what elimination controls are in place at the workplace to eliminate exposure to the inappropriate or unreasonable workplace behaviour. These are the most effective control measures and should always be considered before anything else.

The next step is to identify current risk minimisation, and administration and personal protective equipment (PPE) controls within the workplace. Risk minimisation controls refer to engineering, isolation and substitution measures.

Administrative and personal protective equipment controls should only be considered when higher order control measures are not reasonably practicable, or to increase protection from the hazard by applying them in conjunction with higher order controls.

The next step is to identify how effective these controls are in reducing the overall risk of harm to health. Effectiveness can be determined by assessing the residual risk, that is, the level of risk that remains after the initial controls have been applied. This is done by applying a risk rating matrix after the controls have been put in place. Based on the residual risk it can determine whether the remaining risk is acceptable, in that it is as low as reasonably possible, or whether additional controls are required.

When performing a risk assessment, it is important to consider frequency, duration and severity of exposure for all the work groups or jobs in the workplace. It is likely that different groups or jobs will have varying levels of exposure to the contributing risk factors and types of inappropriate or unreasonable workplace behaviour.

Existing data from the identification stage can be used to assess potential harm to health. This data can provide an indication of how the contributing risk factors and types of inappropriate or unreasonable workplace behaviour are currently impacting worker health. Be mindful that exposure to inappropriate or unreasonable workplace behaviour can cause physical harm as well as psychological harm to health.

It is important, so far as is reasonably practicable, that workers returning to work from illness or injury are not exposed to work stressors that may affect their recovery. A risk management approach will help prevent further harm and support successful return-to-work programs and recovery. The aim is to restore or improve the worker’s mental health to the point where they are able to remain at work in a healthy state of functioning. Investment in these processes encourages early reporting, early intervention and supports recovery.

### 2.3.4 Assessing the risks

Following the identification of inappropriate or unreasonable workplace behaviour hazards and risk factors at the workplace, the next step in the risk management process is assessing the risks, which follows the same principles as the risk assessment undertaken for other hazards.

It is important for those undertaking the risk assessment to have access to information about the work environment and work processes, and knowledge and understanding of potential inappropriate or unreasonable workplace behaviour hazards and risk factors.

Risk assessments should:

* include data collection and monitoring of the controls – e.g. using workplace data and information from focus groups, interviews, de-identified surveys
* involve consultation with safety and health representatives and committees, as applicable
* refer to the evidence used.

If those responsible for the risk assessment have limited knowledge and understanding about how to analyse the evidence, then appropriate training should be provided or assistance sought from a subject matter expert.

A risk assessment involves considering what could happen if a worker is exposed to a hazard and the likelihood of it happening. The assessment helps to determine:

* who might be exposed
* the source of the risks
* potential interactions of multiple risk and protective factors
* how severe the risks are – the frequency and duration of potential exposure to an inappropriate or unreasonable workplace behaviour hazard, possible consequences of exposure and likelihood of harm
* whether existing controls are effective
* what additional measures should be implemented to control the risks
* how urgently action needs to be taken.

Some hazards, such as bullying, and the associated risks they pose to mental health are well known and have established and accepted controls. In these situations formally assessing the risk is not necessary. After identifying the hazard, if the risks and how to manage them effectively are already known, the controls may be implemented.

Employers should demonstrate that inappropriate or unreasonable workplace behaviour hazards and risk factors have been considered and recorded as part of their hazard identification and risk management process. The hazard and risk assessments should be reviewed and updated regularly, including when changes are made within the workplace.

### 2.3.5 Identifying and implementing systems of work

Once existing controls and adequacy have been identified, consideration should be given to what further controls can be implemented to reduce the risk of exposure and harm to health in the future, as far as practicable. As some work groups or jobs may have a higher degree of exposure than others, the application of controls should be prioritised accordingly.

In most cases, a combination of controls, such as elimination controls supplemented by risk minimisation controls, and administrative and PPE controls, will provide the best solution to minimising the risk as far as reasonably practicable.

Research demonstrates there is a general framework of controls that is effective for preventing and responding to reports of misconduct, unresolved conflict, discrimination, harassment, sexual harassment and bullying. The general framework, which aligns with work safety and health hierarchy of control principles, involves:

* creating and maintaining a positive workplace culture
* demonstrating visible leadership commitment and support
* leaders and management modelling appropriate workplace behaviours
* implementing policies and procedures including standards of behaviour, reporting, responding to reports and consistent, fair application of these policies and procedures, and
* providing regular training and information to all employees and management.

Examples of controls that could be applied are given in Table 1 below.

*Table 1. Examples of controls that could be applied to inappropriate or unreasonable workplace behaviours.*

| **Control** | **Examples** |
| --- | --- |
| **Elimination** |
| Eliminate exposure to inappropriate or unreasonable workplace behaviours and risk factors, so far as is reasonably practicable | Address psychosocial hazards and risk factors at their source by:* applying principles of good job design
* clearly defining job roles, reporting structures and activities
* developing and maintaining a workplace culture that is inclusive and intolerant of disrespectful behaviours
 |
| **Risk minimisation** |
| Reduce likelihood and severity of harm from exposure to inappropriate or unreasonable workplace behaviours and risk factors | Minimise harm by:* educating leaders on
	+ how they influence the development and maintenance positive workplace behaviour
	+ control strategies and their implementation
	+ increasing practical and emotional support
* coaching to develop appropriate workplace interpersonal skills
* coaching for leaders and supervisory personnel on addressing inappropriate or unreasonable workplace behaviours as part of an early intervention program
* using trained mediators to aid in conflict resolution
* establishing agreed communication protocols between aggrieved parties
* modifying the built environment to address environmental factors (e.g. soundproofing, thermal comfort, adequate lighting)
* facilitating the reporting of inappropriate or unreasonable workplace behaviour hazards (without fear of negative consequences)
 |
| **Administrative and PPE** |
| Address adverse health effects from exposure to inappropriate or unreasonable workplace behaviours and risk factors | Address adverse health effects from exposure to psychosocial hazards and risk factors by:* having policies and procedures
	+ addressing reports of inappropriate or unreasonable workplace behaviour in a timely manner
	+ supporting diversity and inclusion
* facilitating the reporting of incidents
* investigating injuries, incidents and complaints, and communicating remedial actions to the worker and workplace as appropriate
* educating and informing workers on
	+ inappropriate or unreasonable workplace behaviours
	+ healthy coping strategies
	+ accessing supporting resources (e.g. support programs)
	+ identifying the early signs of distress and what to do
* supporting access to health professionals and confidential counselling
* providing access to an employee assistance program (EAP) for work and non-work concerns
* having maintain-at-work and return-to-work programs
* providing individual skills training (e.g. conflict resolution)
 |

### 2.3.6 Monitoring and reviewing

The next step in the process is to monitor and review the implemented controls. The monitoring and review process is used to confirm that control measures are working as expected, and checking that other hazards and risk factors have not been introduced when implementing or moderating controls.

The results of monitoring for inappropriate or unreasonable workplace behaviours and risk factors are used:

* for verification and validation of controls
* to identify learning opportunities for the purpose of continuous improvement.

The monitoring results should be used during the review to trigger corrective measures, including early intervention if necessary.

Mechanisms for the recognition and early detection of harm to health in the workplace include analysing data from:

* hazard, incident and investigation reports
* complaints
* worker surveys
* consultation with safety and health representatives, if applicable, and work teams
* direct observations – e.g. workers displaying early signs and symptoms of psychological or physical harm.

Be aware that it may take time for the effects of larger changes to be observed. In particular, effects of controls at an organisational level are unlikely to be seen until twelve months after implementation.

# 3 Reporting and responding to incidents

Implementing a documented reporting and response procedure in consultation with employees is a critical component for preventing and mitigating the risk of harm to health from exposure to inappropriate or unreasonable workplace behaviour. This includes the provision of appropriate resources and time to respond to reports in an appropriate manner.

Consider providing informal resolution and formal resolution avenues in the procedures that are flexible enough to fit the different circumstances of each report, as reports that are resolved at the lowest appropriate level are more likely to have better outcomes for all parties.

There are various ways that an employee may report hazards or risk of harm to their employer including:

* verbal discussions
* emails, mobile or text messages
* medical certificates
* workers’ compensation claims
* hazard or incident report forms
* letters of complaints or grievances.

## 3.1 Reporting procedures

If an employee considers they are being subjected to inappropriate or unreasonable workplace behaviour they will be more likely to report it if they know there is a reporting process in place and that it will be followed as soon as a report is received.

Employers can encourage reporting by:

* communicating and enforcing zero tolerance for victimisation of employees who make reports
* providing consistent, effective and timely responses to employee reports
* being transparent by providing regular de-identified, trend-level information to employees about the number of reports received, how reports were resolved and what action was taken.

When receiving a report, it is important that there is communication with the individual or group of workers affected about how the report will be addressed and whether the response will be an informal or formal process. Keeping people updated about the progress of their report helps to establish trust and encourages a reporting culture.

However, if a complainant does not wish to make a formal complaint, an informal approach to dealing with the issue may be appropriate and can include:

* observing inappropriate or unreasonable behaviour and taking direct action, such as speaking to the offender about their behaviour or actions
* seeking advice from a supervisor, HR or union representative if applicable, or an equal opportunity contact person before taking direct action
* requesting that the employer take action to address the situation.

## 3.2 Principles for responding to reports

The general principles for responding to reports of inappropriate or unreasonable workplace behaviour for safety and health purposes include:

* treating all incidents or reports seriously – deal with them fairly and within established timelines, as timely and decisive action sends a clear message to all that inappropriate or unreasonable workplace behaviour will not be tolerated
* maintaining confidentiality – details of the parties are only known by those who need to be directly involved in the process
* assessing whether there is a health or safety risk that must be immediately addressed – determine what action may need be taken to ensure the safety and welfare of those involved
* considering the principles of procedural fairness carefully to ensure a fair and reasonable process is applied, which generally includes the rights of the parties to:
	+ be fully informed of the complaint
	+ be fully informed about the complaint process
	+ reply in full to the complaint
	+ be considered innocent until proven guilty
	+ have a support person of their choice present
	+ have confidentiality maintained, where possible
	+ be informed of any rights of appeal
* dealing with frivolous, vexatious claims or complaints made without substance quickly, firmly and fairly – take care to ensure there has been sufficient inquiry to establish that the complaint is either frivolous or vexatious as it is possible that a complaint may be misunderstood or based on miscommunication
* ensuring that the person managing the issue is, where practicable, a neutral person – they should not be directly involved in the incident that is being addressed
* being clear with all involved as to the process to be undertaken – outline how long it is expected to take and how the individuals will be kept informed of what is happening
* providing information about the support that is available to all parties, whether internal or external – for example, Employee Assistance Programs, safety and health representatives, grievance officers.

Key steps in the process for investigating and responding to reports of inappropriate or unreasonable workplace behaviour are:

* identifying contributing risk factors – organisational, environmental and individual
* identifying sources of contributing risk factors
* identifying existing control measures and their adequacy
* identifying preventative control measures
* implementing preventative control measures
* reviewing and monitoring.

After the employee report has been investigated, ensure the employee receives feedback on the outcome of the investigation, as it is a requirement of the Western Australian safety and health legislation.

Those undertaking an investigation should be competent in identifying inappropriate or unreasonable workplace behaviours, contributing risk factors, sources of risk, and appropriate preventative control measures. As investigations into these matters can be complex, input from subject matter experts, such as organisational psychologists, organisational development consultants, human resources consultants, may be required.

## 3.3 Complaint management

The severity and complexity of an allegation will assist to determine the type of framework that is used to manage a complaint. Formal and informal ways to raise and respond to a complaint should be identified, and these should suit the individual circumstances.

Informal procedures may be used for problem solving rather than investigating or substantiating claims and can be used to understand and avoid similar problems arising in the future.

Informal procedures are appropriate in matters where allegations are less serious or where the complaint is based on miscommunication or a misunderstanding.

Informal complaint procedures can include:

* speaking to the person about their behaviour and reaching a prompt agreement – this may be done through a supervisor, HR or union representative or contact/grievance officer as applicable
* bringing the parties together to work through the issue
* arranging for general worker training and discussion that supports inappropriate or unacceptable workplace behaviour policies.

Employers can use the following general frameworks for formally examining a complaint about inappropriate or unreasonable workplace behaviour:

* mediation
* investigation
* risk assessment.

Sometimes multiple frameworks will be conducted in parallel; however, for many less serious allegations (e.g. misunderstandings) if mediation is conducted well, the issue can be resolved quickly with minimal lasting impact on the parties.

When determining the most appropriate approach, it is important to consider which approach would fit the circumstance of the employee report.

Due to the potential sensitivity of incidents regarding inappropriate or unreasonable workplace behaviours, employers are strongly advised, wherever possible, to address these incidents as promptly as possible and in confidence to minimise stress and trauma to those involved.

Whether the complaint management process is formal or informal, a primary concern should be to maintain a state of confidentiality of both the complainant and the alleged offender, where appropriate. If the complainant does not wish to proceed or be identified, indirect action can be taken, such as training sessions or information provided to all workers.

Where inappropriate or unreasonable behaviour becomes a criminal act, such as in cases of physical or sexual assault, or threats thereof, it should be referred to the police.

### 3.3.1 Mediation

Mediation is a conflict resolution process whereby a mediator, who is generally a neutral third party, assists people to negotiate a mutually acceptable agreement. A mediator needs to have sufficient skills to facilitate communication, promote understanding, assist the parties to identify their needs and interests, and employ problem-solving techniques to enable the parties to reach their own agreement.

Mediation can be appropriate for reports where:

* alleged behaviours have been occurring for a short period
* a breakdown in working relationships or arrangements has occurred
* poor management skills are the issue
* alleged behaviours have caused an impact on the person that appears disproportional to the possible intent – e.g. a misunderstanding
* interpersonal conflict is the issue – e.g. complaints are lodged by both parties against each other and it is no longer relevant who is the perpetrator of the alleged behaviour.

Mediation is most successful when both parties are mutually committed to the process.

Mediation may not be appropriate for circumstances where there is a significant power imbalance (e.g. senior manager and a junior employee), where there is no possibility of an on-going working relationship and where the alleged perpetrator of the behaviour is unlikely to acknowledge problems with the working relationship.

### 3.3.2 Investigation

A formal investigation may be the appropriate approach for reports of alleged inappropriate or unreasonable workplace behaviour that involve:

* intentional behaviours
* decisions that systematically disadvantage an individual
* alleged misconduct type behaviours
* a history of complaints with the alleged perpetrator
* evidence of a pattern of behaviour
* significant power imbalance between the parties
* no possibility of restoring a respectful and productive working relationship
* incidents where the individual may be vulnerable. This can include people who are:
* physically or psychologically unwell and cannot participate in mediation
* physically or intellectually impaired
* from a low socio-economic background
* young or inexperienced or senior aged workers
* not native speakers of the local language.

### 3.3.3 Risk assessment

Conducting a risk assessment is a framework that can be used to examine inappropriate or unreasonable behaviour at an organisational or team level, to identify and address the contributing risk factors in the work environment and source of the risk factors.

The parties involved generally perceive the risk assessment framework positively. It moves away from specific allegations of inappropriate or unreasonable workplace behaviour into identifying and addressing casual factors/systemic issues that may exist in the work environment.

## 3.4 Monitor the effectiveness of action taken

Following the mediation, investigation or risk assessment, the implemented controls should be regularly evaluated to ensure that the controls remain appropriate and prevent inappropriate or unreasonable behaviour reoccurring.

There are a number of ways to collect information to monitor the effectiveness of the controls, which include:

* monitoring patterns of sick leave, staff turnover, injury reports and workers’ compensation data
* monitoring feedback from sources such as surveys, exit interviews and worker assistance programs, and from union representatives, mentors, managers and supervisors
* conducting organisational performance and employee satisfaction surveys
* providing suggestion boxes or digital feedback systems to enable workers, both internal or external, to provide feedback anonymously
* consulting with safety and health representatives and committees.

There should also be ongoing analysis of reported incidents and investigations to work out whether additional training or information should be provided to workers.

# Appendix 1 Hierarchy of control



**Level 1**

**Eliminate the hazard – change the system of work**

In some situations, it is possible to pinpoint the exact reason or source for inappropriate or unreasonable workplace behaviour.

*Examples*

* developing and maintaining a positive workplace culture
* clarifying workers’ roles and responsibilities through position descriptions
* reviewing and adjust staffing levels to peak and low periods
* setting achievable performance targets for current staff numbers and mix
* reviewing working hours and/or shift arrangements to accommodate peak and low periods.

**Level 2**

**Risk minimisation – substitution, isolation and engineering controls**

*Examples*

* implementing a structured change management process, including consultation with workers
* rotating jobs for repetitive or highly demanding tasks
* increasing the level of practical and emotional support during peak workloads
* training in workplace diversity
* training and information for the workforce on appropriate conflict resolution strategies
* training for employees and supervisors/managers in identifying and addressing inappropriate or unreasonable workplace behaviour
* introducing a buddy system for new workers.

**Level 3**

**Administrative controls**

Administrative controls are usually procedures, training and internal processes that help to reduce the effect of the hazard.

*Examples*

* developing and implementing a complaint or grievance resolution process
* developing and implementing a policy on expected workplace behaviours and unacceptable workplace behaviours
* monitoring relationships in the workplace.

**Personal protective equipment**

Personal protective clothing and equipment (PPE) should not be the only control that is used, as it is the least effective control measure.

PPE should be provided as a temporary measure while other risk controls are being considered or implemented, or used in conjunction with other controls.

*Examples*

* personal distress alarms
* well-maintained PPE, such as high quality hearing protection, protection from the sun and glare, body armour, gloves, gowns and face shields to protect contact with body fluids.

# Appendix 2 Relevant legislation

Criminal Code

*Disability Act 1992 (Commonwealth)*

*Equal Opportunity Act 1984*

*Human Right and Equal Opportunity Commission Act 1986 (Commonwealth)*

*Industrial Relations Act 1979*

*Mines Safety and Inspection Act 1994*

*Minimum Conditions of Employment Act 1993*

*Occupational Safety and Health Act 1984*

Occupational Safety and Health Regulations 1996

*Public Interest Disclosure Act 2003*

*Public Sector Management Act 1994 (State Government Departments)*

*Racial Discrimination Act 1975 (Commonwealth)*

*Sex Discrimination Act 1984 (Commonwealth)*

*Spent Convictions Act 1988*

*Surveillance Devices Act 1998*

*Worker's Compensation and Injury Management Act 1981*

# Appendix 3 Audit template for preventing and managing inappropriate or unreasonable workplace behaviour

# WORKPLACE BEHAVIOUR AUDIT TOOL – TEMPLATE

|  |  |  |  |
| --- | --- | --- | --- |
| **Audit date and time**  |  | **Audit completed by** |  |
| **Entity name** |  | **No. of employees (Full-time equivalent)** |  | **Area/site location** |  |
| **Business name** |  | **ABN/ACN** |  | **No. of SHReps** |  |
| **Business address** |  |
| **Postal address** |  |
| **Name of primary contact person** |  | **Primary contact phone** |  |
| **Primary workplace contact email**  |  |
| **Attendees present** |  |

\* N/A or not applicable may apply when it has been identified that there is no hazard or risk factors present, or when the control is not practicable for the workplace or the control is not applied in the workplace as another equivalent or superior control has been applied

## PART 1 [RISK MANAGEMENT APPROACH](http://www.dmp.wa.gov.au/Safety/Risk-management-for-mentally-25381.aspx)

| **Item** | **Check** | **N/A\*** | **Yes** | **No** | **Evidence sighted** | **Comments** |
| --- | --- | --- | --- | --- | --- | --- |
| 1.1 | Managers and supervisors are aware of how to address the identified inappropriate or unreasonable workplace behaviours and associated risk factors within their control.  |[ ] [ ] [ ]   |  |
| 1.2 | Managers and supervisors are aware of how to obtain support for addressing more complex hazards and risk factors.  |[ ] [ ] [ ]   |  |
| 1.3 | Workplace data is monitored for trends as part of a system to identify inappropriate or unreasonable workplace behaviours and risk factors. |[ ] [ ] [ ]   |  |
| 1.4 | Risk register/hazard register/health and hygiene management plan lists the identified inappropriate or unreasonable workplace behaviours, risk factors and associated controls specific to the worksite/work area. |[ ] [ ] [ ]   |  |
| 1.5 | Practicable controls across multiple levels of the hierarchy have been implemented to address the identified hazards and risk factors. *Note: Elimination has been considered first and, where it is not possible to eliminate the risk, the risk has been controlled through risk reduction and minimisation controls.* |[ ] [ ] [ ]   |  |
| 1.6 | Identified corrective actions/controls in the risk assessment are implemented. |[ ] [ ] [ ]   |  |
| 1.7 | Inappropriate or unreasonable workplace behaviours and controls are monitored and reviewed regularly for effectiveness, including when a significant change in the workplace occurs. |[ ] [ ] [ ]   |  |
| 1.8 | There are processes for identifying workplace bullying which considers contributing organisational risk factors.  |[ ] [ ] [ ]   |  |
| 1.9 | Action plan/controls for workplace bullying have been implemented to reduce the risk, as far as practicable, at multiple levels of the hierarchy of control.  |[ ] [ ] [ ]   |  |
| 1.10 | There are processes for identifying inappropriate [gendered behaviours](http://www.dmp.wa.gov.au/Safety/Is-there-a-relationship-between-5093.aspx) (such as sexual harassment and assault) which consider contributing organisational risk factors.  |[ ] [ ] [ ]   |  |
| 1.11 | Action plan/controls for inappropriate gendered behaviours have been implemented to reduce the risk, as far as practicable, at multiple levels of the hierarchy of control.  |[ ] [ ] [ ]   |  |
| 1.12 | There are processes for identifying workplace violence and aggression which consider contributing organisational and environmental risk factors, and potential sources of violence (internal and external). |[ ] [ ] [ ]   |  |
| 1.13 | Action plan/controls for workplace violence and aggression have been implemented to reduce the risk, at multiple levels of the hierarchy of control.  |[ ] [ ] [ ]   |  |
| 1.14 | There are processes for identifying unresolved conflict at work which consider contributing organisational risk factors.  |[ ] [ ] [ ]   |  |
| 1.15 | Action plan/controls for unresolved conflict have been implemented to reduce the risk, at multiple levels of the hierarchy of control.  |[ ] [ ] [ ]   |  |
| 1.16 | There are processes for identifying misconduct at work which consider contributing organisational risk factors. |[ ] [ ] [ ]   |  |
| 1.17 | Action plan/controls for misconduct have been implemented to reduce the risk, at multiple levels of the hierarchy of control.  |[ ] [ ] [ ]   |  |
| 1.18 | There are processes for identifying discrimination and harassment at work which consider contributing organisational risk factors.  |[ ] [ ] [ ]   |  |
| 1.19 | Action plan/controls for discrimination and harassment have been implemented to reduce the risk, at multiple levels of the hierarchy of control.  |[ ] [ ] [ ]   |  |

## PART 2 SAFE SYSTEMS OF WORK

| **Item** | **Check** | **N/A\*** | **Yes** | **No** | **Evidence sighted** | **Comments** |
| --- | --- | --- | --- | --- | --- | --- |
| [**Leadership**](http://dmp.wa.gov.au/Safety/Leading-a-mentally-healthy-25379.aspx) |
| **2.1** | 2.1.1 | Visible leadership commitment is demonstrated through key messages from leaders, integration of mentally healthy workplaces into the overarching work safety and health policy, and allocation of personnel, funding and resources.  |[ ] [ ] [ ]   |  |
|  | 2.1.2 | Organisational values have been developed which align with expected and accepted behaviours at the workplace. These values are communicated to the workforce on a regular basis.  |[ ] [ ] [ ]   |  |
|  | 2.1.3 | Demonstrating organisational values, adherence to expected and acceptable behaviours and the contribution towards developing a positive workplace culture are included as key performance targets in position descriptions.  |[ ] [ ] [ ]   |  |
| [**Supportive and capable management and supervision**](http://dmp.wa.gov.au/Safety/Developing-supportive-and-25389.aspx) |
| **2.2**  | 2.2.1 | Managers and supervisors have received training and information to identify and address incidents of inappropriate or unreasonable workplace behaviours as they arise. |[ ] [ ] [ ]   |  |
|  | 2.2.2 | Managers and supervisors are positive role models for the workforce regarding their workplace attitudes and behaviours. |[ ] [ ] [ ]   |  |
|  | 2.2.3 | Managers and supervisors provide an [appropriate level of supervision](https://www.commerce.wa.gov.au/sites/default/files/atoms/files/general_duty_of_care.pdf) to employees which considers the nature of the work, employees’ skills, competence and individual characteristics. |[ ] [ ] [ ]   |  |
|  | 2.2.4 | Managers and supervisors have received training and information on performance development, providing constructive performance feedback, substandard performance management and disciplinary procedures.  |[ ] [ ] [ ]   |  |
| [**Good work design**](http://www.dmp.wa.gov.au/Safety/Work-design-25581.aspx) |
| **2.3** | 2.3.1 | Good work design principles have been applied as controls, as far as is practicable, to reduce the risk of workers being exposed to inappropriate or unreasonable behaviours at work. E.g. S.M.A.R.T: * **S**timulating work
* **M**astery at work
* **A**gency in a job
* **R**elational work
* **T**olerable demands.
 |[ ] [ ] [ ]   |  |
|  | 2.3.2 | There are opportunities/mechanisms for constructive feedback to be provided to management so jobs and/or work practices can improved in line with good work design principles. |[ ] [ ] [ ]   |  |
| **Policies and procedures** |
| **2.4** | 2.4.1 | There is a documented policy which identifies expected and acceptable behaviours at the workplace and a documented procedure which is consistently applied by leaders, managers, and supervisors to manage breaches of the policy by any member of the workforce. |[ ] [ ] [ ]   |  |
|  | 2.4.2 | There is a documented policy which outlines how the workplace supports a diverse and inclusive culture.  |[ ] [ ] [ ]   |  |
|  | 2.4.3 | These policies referred to in 2.4.2 are implemented at all work locations. |[ ] [ ] [ ]   |  |
|  | 2.4.4 | The policies and procedures were developed in consultation with representatives from the workforce. |[ ] [ ] [ ]   |  |
|  | 2.4.5 | The policies and procedures are accessible at all work locations and promoted. |[ ] [ ] [ ]   |  |
|  | 2.4.6 | The policies and procedures are reviewed and updated regularly, with input from representatives from the workforce. |[ ] [ ] [ ]   |  |
| [**Reporting and resolution procedures**](http://dmp.wa.gov.au/Safety/Responding-to-reports-25399.aspx) |
| **2.5** | 2.5.1 | A reporting procedure and supporting process are in place, which include reporting inappropriate or unreasonable workplace behaviours at work.  |[ ] [ ] [ ]   |  |
|  | 2.5.2 | Procedures are in place to respond to reports of inappropriate or unreasonable workplace behaviours at work and associated risk factors in a timely manner. |[ ] [ ] [ ]   |  |
|  | 2.5.3 | The procedure for responding to reports of inappropriate or unreasonable workplace behaviours at work are flexible enough to fit the different circumstances of each report and include informal and formal resolution avenues.  |[ ] [ ] [ ]   |  |
|  | 2.5.4 | A contact person, grievance officer or peer support program is available to workers for confidential discussions about concerns, enquiries or complaints.  |[ ] [ ] [ ]   |  |
|  | 2.5.5 | Employee reports of inappropriate or unreasonable workplace behaviours at work are investigated. |[ ] [ ] [ ]   |  |
|  | 2.5.6 | The documented reporting policies and procedures state an external consultant (i.e. mediator, investigator) will be engaged when there is a complaint or allegations are against senior management, or when a perceived or actual conflict of interest has been identified. |[ ] [ ] [ ]   |  |
|  | 2.5.7 | Investigations into incidents are conducted independently of mental health status, performance management processes and workers’ compensation processes. |[ ] [ ] [ ]   |  |
|  | 2.5.8 | Employees who make a report are provided feedback on the resolution of the matter. |[ ] [ ] [ ]   |  |
| **Training, information and supervision** |
| **2.6** | 2.6.1 | Employees who undertake the risk assessment have been provided training and information on inappropriate or unreasonable workplace behaviours at work. |[ ] [ ] [ ]   |  |
|  | 2.6.2 | Employees who undertake the investigation have been provided training and information on inappropriate or unreasonable workplace behaviours at work, and how to conduct an investigation. |[ ] [ ] [ ]   |  |
|  | 2.6.3 | All members of the workforce are provided with regular information (including at induction) on inappropriate or unreasonable workplace behaviours at work, associated risk factors, how to identify and report incidents/injuries, and where to seek assistance. |[ ] [ ] [ ]   |  |
|  | 2.6.4 | Employees have received information and training on available support, e.g. Employee Assistance Program, internal support (managers and supervisors, grievance and contact officers), HR. |[ ] [ ] [ ]   |  |

## PART 3 ENCOURAGE REPORTING

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Item** | **Check** | **N/A\*** | **Yes** | **No** | **Evidence sighted** | **Comments** |
| 3.1 | A no-blame/ just culture is promoted.  |[ ] [ ] [ ]   |  |
| 3.2 | Employees are encouraged to report accidents, incidents and near misses.  |[ ] [ ] [ ]   |  |
| 3.3 | De-identified Information on the number of reports made, how they were resolved and what actions were taken is regularly provided to OSH committee and employees. |[ ] [ ] [ ]   |  |
| 3.4 | If an Employee Assistance Program service is provided, data is analysed without identifying individuals, and the duty holder uses it for the purpose of identifying, addressing and monitoring inappropriate or unreasonable workplace behaviours at work and risk factors in the workplace. Data is kept confidential, and reported at group level. |[ ] [ ] [ ]   |  |
| 3.5 | Employees are aware of the reporting process and the process is used. |[ ] [ ] [ ]   |  |
| 3.6  | A consistent and timely response is applied to reports. |[ ] [ ] [ ]   |  |

# PART 4 RETURN TO WORK

| **Item** | **Check** | **N/A\*** | **Yes** | **No** | **Evidence sighted** | **Comments** |
| --- | --- | --- | --- | --- | --- | --- |
| 4.1  | Specific inappropriate or unreasonable workplace behaviours at work and risk factors have been identified for the job and controlled as far as practicable before someone returns to work from the related injury to prevent reoccurrence or exacerbation. |[ ] [ ] [ ]   |  |
| 4.2 | Supportive supervision is provided to employees returning to work. |[ ] [ ] [ ]   |  |
| 4.3 | Resources have been identified and implemented to support the return to work of the employee without having a detrimental impact on other team members. |[ ] [ ] [ ]   |  |
| 4.4 | All relevant parties maintain effective communication during the return to work to ensure any reoccurrences or exacerbation of the work-related injury is addressed. |[ ] [ ] [ ]   |  |

# CORRECTIVE ACTION PLAN

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Action** | **Tasks** | **Responsible person** | **Completion date** | **Review date** |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |

# Appendix 4 Other sources of information

This code of practice should be read in conjunction with other relevant publications produced by the Commission for Occupational Safety and Health and WorkSafe.

**Legislation**

*Occupational Safety and Health Act 1984*

[*www.legislation.wa.gov.au/legislation/statutes.nsf/law\_a555.html*](https://www.legislation.wa.gov.au/legislation/statutes.nsf/law_a555.html)

Occupational Safety and Health Regulations 1996

[www.legislation.wa.gov.au/legislation/statutes.nsf/law\_s4665.html](https://www.legislation.wa.gov.au/legislation/statutes.nsf/law_s4665.html)

**Codes of practice and guidance**

**Commission for Occupational Safety and Health**

* General duty of care in Western Australian workplaces
* Occupational safety and health in call centres
* Dealing with bullying at work – a guide for employees
* Working alone
* Alcohol and other drugs at the workplace
* Preparing for emergency evacuation in the workplace
* Covert operations and dangerous operations in the Western Australia Police Service
* Formal consultative processes at the workplace: safety and health representatives, safety and health committees and resolution of safety and health issues, including consultation on PINs.

**WorkSafe**

* The First Step – Managing hazards in the workplace
* Aggression in the workplace toolkits and information resources
* Aggression in the workplace – frequently asked questions
* Introduction to aggression in the workplace.

**Safety Bulletins**

* General duty of care
* Labour hire industry and duty of care
* Electing safety and health representatives
* Establishing safety and health committees
* Personal improvement notice.

**Government agencies and organisations**

**Australian Human Rights Commission**

Level 3, 175 Pitt Street

SYDNEY NSW 2000

Tel. 1300 369 711

Web: [www.humanrights.gov.au](http://www.humanrights.gov.au)

**Chamber of Commerce and Industry**

18 Hay Street

EAST PERTH WA 6004

Tel. 1300 422 492

Web: [www.cciwa.com](http://www.cciwa.com)

**Equal Opportunity Commission**

Albert Facey House

469 Wellington Street

PERTH WA 6000

Tel. (08) 9216 3900

Web: [www.eoc.wa.gov.au](http://www.eoc.wa.gov.au)

**Mental Health Commission**

Level 1, 1 Nash Street

PERTH WA 6000

Tel. (08) 6553 0600

Web: www.mhc.wa.gov.au

**Office of Multicultural Interests**

Gordon Stephenson House

140 William Street

PERTH WA 6000

Tel. (08) 6551 8700

Web: [www.omi.wa.gov.au](http://www.omi.wa.gov.au)

**UnionsWA**

Level 4, 445 Hay Street

PERTH WA 6000

Tel. (08) 9328 7877

Web: [www.unionswa.com.au](http://www.unionswa.com.au)

**WA Police – assistance**

Tel. 131 444

Web: [www.police.wa.gov.au/Contact-Us](http://www.police.wa.gov.au/Contact-Us)

**WorkSafe**

Department of Mines, Industry Regulation and Safety

Mason Bird Building

Level 1, 303 Sevenoaks Street

CANNINGTON WA 6107

Serious incident and fatality reporting line: 1300 301 877

Web: [www.commerce.wa.gov.au/worksafe](http://www.commerce.wa.gov.au/worksafe)