



Government of **Western Australia**
Department of **Mines, Industry Regulation and Safety**

CODE OF PRACTICE
Workplace behaviour



COSH

COMMISSION FOR OCCUPATIONAL SAFETY AND HEALTH



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Foreword

This code of practice is issued by the Commission for Occupational Safety and Health (the Commission), under provisions of the *Occupational Safety and Health Act 1984* (OSH Act). The Commission 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 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. With the objective of preventing work-related injuries and diseases, the OSH Act places certain duties on employers, self-employed people, workers and others. These broad duties are supported by further legislation, commonly referred to as regulations, together with non-statutory codes of practice and guides.

Occupational Safety and Health Regulations 1996

The Occupational Safety and Health Regulations 1996 (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.

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

This 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 bullying, harassment, violence and aggression, discrimination and misconduct.

This code of practice is primarily concerned with inappropriate or unreasonable behaviours by any worker within an organisation. For information about managing violence and aggression from external parties such as customers, clients, patients and students, see the *Violence and aggression at work code of practice*.

The guidance in this code of practice should be considered in conjunction with the general duties in the OSH Act and the *Psychosocial hazards in the workplace code of practice*.

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.

This code is intended to be read by employers who have a primary duty of care to provide and maintain a work environment without risks to safety and health under the OSH Act. Health includes both physical and psychological health.

You should use this code of practice if you have functions or responsibilities that involve managing, so far as is reasonably practicable, hazards and risks to psychological and physical health and safety at work. It provides practical guidance on the processes an employer could use to identify and manage inappropriate or unreasonable behaviour at work.

The code may also be a useful reference for other persons interested in complying with the duties under the OSH Act and OSH Regulations.

Using this code of practice

The terms used in this code of practice are intended to have a broad and flexible application for use across all Western Australian workplaces covered by the OSH Act.

All forms of workplace bullying and harassment are serious occupational safety and health issues. Other types of inappropriate or unreasonable workplace behaviour can also impact on a worker's psychosocial safety and health, including discrimination, misconduct and conflict. This code of practice is designed to help employers and workers to identify and manage behaviour that creates a risk of harm to health at the workplace.

Managing inappropriate or unreasonable behaviours can be challenging because of the complex interplay and changing nature of risks. This code of practice provides high-level guidance for a risk management approach, which should be tailored to the unique demands of each workplace. Effective consultation and communication are critical, and a proactive and integrated approach is required.

This code of practice includes references to both mandatory and non-mandatory actions. The word "must" indicates that legal requirements exist, which must be complied with. The word "should" indicates a recommended course of action, while "may" is used to indicate an optional course of action.

Acknowledgment

Material in this publication has been adapted from information published by Safe Work Australia.



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1 Introduction

1.1 What is inappropriate or unreasonable behaviour?

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. They are a category of psychosocial hazards. Workplace psychosocial hazards are related to the psychological and social conditions of the workplace rather than just the physical conditions.

These behaviours include bullying and harassment, as well as violence and aggression. Discrimination, misconduct and conflict (particularly if it is prolonged or unresolved), can also affect worker health and need to be addressed appropriately. They can occur through various mechanisms including electronic means and social media, SMS messaging, email communication, telephone and in person.

Both short- and long-term exposure to psychosocial hazards may cause harm to a person. For example, an acute (severe) short-term exposure to psychosocial hazards such as experiencing violence at work may result in harm to health (e.g. acute-stress disorder, post-traumatic stress disorder). In addition, it is important to recognise that a cumulative effect of low-level exposure to psychosocial hazards can also lead to psychological or physical injury. People may experience multiple psychological and physical symptoms of harm as a result of exposure.

Inappropriate or unreasonable workplace behaviour can result in an increased risk of psychological harm such as depression, anxiety or trauma-related disorders. In addition to adverse health outcomes for workers, exposure to psychosocial hazards and risk factors in the workplace can also affect performance and increase the risk of accidents or incidents.

Unreasonable behaviour is defined by the effect of the behaviour, not the intent of the behaviour, as there may not be any specific intent to cause harm to someone's health. Whether the unreasonable behaviour was intended or not, or whether the person recognises that their actions could cause harm, does not reduce the risk of harm from the behaviour.

1.2 Who is responsible for managing inappropriate or unreasonable workplace behaviour?

Employer duties

The OSH Act requires an employer to ensure, so far as is reasonably practicable, the safety and health of workers while at work. Health includes both physical and psychological health.

An employer must ensure, so far as is reasonably practicable, workers and other people are not exposed to risks to their psychological safety and health. An employer must eliminate risks in the workplace, or if that is not reasonably practicable, minimise these risks so far as is reasonably practicable.

Worker and others duties

The OSH 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. Workers and other persons must comply with reasonable health and safety instructions, as far as they are reasonably able, and cooperate with reasonable health and safety policies or procedures that have been notified to workers.

Workplace

A workplace is any location where work is carried out and includes any place where a worker 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.

Reporting to the regulator

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

Some types of inappropriate or unreasonable workplace behaviour can attract criminal charges, and can also be unlawful under state and federal equal opportunity legislation.

1.3 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 workers
- lesbian, gay, bisexual, transgender, intersex, queer and asexual (LGBTIQ+) workers
- Aboriginal or Torres Strait Islander workers
- workers with a disability
- culturally and linguistically diverse (CALD) workers
- migrant workers or workers holding temporary visas
- people in insecure working arrangements.

A vulnerable worker is less likely to report incidents of inappropriate or unreasonable behaviour.

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.

An employer may take reasonable management action to effectively direct and control the way work is carried out. It is reasonable for managers and supervisors to allocate work and give feedback on a worker's performance.

A manager exercising their legitimate authority at work may result in some discomfort for a worker. The question of whether management action is reasonable is determined by considering the actual management action rather than a worker's perception of it, and where management action involves a significant departure from established policies or procedures, whether the departure was reasonable in the circumstances.

The following are examples of what would be considered to be reasonable management action:

- setting realistic and achievable performance goals, standards and deadlines
- fair and appropriate rostering and allocation of working hours
- transferring a worker to another area or role for operational reasons
- deciding not to select a worker for a promotion based on performance, skill, or capability
- informing a worker about unsatisfactory work performance in an honest, fair and constructive way
- informing a worker about inappropriate or unreasonable behaviour in an objective and constructive way
- implementing organisational changes or restructuring
- taking disciplinary action, including suspension or terminating employment where appropriate or justified in the circumstances.

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

2 Types of inappropriate or unreasonable workplace behaviour

2.1 Bullying

Workplace bullying can adversely affect the psychological and physical health of a person.

Workplace bullying is repeated and unreasonable behaviour directed towards a worker or a group of workers that creates a risk to safety and health. Repeated behaviour refers to the persistent nature of the behaviour and can involve a range of behaviours over time. Unreasonable behaviour means behaviour that a reasonable person, having considered the circumstances, would see as unreasonable, including behaviour that is victimising, humiliating, intimidating or threatening.

Examples of behaviour, whether intentional or unintentional, that may be workplace bullying if they are repeated, unreasonable and create a risk to safety and health include:

- abusive, insulting or offensive language or comments
- aggressive and intimidating conduct
- belittling or humiliating comments
- victimisation
- practical jokes or initiation
- unjustified criticism or complaints
- deliberately excluding someone from work-related activities
- withholding information that is vital for effective work performance
- setting unreasonable timelines or constantly changing deadlines
- setting tasks that are unreasonably below or beyond a person's skill level
- denying access to information, supervision, consultation or resources to the detriment of the worker
- spreading misinformation or malicious rumours
- changing work arrangements such as rosters and leave to deliberately inconvenience a particular worker or workers.

A single incident of unreasonable behaviour is not workplace bullying. However, it may constitute another type of inappropriate or unreasonable behaviour and create a risk of harm to health.

If the behaviour involves violence, for example physical assault or the threat of physical assault, it should be reported to the police.

2.2 Harassment

Sexual, racial or other harassment based on an unlawful ground prescribed by the *Equal Opportunity Act 1984 (WA)* or relevant federal discrimination law is inappropriate and unreasonable behaviour for the purpose of this code.

Harassment can involve physical, verbal 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
- initiation ceremonies that involve unwelcome and unsafe behaviour.

Harassment can be a one-off incident or repeated and continuous occurrences.

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 any gender, and people of any age or background.

Harassment can create a hostile work environment that may impact upon others in the workplace and can become a hazard under the OSH Act when it has the potential to create a risk to safety and health. Other legislation may also be applicable to incidents involving harassment.

Where harassment involves physical conduct perpetrated by a client or member of the public (i.e. external sources of violence), see the *Violence and aggression at work code of practice* for more information.

2.2.1 Sexual harassment

The *Sex Discrimination Act 1984* makes sexual harassment unlawful in many areas of public life, including in employment situations. Sexual harassment is another set of behaviours, not always obvious, repeated or continuous, that can create a risk to worker safety and health. These include:

- suggestive comments or jokes, insults or taunts based on a person's gender or sexual orientation
- repeated or inappropriate advances in person and/or online
- sending unwelcome pictures, content and messages of a sexual nature
- unwelcome physical contact, including unwanted touching, hugging, cornering and kissing
- actual or attempted rape or sexual assault.

Factors such as a homogenous workplace, power differences, and a workplace culture that normalises gendered behaviours and stereotypes can create a workplace culture that increases the risk of sexual harassment behaviours.

While both men and women experience sexual harassment, women are significantly more likely to experience it than men and are more likely to suffer negative impacts on their physical and psychological health and safety at work.

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 and electronic platforms) may be offences under criminal law and should be referred to police – with the victim’s consent, wherever possible – as well as managed under OSH laws.

Sexual harassment should be reported to WorkSafe WA if it meets the notification threshold. Attempted and actual sexual assault is a criminal matter and the appropriate response is to contact the police. Contact with the police should be done with consent of the individual affected. There may be circumstances, for example, if the person is in imminent danger or incapacitated, where it would be appropriate to call the police without consent. The individual may choose to report the matter to police, WorkSafe WA or both.

2.2.2 Racial harassment

It is unlawful under the *Equal Opportunity Act 1984* to harass a person because of their race. Race includes colour, descent, ethnic or national origin, or nationality and may comprise two or more distinct races.

Racial harassment may take many forms including threats, abuse, insults and taunts based on a person’s race or a characteristic belonging to, or generally believed to belong to, a particular race.

In employment, it is unlawful to racially harass an employee, a co-worker, a potential employee or a potential employer, or contract worker. These behaviours can increase the risk of harm to health.

2.3 Violence and aggression

Work-related violence and aggression covers a broad range of actions and behaviours that create a risk to safety and health of workers in circumstances related to their work. These are actions or behaviours that may physically or psychologically harm another person. Examples include:

- abusive behaviour, including insults and name-calling, and intimidating behaviour that creates a fear of violence, such as stalking or threatening to cause physical harm
- any form of assault, such as biting, spitting, scratching, hitting, kicking, punching, pushing, shoving, tripping, grabbing or throwing objects.

Violence and aggression can harm both the person it is directed at and anyone witnessing it. Psychological harm, in particular, can arise from repeated exposure to violence and aggression.

Violence and aggression can be:

- physical, psychological, verbal or written
- one off or repeated incidents
- minor behaviours through to more serious acts, including criminal offences, which require the intervention of public authorities
- in person or can include threats by correspondence, electronic means or by social media.

Physical assault or the threat of physical harm of any form is a criminal act. If a suspected criminal act has been committed, the appropriate response is to contact the police. Contact with the police should be done in consultation with the individual affected, wherever possible. This is to ensure they maintain control over their circumstances and are not unintentionally put at further risk which can occur with some forms of violence and aggression, such as family and domestic violence. For clarity, if the person is in imminent danger it would be appropriate to call the police without consultation.

The *Violence and aggression at work code of practice* provides practical guidance on the general principles applied to the prevention and management of violence and aggression in the workplace from external parties.

However, while the general principles are the same, the controls used to manage violence and aggression from clients, customers, students and patients are different to those used to manage violence and aggression that occurs between co-workers. This is because violence and aggression between workers can be addressed using the same processes used to manage bullying and other inappropriate or unreasonable behaviours in the workplace.

The injuries and harm to health can be cumulative. The incident that results in the worker complaining or taking time off work may be minor in nature, but may result in significant injury after cumulative exposure. Symptoms can appear some time after the exposure to violence and aggression.

2.4 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 and harassment. When discriminatory actions create a risk to safety and health, the OSH Act will apply in addition to other state and federal legislation.

Discrimination may occur when a person, or a group of people, are treated less favourably than another person or group because of a prohibited ground under the *Equal Opportunity Act 1984* or any other anti-discrimination law in force in the place where the action occurs.

Discrimination can be unlawful if it is based on a person's 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. This is known as direct discrimination.

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.

2.5 Other behaviours

2.5.1 Misconduct

Misconduct is any improper or unacceptable conduct or behaviour which fails to meet the requirements of relevant regulations, codes of conduct, 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.

Misconduct, in the context of safety and health, can include deliberate behaviour that enables harm to a worker's psychological and physical safety and health to occur, including through negligence of duties and abuse of power.

2.5.2 Conflict

For the purpose of this code, conflict involves two or more people who are in conflict over a work-related matter(s) and are unable to resolve those differences. Conflict is a natural part of any workplace. However, it may pose a risk to safety and health if it is prolonged, unresolved or escalates and the behaviours become inappropriate or unreasonable.

Work related conflict generally occurs as a result of:

- task conflict – where people have differences of opinion or disagreement about resource allocation, ideas, decisions or actions relating directly to the job.
- relationship conflict – where people have differences of opinion which impacts on their ability to work together.

Where cases of prolonged or 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. If the employer has taken all reasonable measures, but the conflict is unresolvable, it is taken to have been resolved.

3 Risk management approach

There is a risk of inappropriate or unreasonable behaviour wherever workers have contact with other people, including co-workers, supervisors, clients and other visitors to the workplace. There may not be obvious signs of inappropriate or unreasonable behaviour at the workplace, but this does not mean it is not occurring. Inappropriate or unreasonable behaviour is best dealt with by taking steps to prevent it before it creates a risk to safety and health.

It is a requirement under the OSH Regulations to use a risk management approach based on the hierarchy of control to manage hazards and risks to worker safety and health, including psychological safety and health. Aside from meeting their legislative obligations, adopting a risk management approach helps employers to:

- prevent and reduce the likelihood of inappropriate or unreasonable behaviour occurring
- prevent and reduce the likelihood of harm from exposure to inappropriate or unreasonable behaviour
- respond appropriately when inappropriate or unreasonable behaviour occurs.

Using a risk management approach moves away from specific allegations of inappropriate or unreasonable workplace behaviour into identifying and addressing causal factors and systemic issues that may exist in the work environment.

Figure 3.1 illustrates risk management as a continual process comprised of four steps:

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 and adapt or improve the controls where necessary.



Figure 3.1 Overview of the risk management process (adapted from Safe Work Australia).

Key to the successful management of hazards and risks is leadership commitment and supportive, capable management and supervision, as well as clear and accessible policies and procedures, and training and education. Communication and consultation with workers and other stakeholders are important at all stages.

These control measures described in the next chapter.

3.1 Identify the behaviours and contributing risk factors

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.

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
- gather workplace data that will inform the process – e.g. incident reports, complaints, absenteeism rates, baseline health data, worker survey results
- understand legislative requirements and determine what the workplace is already doing to meet those requirements – e.g. policies, procedures, training
- consider how to maintain confidentiality and trust.

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.

Employer associations, unions and WorkSafe WA can provide insights into hazards and risk factors, as well as solutions in different industries.

3.2 Assessing the risks

The next step in the risk management process is assessing the risks. 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; i.e. the frequency and duration of potential exposure, 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.

After identifying the hazard, if the risks and how to manage them effectively are already known, the controls should be implemented.

3.3 The hierarchy of control

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 considering their adequacy.

Some controls are more effective than others and they can be ranked from highest level of protection and reliability to the lowest. This is known as the hierarchy of control. Elimination controls are the most effective and reliable form of control, followed by risk minimisation controls (engineering, substitution and isolation), then administration and personal protective equipment (PPE) controls.

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 controls within the workplace. Risk minimisation controls refer to engineering, isolation and substitution measures.

Administrative 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.

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

Sections 4 and 5 describe control measures for prevention and management and reporting and responding to reports of inappropriate or unreasonable behaviour.

3.4 Assessing control adequacy

The next step is to identify how effective these controls are in reducing the overall risk of harm to health. 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.

3.5 Monitoring and reviewing

The hazard and risk assessments should be reviewed and updated regularly, including when changes are made within the workplace. This involves finding out whether the changes made have eliminated or reduced the assessed risks, whether control strategies are continuing to be effective and ensuring that new risks have not been introduced into the workplace as a result of implementing a control.

Reviews must occur:

- where a new hazard or risk is identified
- if a control measure is not adequately minimising the risk
- before a significant workplace change occurs; for example, a change to the work environment or systems of work
- where consultation indicates a review is necessary, or
- if a safety and health representative requests a review.

Consultation with workers and their representatives is required throughout the risk management cycle, including when reviewing control measures.

Monitoring should be undertaken through regular scheduled discussions at management meetings, staff meetings and safety and health committee meetings. A standing agenda item at these meetings may help to ensure that regular monitoring occurs. Regular monitoring of the incidence of grievances, staff turnover and use of employee assistance programs is also useful. Incident reports and findings should be reviewed to identify any trends and to work out whether additional measures such as training or information should be provided to workers.

4 Prevention and management

4.1 Leadership

Leaders have a vital role to play when it comes to managing safety. When workers know their managers place high importance on working safely, they are more likely to be motivated to follow safety procedures and raise safety issues.

Demonstrated senior management commitment in identifying, preventing and responding to inappropriate or unreasonable behaviour is one of the key factors for preventing inappropriate or unreasonable behaviour and managing psychosocial risks.

Managers can demonstrate commitment in various ways including by:

- modelling respectful behaviours at all times
- developing and implementing a policy which clearly identifies the expected behaviours and consequences of not complying
- dealing with inappropriate or unreasonable behaviour as soon as they become aware of it
- ensuring that reports are taken seriously and properly investigated
- consulting with workers.

4.2 Organisational culture

An organisation's culture consists of the values and behaviours that workers share and demonstrate. It can include the shared attitudes and beliefs that form part of the organisation's written and unwritten rules.

Organisational culture may become a risk factor when it permits inappropriate or unreasonable workplace behaviour and rewards 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 workers adopting the shared destructive norms and values, leading to a continued cycle of harmful behaviour.

Similarly, workplace culture may become a risk factor for inappropriate or unreasonable behaviour occurring if it involves an unjust and punitive culture where workers experience negative consequences for raising concerns and making mistakes.

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.

4.3 Work design

Good work design considers hazards and risks as early as possible in the planning and design process, including psychosocial hazards and risks. The following work design control measures may reduce the risk of inappropriate or unreasonable workplace behaviour:

- clearly define jobs, including areas of overlap and potential conflict, and seek regular feedback from workers about their role and responsibilities
- provide workers with the resources, information and training they need to carry out their tasks safely and effectively
- review and monitor workloads and staffing levels to reduce excessive working hours and workload, and potential inequitable distribution of work
- provide effective communication throughout workplace change, including restructuring or downsizing.

4.4 Policies and procedures

Policies and procedures are a reasonably practicable control that most 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.

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.

Implementing policies and procedures for standards of behaviour, managing inappropriate or unreasonable behaviour, and for reporting and responding to reports, as well as the consistent and fair application of these policies and procedures are key to the successful management of inappropriate or unreasonable workplace behaviour.

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.

Policies and procedures should be communicated and promoted through notice boards, the intranet, team meetings and by managers discussing the policy with their staff.

4.5 Consultation

Under OSH laws, the employer must consult, as far as reasonably practicable, with workers and, if applicable, health and safety representatives.

Consultation can include sharing information, giving workers a reasonable opportunity to express their views and taking those views into account before making decisions on work health and safety matters that directly affect them.

Consultation enables workers to have input in developing policies and procedures for managing inappropriate or unreasonable workplace behaviour that are best suited to the needs of the organisation. Effective consultation can also help raise awareness of what these behaviours look like and the processes for reporting and managing them.

4.6 Information and training

Information and training are a significant factor in preventing and managing inappropriate or unreasonable workplace behaviour. Workers, including managers and supervisors, should be aware of their roles in relation to preventing and responding to inappropriate or unreasonable workplace behaviour and have the appropriate skills to take action where necessary.

4.6.1 Information

Information about standards of behaviour can be given to workers in a number of ways including:

- talking directly with workers by holding team meetings, tool box talks or speaking one-on-one with them at the beginning of the work day
- providing information sheets, leaflets and flowcharts (e.g. for reporting)
- displaying posters around the workplace
- through email messages or intranet announcements.

4.6.2 Training

Training for workers should include information on:

- the standards of behaviour expected in the workplace including the use of social media if relevant
- how inappropriate and unreasonable behaviour should be reported and how such reports are managed
- where to go internally and externally for more information and assistance.

Training for workers can be provided in various ways including through online courses, podcasts and face-to-face training. A training program should cover:

- awareness of the impact certain behaviours can have on others
- the work health and safety duties and responsibilities relating to workplace behaviour
- measures used to prevent inappropriate or unreasonable behaviour from occurring
- how individuals can respond to inappropriate or unreasonable behaviour
- how to report inappropriate or unreasonable behaviour
- how reports will be responded to, including timeframes.

Training for managers and supervisors should develop skills to be able to identify psychosocial hazards and put the right control measures in place. They should be trained in how to prevent and respond to inappropriate and unreasonable behaviour, and in skills that will help develop productive and respectful workplace relationships, for example training that covers:

- communicating effectively and engaging workers in decision-making
- managing difficult conversations and providing constructive feedback both formally and informally
- conflict management
- effectively managing workloads and performance
- diversity and tolerance.

4.7 Dealing with external parties

Sometimes inappropriate or unreasonable behaviour occurs by people not directly employed in the organisation, such as customers, clients, patients and members of the public. Management has a duty to eliminate or minimise workplace risks to safety and health so far as is reasonably practicable.

Where there is a risk of inappropriate or unreasonable behaviour by other people, the following control measures may be considered:

- communicate the expected standard of behaviour through a variety of means, including posters, or in contracts and agreements
- empower workers to refuse or suspend service if other people fail to comply with the expected standard of behaviour
- provide support to workers who are exposed to inappropriate or unreasonable behaviour
- implement control measures to eliminate or minimise the risk of workplace violence. See the *Violence and aggression at work code of practice* for more information.

5 Reporting and responding to reports

5.1 Reporting

If a worker considers they are being subjected to inappropriate or unreasonable workplace behaviour, or witnesses another worker being subjected to inappropriate or unreasonable behaviour, they will be more likely to report it if they know there is a reporting process in place and that the report will be addressed in a timely manner.

Reports should be raised within the workplace and reasonable attempts should be made to resolve the matter internally before referring to external agencies such as WorkSafe WA or the Fair Work Commission.

WorkSafe WA and the Fair Work Commission may be contacted where reasonable attempts to resolve a complaint through internal processes within the workplace have failed. The most appropriate agency will depend on the nature of the complaint and the desired outcome.

5.1.1 Why inappropriate or unreasonable workplace behaviour goes unreported

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

- lack of response by the employer
- uncertainty where to seek help, including what can be reported and the correct procedure to report these behaviours
- fear of retribution
- feelings of intimidation or embarrassment
- belief that the behaviour is part of the workplace culture
- belief that their opportunities in the organisation or the industry will be affected.

Employers can examine whether current reporting and resolution mechanisms are understood and utilised by workers. Employers can encourage a reporting culture by addressing any perceived barriers to reporting through consultation with workers directly, or through other mechanisms such as worker surveys, focus groups and exit interviews.

To encourage workers to report, there should be easy to access guidance with information about the steps to take publicised and known throughout the organisation. It is important that workers submitting reports are supported, assured of confidentiality and protected from victimisation. Any investigations and appeals processes should be fair and afford natural justice to all parties. There should also be processes in place to minimise any distress an investigation may cause.

5.1.2 Principles for responding to reports

An organisation can have a combination of informal and formal processes so as to be flexible enough to fit the differing circumstances of each report. The procedures identify who a complainant can speak to and what processes will be used to respond to the complaint.

Informal complaint procedures can include:

- speaking to the person about their behaviour and reaching a prompt agreement. This may be done through a supervisor, human resources department 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.

Formal processes for managing a complaint about inappropriate or unreasonable workplace behaviour usually involve investigation and/or mediation.

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
- 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 – e.g. Employee Assistance Programs, safety and health representatives, grievance officers and union delegates.

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

5.2 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

Investigations should generally be carried out by unbiased neutral person who has experience and knowledge in dealing with workplace behaviour matters. The results of the investigation should be communicated to the parties involved at the end of the investigation.

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.

5.2.1 Investigation outcomes

If a report is substantiated, actions should be taken consistent with relevant policies and procedures. The actions may be different in each situation and depend on the severity of the behaviour, the size and structure of the business. Such actions may include:

- directing the person to cease the behaviour and gaining a commitment that the behaviour will not be repeated and monitoring this over time
- providing information to workers to raise the awareness of inappropriate behaviours and standards of behaviour expected
- providing training or coaching e.g. leadership, communication and inter-personal skills and conflict management
- providing counselling support
- reviewing the workplace policy and prevention measures
- addressing organisational issues that may have contributed to the behaviour occurring
- requesting an apology
- providing a verbal or written warning
- transferring a worker or workers to another work area
- demotion, dismissal or other actions subject to workplace relations laws.

It is likely a combination of strategies will be appropriate to prevent the inappropriate or unreasonable behaviour from reoccurring.

If an investigation finds a report of inappropriate or unreasonable behaviour is not substantiated, assistance may still need to be provided to resolve outstanding issues. This may involve mediation, counselling or changing working arrangements. Mediation is a voluntary process where an impartial third party, preferably a trained mediator, assists the parties to put their respective cases before each other. The role of a mediator is to help both parties understand each other's perspective and to try to find an agreement the parties are willing to abide by.

If the report is found to be vexatious or malicious, disciplinary action or counselling may be considered against the person who made the report. Any action taken should be consistent with the organisation's policies on misconduct and disciplinary action.

5.3 Follow up actions

After a report of inappropriate or unreasonable behaviour is resolved there should be a follow-up review to check the safety and health of the parties involved, to offer support and to find out whether actions taken to stop the behaviour have been effective. These may include:

- offering professional counselling
- providing mentoring and support from a senior manager
- providing training and relevant professional or skills development
- redressing inequality resulting from the behaviour
- monitoring behaviours of the affected work group
- organising work in another area of the organisation.

There should be ongoing analysis of reported incidents and investigations to ensure resolution has been achieved and to assess whether training or information should be provided.

Investigation reports are useful sources of information in the risk management process.

Appendix 1 Relevant legislation

Australian Human Rights Commission Act 1986 (Commonwealth)

Criminal Code Act Compilation Act 1913

Disability Discrimination Act 1992 (Commonwealth)

Equal Opportunity Act 1984

Fair Work Act 2009 (Commonwealth)

Industrial Relations Act 1979

Minimum Conditions of Employment Act 1993

Occupational Safety and Health Act 1984

Occupational Safety and Health Regulations 1996

Privacy Act 1988 (Commonwealth)

Public Interest Disclosure Act 2003

Public Sector Management Act 1994

Racial Discrimination Act 1975 (Commonwealth)

Sex Discrimination Act 1984 (Commonwealth)

Workers' Compensation and Injury Management Act 1981

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