



Code of Conduct Guidelines

Purpose

The purpose of these Guidelines is to inform employees and those handling conduct issues of the principles and processes for dealing with suspected breaches of the Australian Public Service (APS) Code of Conduct (the Code) in the department.

These guidelines promote good practice and consistency in decisions relating to conduct issues, recognising that each circumstance is different, and it is not desirable or practical to prescribe rigid rules to apply in all cases.

This Guideline is applicable to all employees covered by the [Department of Industry, Innovation and Science Enterprise Agreement 2019-2022](#), their manager and supervisors and their delegates.

Principles

The following principles apply to these Guidelines:

- All employees have a responsibility to behave in a manner that upholds the APS Values, Employment Principles and adhere to the Code. An APS employee or former APS employee (at the time of the suspected misconduct) whose conduct does not comply with an element of the Code can be found to have breached the Code. The term 'misconduct' is used throughout this document as a convenient and readily understood label for behaviour that breaches the Code.
- The Primary aim of taking action in cases of suspected misconduct is protecting the integrity of the APS and maintaining public confidence in public administration.
- Procedural fairness must be observed throughout the process. This means that employees or former employees (at the time of the suspected misconduct) should be:
 - informed about what they are suspected to have done in clear and unambiguous terms, so that they can understand details of the suspected misconduct
 - shown the credible, relevant and significant material that will be taken into consideration
 - allowed the opportunity to respond and have any information put forward by them to be considered, and
 - informed of the person who will be making decisions to ensure the decision maker can act fairly and without bias.

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- The processes of assessing and investigating a suspected breach of the Code is intended to be timely, fair, transparent and easy to follow.

Legislation

The [Public Service Act 1999](#) (the Act) includes, at section 13, a legally enforceable statutory Code of Conduct as a public statement of the standards of behaviour and conduct that are expected of those who work in the APS.

The Code also includes a duty not to disclose confidential information (see Regulation 7 of the [Australian Public Service Regulations](#) (the Regulations)).

The Code incorporates the:

- APS Values (section 10 of the Act); and
- Employment Principles (section 10A of the Act)

Further clarification about the APS Code of Conduct and the APS Values is available in the publication of the [APS Values and Code of Conduct in Practice](#).

Regulation 14 of the Regulations provides that APS employees can be suspended from duty with or without pay if there are reasonable grounds to believe that the employee has, or may have, breached the Code and the suspension is in the public or the department's interest. In making a decision about suspension, a delegate will consider whether there is a risk:

- to the safety of members of the public, employees of the department, customers or clients
- to the integrity of data about members of the public held by the agency
- to the public revenue
- to the confidence of the public in the APS as a whole or that the allegations may have impaired the public's confidence in the Department's capacity to perform our functions
- that an investigation may be compromised by the employee's presence in the workplace
- that the suspected misconduct may be repeated.

Suspension may be with or without pay. However, a delegate will usually only consider suspension without pay in the most serious of cases where, if the allegations are proven, the likely sanction would be termination of employment.

A delegate may also consider whether it is appropriate for the employee to continue to perform their usual duties or whether reassignment to other duties is more appropriate and can be accommodated until the Code process has been finalised.

Subsection 15(1) of the Act allows an Agency Head (or their delegate) to impose sanctions on an APS employee in the agency who is found to have breached the Code.

Code Procedures

Under subsection 15(3) of the Act, there is a requirement for Agency Heads to establish procedures for determining whether an APS employee or former APS employee has breached the Code. This section also requires an Agency Head to establish procedures for determining a sanction (if any) that is to be imposed on an APS employee in the agency who is found to have

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breached the Code. These procedures are available to all employees on iCentral – [Procedures for determining breaches of the APS Code of Conduct and the imposition of sanctions](#) (the Code Procedures).

These Guidelines are intended to support and should be read in conjunction with the Code Procedures.

Reporting suspected misconduct

The *Australian Public Service Commissioner's Directions 2022* (Directions) require APS employees to report and address misconduct and other unacceptable behaviour by other APS employees in a fair, timely and effective way. In some circumstances, particularly for employees with managerial responsibilities, it may constitute a breach of the Code if an employee does not report suspected misconduct by another APS employee where the misconduct may also place other employees' health or safety at risk.

Employees can report suspected misconduct by speaking with their manager or the Integrity Branch. These reports can be made either verbally or in writing. In most cases it is desirable, although not essential, for a report of suspected misconduct to include an outline of the alleged incidents and events suspected to have occurred and any supporting documentation or material.

Managers are required to provide information about the report of suspected misconduct to the Integrity Branch as soon as possible after receiving the report.

While employees are encouraged to report suspected misconduct, they should be aware that making frivolous or vexatious reports may result in misconduct action being taken against them.

Employees can also report misconduct by making a disclosure under the *Public Interest Disclosure Act 2013* (PID Act). More information can be found under the *Public Interest Disclosure Procedures* on [iCentral](#).

Protection against reprisal

Employees are strongly encouraged, and should feel supported, to report any suspected breach of the Code without fear of retribution or repercussion.

Employees who report suspected misconduct outside the PID Act are legally protected from discrimination or victimization. Retaliatory action taken against someone who, in good faith, has reported suspected misconduct could be a potential breach of several elements of the Code including the requirements to:

- behave with integrity in connection with employment
- comply with all applicable Australian laws
- treat everyone with respect, courtesy and without harassment.

In general, these protections also extend to witnesses in misconduct cases.

Employees who have reported alleged breaches or are witnesses in investigations should report any action that they consider to be discrimination or victimization in retaliation to their manager or the Integrity Branch.

Assessment of the report of suspected misconduct

Not all complaints alleging workplace misconduct need to be handled by undertaking a formal investigation. Upon receipt of a complaint, Integrity Branch will assess the information to determine whether the complaint is serious enough to warrant a formal investigation under the Code Procedures. This often requires some initial information to be gathered about the allegations, and following the assessment, a decision may be made to undertake a preliminary investigation to decide whether there is sufficient information to warrant a formal investigation into potential breaches of the Code.

Information may be obtained from the complainant or other employees or witnesses and from other sources to make an informed decision about the most appropriate action to take.

Depending on the circumstances, a decision may be made following the initial assessment or after a preliminary investigation that some other action other than a formal investigation may be more appropriate, for example counselling, mediation or retraining. Where a decision is made that local management action may be appropriate, Integrity Branch will refer the matter to People Branch, who will consult with the employee's manager and/or General Manager or other relevant senior manager about that decision.

Process of formal investigation of a suspected breach of the Code

The Code Procedures set out what must occur when determining whether an employee has breached the Code and the sanctions that may be applied, including compliance with basic procedural requirements set out in the Directions.

The role of the breach decision maker and sanction delegate are also described in the Code Procedures. The breach decision maker, and investigator if applicable, must:

- carry out the investigation with as little formality and as much expedition as proper consideration of the matter allows
- be vigilant about circumstances that may give rise to claims of bias
- comply with requirements of procedural fairness and other relevant administrative law principles.

The process of determining whether there has been a breach of the Code consists of the following steps:

- investigating the allegation/s
- making a finding about whether on the balance of probabilities the alleged conduct is proven (based on the available information), and
- determining whether the conduct constitutes a breach of the Code.

The breach decision maker may decide, at any point, to not proceed with the investigation.

The investigating officer within the Integrity Branch will keep the employee whose conduct is under investigation as well as their manager updated throughout this stage of the process.

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However, the *Privacy Act 1988* (Privacy Act) restricts the information that can be provided to the complainant and/or witnesses.

Breach decision

If the breach decision maker reaches a preliminary view that the employee has breached the Code, they will advise the employee in writing and provide the employee with a copy of any investigation report, together with any other relevant material, for comment prior to the final decision being made.

The breach decision maker will consider any response received from the employee before making a final decision. A copy of the breach decision maker's final determination will be provided to the employee in writing.

If the breach decision maker is also the sanction delegate, they may notify the employee of their final determination on the breach/es and their preliminary view on a sanction (or sanctions) in the same notice. If the breach decision maker is not the sanction delegate, they will refer their final decision to the sanction delegate.

If the breach decision maker decides the employee has not breached the Code, or that in the circumstances no decision with respect to the breach/es should be made, they will notify the employee of their decision in writing.

Sanction decision

If the breach decision maker has determined that the employee has breached the Code, consideration may then be given to what sanction/s, if any, should be imposed.

Sanctions are intended to be proportionate to the nature of the breach, to be a deterrent to the employee and others, and to demonstrate that misconduct is not tolerated in the department. Any sanction that is imposed is also intended to provide a clear message to the employee that the conduct is not acceptable.

The sanctions which may be imposed are set out in section 15 of the Act as follows:

- a reprimand
- deductions from salary, by way of a fine (which cannot be more than 2% of an employee's annual salary in accordance with Regulation 9 of the Regulations)
- reduction in salary
- reassignment of duties
- reduction in classification
- termination of employment.

The sanction delegate may also decide not to impose a sanction.

After considering any investigation report and all other relevant and available information, the sanction delegate will write to the employee to set out their preliminary view on a sanction (or sanctions) and the reasons for the proposed sanction/s, if any. This correspondence will also include an invitation to respond to the proposed sanction decision before the sanction delegate makes their final decision.

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The sanction delegate will then take into account any response provided by the employee as well as any relevant mitigating circumstances before making a final decision. A copy of the final sanction decision will then be provided to the employee in writing.

Timing

The timing of a formal investigation will vary and can depend on several factors, including:

- the seriousness and complexity of the complaint
- identifying sources of information and evidence, and whether these are readily accessible to investigating officers
- the availability of the witness(es), and providing them with sufficient time to provide information to investigating officers
- allowing decision-makers and delegates sufficient time to consider the facts and make an informed decision
- coordinating and implementing the decisions made
- resource availability
- personal circumstances of the employee whose conduct is under investigation.

All efforts will be made to finalise matters as quickly as possible.

Information provided to the Complainant at the conclusion of a formal investigation

If the breach decision maker decides the employee has not breached the Code, they will notify the complainant of their decision.

If the breach decision maker determines that the employee has breached the Code, the complainant will be notified after a sanction delegate makes their final sanction decision that the matter has been finalised and the complainant may be informed that the respondent's conduct has been found to have breached the Code.

The complainant will not usually be notified of any specific sanction imposed, or other action taken without the permission of the employee whose conduct was under investigation because the department must comply with the Privacy Act.

Advice and support

Employees participating in a Code investigation may have a support person with them during interviews or discussions.

As an investigation must be finished as quickly as possible, and with as little formality as proper consideration of the matter allows, it is preferable that employees participating in a Code investigation engage directly with the investigating officer, breach decision maker and sanction delegate, where necessary. However, an employee may choose to be represented by another person, such as a workplace delegate, during an investigation. If an employee chooses to have a person perform this role, they must inform the breach decision maker, in writing, of this decision.

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Employees are also strongly encouraged to access the Employee Assistance Program for support.

Review

Non-SES employees are entitled to apply for a review of:

- a determination that the affected employee's conduct has breached the Code; and/or
- a sanction imposed for breach of the Code.

Any application for review must be directed to the Merit Protection Commissioner. More information on this review mechanism is set out in section 33 of the Act, in the Regulations and is available from the Office of the Merit Protection Commissioner.

In the event that the sanction imposed is termination of employment, the review application needs to be made pursuant to the *Fair Work Act 2009*.

Movement to a different APS agency or resignation during investigation

Unless the Secretary (or Delegate) otherwise agree, an employee who has been informed of a suspected breach of the Code and the sanction/s that may be imposed, will remain in their agency and will not move to another agency until a determination is made on the breach/es.

Where agreement has been reached that an employee may move to another agency before the determination of a breach is made, the matter may continue to be dealt with by the gaining APS agency in accordance with their Code procedures.

When the employee subsequently moves to this department after a determination on the breach/es is made but before a decision is made on the sanction/s, the matter will be managed in accordance with this department's Code Procedures.

If an employee resigns during an investigation, the breach decision maker has the discretion to decide to continue the investigation. Where a breach determination is made, no further action can be taken in respect of implementing a sanction on a former APS employee.

Privacy

All personal information is collected, stored, used and disclosed in strict confidence and in accordance with the Privacy Act.

The assessment and formal investigation of complaints may involve the collection of personal information. Personal information may be disclosed (where necessary and appropriate) to people to verify statements and information obtained. These people may include, but are not limited to:

- Witnesses
- Security Section
- IT Security Section
- Supervisors/Managers

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- Senior Executive Service Officers

Formal directions may be given to people involved in the complaint or investigation process to ensure that the privacy and confidentiality of the complaint, and the integrity of the assessment and investigation, is maintained.

If a formal investigation has commenced, an employee's personal information may also be disclosed to an APS agency to which the employee has moved or seeks to move in the future. Personal information may also be disclosed where otherwise required or authorised by law.

Further information and support

More advice concerning these guidelines and the APS Values, Employment Principles and the APS Code of Conduct can be obtained by contacting the Integrity Branch on:

- via email at: integrity@industry.gov.au; or
- by normal mail marked 'Private and Confidential' addressed to:
 - Probity and Integrity Operations Section
Integrity Branch
GPO Box 2013
Canberra ACT 2601

Version Control

Version	Date of Issue	Author/s	Brief description of change
1.0	Jan 2016	Employment Framework	Revised to include new department name and update to reflect proposed Enterprise Agreement
1.1	May 2021	People Branch	Revised to provide separate Code of Conduct Guideline into a stand-alone document
2.0	15 October 2021	People Branch	Acceptance of feedback provided through consultation with staff, NCC and unions
2.1	July 2022	People Branch	Revised to include new department name and update broken links
2.2	January 2024	Integrity Branch	Revised to update contacts and legislative references

Bathrooms and facilities

From the day they present in the workplace as their affirmed gender, transgender and gender diverse employees are able to use the bathroom and changing facilities of their affirmed gender (or gender neutral facilities if they choose), without discrimination or questioning from other employees.

If other employees are uncomfortable they can choose to use a bathroom in another location. In no circumstances should a transgender person be asked to use non-gendered facilities or facilities that are not aligned to their affirmed gender.

Any individual can choose to use a non-gendered bathroom if they wish.



Workplace Behaviour Policy

Relevant authority	<ul style="list-style-type: none">• Public Service Act 1999• Public Service Regulations 1999• Australian Public Service Commissioner's Directions 2016• Age Discrimination Act 2004• Australian Human Rights Commission Act 1986• Disability Discrimination Act 1992• Fair Work Act 2009• Racial Discrimination Act 1975• Sex Discrimination Act 1984• Work Health and Safety Act 2011• Department of Industry, Innovation and Science Enterprise Agreement 2019-2022
Delegate	A delegate will exercise powers and functions in accordance with the Human Resources Delegations . Delegates should ensure that employees are aware of and comply with the requirements of this policy.
Related documents	<ul style="list-style-type: none">• Code of Conduct Procedures• Conflict of Interest and Insider Trading Policy• Public Interest Disclosure Scheme on iCentral• Public Interest Disclosure Procedures• Review of Actions Policy• Underperformance Policy• Social Media Policy• APSC: Social media: Guidance for APS employees and agencies• Workplace Behaviour on iCentral• Workplace Behaviour Procedures• Respectful Workplaces online training module• Toolkit to support managers' response to poor workplace behaviours• Comcare – Psychosocial Hazards• Comcare – Virtual Office
Approved by	General Manager, People Branch
Policy owner	People Branch
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1. Introduction

The Department of Industry, Science and Resources (the department) is strongly committed to providing all employees, workers, and clients a safe, ethical, flexible, inclusive and productive work environment.

The department's aim is to maintain a workplace culture where the principles of diversity and inclusion are integrated into our everyday work and the behaviours we all display are free from all forms of unacceptable workplace behavior including discrimination, bullying, harassment and victimisation.

By effectively implementing the Workplace Behaviour Policy, the department will attract and retain talented staff and create a safe environment for all.

2. Application

This policy is applicable to all departmental employees. For clarity, this includes Senior Executive Service (SES) employees, non-SES employees, ongoing and non-ongoing employees and casual employees.

All other workers and contractors are required to adhere to the APS Values and APS Code of Conduct in relation to their interactions with APS employees, and the department expects those who perform work for it to behave in a manner that is compliant with the APS Values, the Code of Conduct, and this policy.

3. Principles

This policy has been developed in accordance with the following principles:

- All employees and workers should expect to be able to work in a healthy and safe workplace, free from all forms of unacceptable and inappropriate workplace behaviours including bullying, workplace discrimination, harassment and victimisation.
- Bullying, workplace discrimination, harassment and victimisation will not be tolerated.
- Any unacceptable or inappropriate workplace behaviour will be addressed promptly and in a serious manner.

4. The legislative framework

Employees and workers in the APS occupy a position of trust. The Commonwealth Government and the community entrusts employees and workers to undertake important work on their behalf. With this trust comes a high level of responsibility which requires the highest standards of ethical behaviour.

Conduct, both inside and outside the workplace, can have implications for the confidence the community has in the administration of the department or the APS as a whole.

From a legislative perspective, unacceptable workplace behaviour may also constitute a breach of the *Public Service Act 1999*, the *Fair Work Act 2009*, various anti-discrimination laws, and the *Work Health and Safety Act 2011*.

4.1 **Public Service Act 1999**

The *Public Service Act 1999* (PS Act) requires APS employees and agency heads at all times to behave in a way that upholds the APS Values and APS Employment Principles.

The APS Values, which are set out in section 10 of the PS Act, are:

- **Impartial** – the APS is apolitical and provides the Government with advice that is frank, honest, timely and based on the best available evidence.
- **Committed to service** – the APS is professional, objective, innovative and efficient, and works collaboratively to achieve the best results for the Australian community and the Government.
- **Accountable** – the APS is open and accountable to the Australian community under the law and within the framework of Ministerial responsibility.
- **Respectful** – the APS respects all people, including their rights and their heritage.
- **Ethical** – the APS demonstrates leadership, is trustworthy, and acts with integrity, in all that it does.

The APS Employment Principles, which are set out in section 10A of the PS Act, include:

- **‘Provides flexible, safe and rewarding workplaces** where communication consultation, cooperation and input from employees on matters that affect their workplaces are valued’ – subsection 10A(1)(e); and
- **‘Provides workplaces that are free from discrimination, patronage and favouritism’** - subsection 10A(1)(f).

All employees must inform themselves of their obligations under the PS Act.

Agency Heads have a specific obligation under section 12 of the PS Act to uphold and promote the APS Values and the APS Employment Principles, while SES employees have a specific obligation under subsection 35(2)(c) to promote the APS Values, the APS Employment Principles and compliance with the Code of Conduct by ‘personal example and other appropriate means’.

Engaging in unacceptable workplace behaviour like discrimination, bullying, harassment or victimisation will be in breach of the Code of Conduct. Relevant aspects of the Code of Conduct, set out in section 13 of the PS Act, include:

- An APS employee, when acting in connection with APS employment must treat everyone with respect and courtesy, and without harassment—subsection 13(3).
- An APS employee must at all times behave in a way that upholds the APS Values and APS Employment Principles, and the integrity and good reputation of the employee’s agency and the APS—subsection 13(11).

Additional information relating to the Code of Conduct, including expectations of all APS employees and requirements specific to the department, can be found in the [Code of Conduct Procedures](#).

4.2 Fair Work Act 2009

The Fair Work Commission (the Commission) is the national workplace relations tribunal. One of the functions of the Commission is that it deals with anti-bullying claims under the *Fair Work Act 2009*.

The national anti-bullying laws only apply to certain workers in Australia. To make an application for an order to stop bullying, a person must:

- be covered by the national anti-bullying laws, and
- meet the definition of a 'worker' under the *Work Health and Safety Act 2011*.

In cases where positive measures have already been put in place to resolve complaints of bullying, the Commission may find that orders to stop bullying are not required. In cases where a risk of bullying remains, the Commission can make orders to prevent future bullying behaviour from occurring in the workplace concerned.

4.3 Federal discrimination law

There are various pieces of federal discrimination legislation that employees and workers must abide by:

- *Age Discrimination Act 2004 (Cth)* – makes it unlawful to discriminate in employment on the ground of age.
- *Australian Human Rights Commission Act 1986 (Cth)* - provides for the rights of people with physical or mental disabilities and addresses complaints of discrimination in employment.
- *Disability Discrimination Act 1992 (Cth)* - makes it unlawful to discriminate in employment on the ground of disability (including a disease).
- *Racial Discrimination Act 1975 (Cth)* - makes it unlawful to discriminate in employment on the grounds of race, colour or national or ethnic origin.
- *Sex Discrimination Act 1984 (Cth)* - makes it unlawful to discriminate in employment on the grounds of a person's sex, marital status, pregnancy or potential pregnancy, or to sexually harass another person.

4.4 Work, Health and Safety Act 2011

Under the *Work, Health and Safety Act 2011* the department and workers have obligations for ensuring work health and safety in the workplace. 'Workers' in our workplaces include not only departmental employees, but also contractors and subcontractors (and their employees), secondees and volunteers.

Workers must take reasonable care to ensure that their behaviour does not adversely affect the health and safety of others in the workplace, as well as ensuring their own health and safety. This relates to both physical and psychological health and safety. Employees and workers must not, for example, discriminate, harass or bully another person in the workplace. Supervisors and managers have a duty of care to ensure a safe working environment for all workers, which includes taking action in response to incidents of inappropriate behavior in the workplace.

Respect and courtesy contributes to a positive work environment consistent with the work health and safety legislation.

5. How does unacceptable behaviour affect the workplace?

All employees and workers have a right to work in an inclusive and safe environment. Unacceptable workplace behaviour can have serious implications for productivity, morale and health and safety, and comes at a cost to the department. Some of the negative consequences of unacceptable workplace behaviour include:

- Individuals can suffer fear, anxiety and stress which can cause or exacerbate physical or psychological illness
- the safety of individuals and groups, and ultimately the safety culture of the operation work productivity and costs
- creating tension and conflict which can lead to poor staff morale, divided teams, absenteeism, and reduced productivity
- higher staff turnover
- increased legal cost or Comcare premium to the department due to claims being accepted, and
- damage to the reputation of the department.

6. Expected workplace behaviours

The department expects all employees and other workers to behave in a manner that is consistent with the Code of Conduct and which upholds the APS Values, integrity and good reputation of the APS. All employees and workers are expected to:

- behave in a responsible and professional manner
- treat others in the workplace with courtesy and respect
- listen and respond appropriately to the views and concerns of others
- be fair and honest in their dealings with others.

This policy applies to behaviours that occur:

- in connection with work, even if it occurs outside normal working hours
- during work activities, for example when dealing with stakeholders and clients
- at work-related events, for example at conferences and work-related social functions
- on social media where workers interact with colleagues, stakeholders or clients and their actions may affect them either directly or indirectly.

Employees must complete the [Respectful Workplace Behaviours Training Module](#) on engagement and at least once every two years thereafter. The module helps provide a framework of what constitutes respectful behaviour and is a reminder of your work, health and safety obligations from both the legal and psychological perspectives.

7. Unacceptable workplace behaviour and conduct

Discrimination, bullying and harassment are unacceptable and are unlawful. Employees (including managers) found to have engaged in unacceptable workplace conduct may be counselled, warned and/or disciplined. Where severe or repeated breaches are proven, it may lead to formal discipline up to and including dismissal.

7.1 Discrimination

Discrimination is treating, or proposing to treat, someone unfavourably because of a personal characteristic protected by federal discrimination law, such as sex, age, race or disability.

Discrimination can occur:

- **directly**, when a person or group is treated less favourably than another person or group in a similar situation because of a personal characteristic protected by the federal discrimination law. For example, a worker may be harassed and humiliated because of their race, or refused promotion because they are 'too old'. Failing to provide a reasonable adjustment may also be an example of direct discrimination, or
- **indirectly**, when an unreasonable requirement, condition or practice is imposed that has, or is likely to have, the effect of disadvantaging people with a personal characteristic protected by federal discrimination law. For example, applying the same performance criteria to all employees in the same role irrespective of whether an employee has a disability that may impact on their ability to meet the criteria.

Protected personal characteristics under federal discrimination law include:

- a disability, disease or injury, including work-related injury
- parental status or status as a carer, for example, because they are responsible for caring for children or other family members
- race, colour, descent, national origin, or ethnic background
- age, whether young or old, or because of age in general
- sex
- industrial activity, including being a member of an industrial organisation like a trade union or taking part in industrial activity, or deciding not to join a union
- religion
- pregnancy and breastfeeding
- sexual orientation, intersex status or gender identity, including gay, lesbian, bisexual, transsexual, transgender, queer and heterosexual
- marital status, whether married, divorced, unmarried or in a de facto relationship or same sex relationship
- political opinion
- social origin
- medical record, and
- an association with someone who has, or is assumed to have, one of these characteristics, such as being the parent of a child with a disability.

It is also against the law to treat someone unfavourably because you assume they have a protected personal characteristic or may have it at some time in the future.

7.1.1 Behaviour or action which is not unlawful discrimination

It is not unlawful discrimination for the department to require an employee or other worker to fulfil the inherent requirements of their role. If a worker is unable or unwilling to fulfil these inherent requirements (for example adhering to the APS Values, the Code of Conduct, participating in performance management processes, and adhering to reasonable direction), reasonable disciplinary or performance action may be justified in the circumstances.

7.2 Workplace bullying

Workplace bullying is defined as repeated and unreasonable behaviour directed towards a worker or a group of workers that creates a risk to health and safety.

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 considered to be workplace bullying if they are repeated, unreasonable and create a risk to health and safety include, but are not limited to:

- threats, abuse or shouting
- coercion
- inappropriate blaming
- sarcasm and other forms of demeaning language
- abusive, insulting or offensive language or comments
- unjustified criticism or complaints
- deliberately excluding an individual or group from workplace activities
- withholding information that is vital for effective work performance
- consistently setting unreasonable timelines or constantly and unreasonably changing deadlines
- consistently setting tasks that are unreasonably below or beyond a person's position or level
- denying access to information, supervision, consultation or resources to the detriment of the worker
- intentionally spreading misinformation or malicious rumours
- changing work arrangements, such as rosters or leave, to deliberately inconvenience a particular worker or group
- inappropriate comments about personal characteristics such as an individual's physical appearance, lifestyle, family, race, culture, education or economic background, and
- inappropriate interference with an individual's personal effects or work equipment.

Workplace bullying behaviour can be carried out in a variety of ways including in person, over the telephone, through email or text messaging or social media channels. Workplace bullying can be directed at a single worker or group of workers and be carried out by one or more workers. Workplace bullying can occur:

- sideways between workers
- downwards from supervisors or managers to staff
- upwards from staff to supervisors or managers, or
- be directed at, or undertaken by, other people in the workplace such as stakeholders, clients, customers and other members of the public.

A single incident of unreasonable behaviour is not generally considered to be workplace bullying, however it may have the potential to escalate (or could amount to misconduct of a different type) and should not be ignored.

If workplace bullying behaviour involves violence, for example physical assault or the threat of physical assault, it must be reported to the police and to the [Safety, Wellbeing and People Support Section](#).

7.2.1 Behaviour which is not workplace bullying

A manager may take reasonable management action to direct and control the way work is carried out by employees and other workers. It is reasonable for managers and supervisors to carry out legitimate management decisions and actions. For example, assign work, give feedback on work performance or behaviour and allocate work hours based on operational requirements and taking specific circumstances into account.

These actions are not considered to be workplace bullying provided that they are carried out reasonably.

Differences of opinion, robust and passionate discussions between colleagues and disagreements are generally not considered to be workplace bullying. However, if such workplace conflict escalates it may reach the point where it becomes workplace bullying because the behaviour is no longer reasonable (for example, because of the use of inappropriate or abusive language).

8. Workplace harassment

Workplace harassment is any form of behaviour that is unwelcome, unsolicited, unreciprocated and usually (but not always) repeated, and which is reasonably likely to offend, humiliate or intimidate. Harassment can make it difficult for effective work to be done by the individual or groups targeted or affected by this behaviour.

For harassment to occur there does not have to be an intention to deliberately offend, humiliate or intimidate. It is the impact of the behaviour on the person who is receiving it, together with the nature of the behaviour (that is, the reasonableness of the behaviour), which determines whether it is harassment.

Further, 'workplace' in this context is defined to include not only the usual work environment, but also work-related events, seminars, conferences, work functions (including Christmas parties), and business trips.

8.1 Sexual harassment

Sexual harassment is a specific and serious form of harassment. It is unwelcome sexual behaviour, which could be expected to make a person feel offended, humiliated or intimidated. Sexual harassment can be physical, spoken or written. It can include:

- comments about a person's private life or the way they look
- sexually suggestive behaviour, such as leering or staring
- brushing up against someone, touching, fondling or hugging
- sexually suggestive comments or jokes
- displaying offensive screen savers, photos, calendars or objects
- repeated unwanted requests to go out
- requests for sex
- sexually explicit posts on social networking sites
- insults or taunts of a sexual nature
- intrusive questions or statements about a person's private life
- sending sexually explicit emails or text messages
- inappropriate advances on social networking sites
- accessing sexually explicit internet sites, and
- behaviour that may also be considered to be an offence under criminal law, such as physical assault, indecent exposure, sexual assault, stalking or obscene communications.

Just because someone does not object to inappropriate behaviour in the workplace at the time, it does not mean that they are consenting to the behaviour. Sexual harassment has been found to have occurred 'in the workplace' where it happened at work, at work-related events, between people sharing the same workplace, or between colleagues outside of work.

A single incident is enough to constitute sexual harassment – it doesn't have to be repeated. All incidents of alleged sexual harassment – no matter how large or small or who is involved – require employers and managers to respond quickly and appropriately.

9. Victimisation

Victimisation is subjecting or threatening to subject someone to a detriment because they have asserted their rights under workplace law, made a complaint, helped someone else make a complaint, or refused to do something because it would be discrimination, sexual harassment or victimisation.

It is also victimisation to threaten someone (such as a witness) who may be involved in investigating a complaint.

Victimisation is unlawful.

Federal discrimination laws include protections in relation to victimisation in connection with discrimination complaints. The general protections provisions of the Fair Work Act 2009 also provide protections from victimisation in some circumstances where there are complaints of unacceptable workplace behaviour.

Under the *Public Interest Disclosure Act 2013* (PID Act) 'public officials' including departmental employees and contractors to the department (and associated witnesses), who make a public interest disclosure in accordance with the requirements set out in the Department's Public Interest Disclosure (PID) Procedures, are entitled to certain protections under the PID Act including protection from threats of detriment and reprisal. Individuals should refer to the department's [PID Procedures](#) to decide whether they wish to make a public interest disclosure.

Victimisation is a very serious breach of this policy and is likely (depending on the severity and circumstances) to result in formal discipline against the perpetrator.

10. Roles and responsibilities

All workers within the department are responsible for ensuring that the workplace is free from unacceptable and inappropriate workplace behaviour and is thereby a safe working environment.

10.1 Employees and workers

All workers within the department, including employees and contractors, have the responsibility to monitor their own conduct and to maintain appropriate standards of behaviour.

All employees must behave in accordance with the APS Values, APS Employment Principles and the Code of Conduct.

All workers other than employees must behave in accordance with the APS Values and the Code of Conduct in their interactions with APS employees and when performing work for the department.

All workers, who perform work for the department, must:

- speak out against unacceptable workplace behaviour such as bullying, discrimination, harassment and victimisation if it is witnessed
- be aware of unacceptable workplace behaviour and the forms they can take and of the damage they can cause to individuals and the organisation
- ensure that their conduct does not include behaviour that could possibly constitute discrimination, harassment, bullying or victimisation
- offer support to people who experience discrimination, bullying or harassment, including providing information about how to make a complaint
- avoid gossip and respect the confidentiality of complaint resolution procedures,
- treat everyone with dignity, courtesy and respect.

All employees are entitled to:

- recruitment and selection decisions based on merit and not affected by irrelevant personal characteristics
- work free from discrimination, bullying and harassment
- the right to raise issues or to make an enquiry or complaint in a reasonable and respectful manner without being victimised
- reasonable flexibility in working arrangements, especially where needed to accommodate their family responsibilities, disability, religious beliefs or culture.

10.2 Managers and supervisors

Managers and supervisors have further responsibilities for maintaining a workplace free of discrimination, harassment, bullying or victimisation. In addition to the responsibilities of employees and workers, managers and supervisors are expected to:

- be aware of and familiar with the department's policy on workplace behaviour and its application
- model appropriate standards of behaviour and establishing high standards of behaviour in their work area;
- take steps to educate and make staff aware of their obligations under this policy and the law
- take action to stop unacceptable workplace behaviour after it is observed or reported
- intervene quickly and appropriately when they become aware of inappropriate behaviour
- act fairly to resolve issues and enforce workplace behavioural standards, making sure relevant parties are heard
- help staff resolve complaints informally
- refer formal complaints about breaches of the APS Values, the Code of Conduct, and this policy to the People Support Team for investigation
- refer any allegations of wrongdoing under the *Public Interest Disclosure Act 2013*, otherwise known as a [public interest disclosure](#) (PID), to the PID Team or an [authorised officer](#)
- ensure staff who raise an issue or make a complaint are not victimised
- ensure that recruitment decisions are based on merit and that no discriminatory requests for information are made, and
- seriously consider requests for flexible work arrangements as supported by the Flexible Work Policy.

Further, a manager or supervisor who ignores, contributes to, assists or encourages unacceptable behaviour may possibly be held personally liable in any civil court action that might be taken by a complainant (e.g. alleging a breach of the *Work Health and Safety Act 2011*) without support or indemnity from the department.

10.3 Senior Executive Service (SES) employees

All SES employees have a responsibility under section 35 of the PS Act to promote the APS Values and compliance with the Code of Conduct within their own agencies, by personal example and other appropriate means.

SES must exemplify the values and behaviours required of all APS employees. Senior executives are responsible for cultivating a culture of respect and courtesy within the organisation and ensuring that managers and supervisors within their work area develop the necessary skills to identify and manage discrimination, harassment, bullying or victimisation in the workplace.

10.4 Workplace Contact Officers

Workplace Contact Officers (WCOs) are trained employees within the department who have volunteered to provide guidance on workplace discrimination, harassment, bullying or victimisation issues. They can also:

- advise on what constitutes workplace diversity
- listen sympathetically and without judgement to a complainant
- find out what the complainant wants to happen and explain available and appropriate options, and
- provide support to the complainant in any further action to resolve the matter, including accompanying the complainant as a support person to internal enquiries and formal interviews.

Additional information about the role of WCOs within the department, including contact details, can be accessed via the [Workplace Contact Officers](#) page on iCentral.

10.5 The People Support team in People Branch

The People Support team, in the Safety, Wellbeing and People Support section, provides assistance to managers and employees with concerns raised about the workplace conduct and behaviour of employees and contractors. The section will:

- conduct preliminary inquiries and assessments of allegations made about the conduct and behaviour of departmental employees and makes recommendations about any further action that may be required
- identify any matters raised by staff that may be considered a [public interest disclosure](#) under the *Public Interest Disclosure Act 2013*, and refer the matter to the [PID Team or an authorised officer](#)
- closely liaise with all areas of the Department and other Commonwealth agencies including the department's Legal Team, the Australian Public Service Commission and the Merit Protection Commissioner, about Code of Conduct and behaviour issues
- provide communication, education, guidance and advice to departmental employees and managers on the APS Values and the Code of Conduct, and
- maintain records relating to allegations of inappropriate workplace behaviour and advises the department on continuous quality improvement measures.

11. Employee Assistance Program

Employees are entitled to access professional counselling from the department's Employee Assistance Program (EAP) service provider. Up to six free sessions are available per employee per 12 month period.

EAP counselling is confidential and nothing discussed with a counsellor will be communicated back to the department. EAP counselling is available 24 hours a day, seven days a week, regardless of whether the issue is related to a workplace problem or some other issue.

Further details on accessing the EAP are available on the [iCentral page](#).

12. Contact Details

If you need more information, please contact the People Support team in the Safety, Wellbeing and People Support section of People Branch via email at Peoplesupport@industry.gov.au

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Australian Government

**Department of Industry,
Science and Resources**

Workplace Sexual Harassment Policy

People Branch

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1 Purpose

The Department of Industry, Science and Resources (the department) is strongly committed to preventing and addressing sexual harassment in the workplace. The department does not tolerate any sexual harassment or victimisation of people who witness or report harassment.

As an equal opportunity employer, we require appropriate, reasonable, fair, respectful and courteous behaviour in the workplace at all times. The department will identify and mitigate risks of sexual harassment as part of the broader work health and safety obligations and take holistic and ongoing action to foster a safe and respectful workplace culture free of sexual harassment.

Under the [Sex Discrimination Act 1984](#) (Cth), employers may be held legally responsible for sexual harassment unless they have taken all reasonable steps to prevent and address the harassment. Employers must therefore take the obligation to address sexual harassment seriously. Employers also have significant risks in failing to address sexual harassment such as impacts on the physical and mental health and wellbeing of their workers.

Agency Heads have a specific obligation under section 12 of the [Public Service Act 1999](#) (PS Act) to uphold and promote the APS Values and Employment Principles while Senior Executive Service (SES) employees have a specific obligation under subsection 35(3)(c) of the PS Act to promote the APS Values and the APS Employment Principles.

2 Scope

This policy applies to all employees, covered by the Department of Industry, Innovation and Science Enterprise Agreement 2019-2022 and to all Senior Executive Service (SES) Officers including the Secretary. This policy will also apply to all persons who are workers for the purposes of the [Work Health and Safety Act 2011](#) (Cth). This includes, contractors, subcontractors, apprentices or trainees, work experience students and volunteers.

3 Definitions

In this policy, the following terms have the meaning as set out below:

APS Code of Conduct - Sets out the standard of conduct required of APS employees, designed to protect the integrity of the APS and thereby maintain public confidence in public administration.

APS Values - The Australian Government's expectations of public servants in terms of performance and standards of behaviour.

Employment Principles – Defines the APS as a career based service that amongst a number of key principles, provides a safe workplace which is free from discrimination and fosters diversity.

Sexual Harassment - Any unwelcome sexual advance, request for sexual favours or conduct of a sexual nature where a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated.

Worker - Under the [Work Health and Safety Act 2011](#) (cth) (WHS Act), a worker includes any person who works, in any capacity, in or as part of the business or undertaking.

4 Principles

This policy has been developed in accordance with the following principles:

- We have a zero tolerance for any form of sexual harassment in the workplace.
- We provide a safe, supported and respectful workplace for all workers.

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- We uphold the APS Code of Conduct, Employment Principles and Values.
- We provide procedural fairness, ensuring workers are informed of their rights, responsibilities and processes.
- We hold people accountable in accordance with the Procedures for determining breaches of the Australian Public Service (APS) Code of Conduct, which may result in a sanction including termination of employment.
- We maintain the confidentiality of workers who raise complaints about workplace sexual harassment, or who are the subject of an investigation relating to their workplace behaviour so far as reasonably possible, having appropriate regard to the action that may need to be taken in response to any complaint.

5 Commitments

The department will:

- Acknowledge that preventing and addressing sexual harassment is a whole-of-department responsibility.
- Ensure workers are aware of this Policy, including new starters.
- Provide support to help staff, particularly managers, to carry out their responsibilities under this Policy.
- Maintain a network of trained Workplace Contact Officers (WCO), in line with the WCO Guideline.
- Ensure our workers are provided with safe workplaces.
- Prioritise the wellbeing and safety of workers, particularly the worker who makes the allegations or claims they experienced or witnessed sexual harassment.
- Treat all reports and complaints in a sensitive, fair, timely and confidential manner.
- Ensure that workers are not victimised or disadvantaged for reporting or addressing sexual harassment.
- Ensure that workers are not victimised or disadvantaged while they are being investigated for allegations of sexual harassment.
- Provide an effective sexual harassment guideline for reporting and addressing complaints of sexual harassment.
- Monitor trends across the department, take all reasonably practicable actions to identify and mitigate sexual harassment risks, and work to foster an inclusive and respectful workplace culture.

6 Related documents

6.1 Related policies

Workplace Behaviours Policy	The Workplace Behaviours Policy ensures all our workplaces and employees behave in accordance with the APS Code of Conduct and APS Values.
Work Health and Safety Policy	The Work Health and Safety Policy facilitates the management, promotion and improvement of the health and safety of workers as defined by the Work Health and Safety Act 2011 (cth) including employees, contractors and others who perform work to support our business undertakings.

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Review of Actions Policy	The Review of Actions Policy defines how employees can apply for a review of action and how their request will be handled or decisions that relate to their APS employment.
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6.2 Related procedures

Code of Conduct Procedure	The Code of Conduct Procedure defines how the department will determine whether an employee or former employee has breached the APS Code of Conduct and the sanction (if any) that is to be imposed.
Code of Conduct Guideline	The Code of Conduct Guideline provides more detail to employees and those handling conduct issue of the principles and processes for dealing with suspected breaches of the APS Code of Conduct.
Workplace Sexual Harassment Guideline	The Sexual Harassment Guideline defines how the Sexual Harassment Policy will be implemented and monitored. This guideline details the roles and responsibilities of workers within the department, how to make a complaint and available support options.

6.3 Related legislation

Fair Work Act 2009	The legislation governing Australia's workplaces. It is the foundation to all standards and regulations for employment.
Privacy Act 1988	Australian law which regulates the handling of personal information about individuals. This includes the collection, use, storage and disclosure of personal information.
Public Service Act 1999	The legislation under which Australian Public Service employment arrangements are applied to a Department of State, an Executive Agency or a Statutory Agency.
Safety, Rehabilitation and Compensation Act 1988	The legislation relating to the rehabilitation of employees of the Commonwealth and certain corporations and workers' compensation for those employees and certain other persons.
Sex Discrimination Act 1984	The legislation which prohibits sexual harassment, discrimination based on sex, marital or relationship status, pregnancy or potential pregnancy, sexual orientation, gender identity, intersex status, family responsibilities or breastfeeding or involving sexual harassment.
Work Health and Safety Act 2011 (Cth)	The legislative framework to protect the health, safety and welfare of all workers at work.

7 Version control

Version Number	Date of Issue	Author/s	Brief Description of change	Next review date
1.0	May 2023	People Branch	Initial Policy	May 2025

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Australian Government
Department of Industry,
Science and Resources

Workplace Sexual Harassment Guideline

People Branch

1 Introduction

This guideline is to be read in conjunction with the Department of Industry, Science and Resources (the department) Workplace Sexual Harassment Policy. The purpose of this guideline is to outline how the Workplace Sexual Harassment Policy is implemented in practice.

The department is committed to providing a workplace environment that upholds the Australian Public Service (APS) Values, APS Employment Principles and APS Code of Conduct (the Code), and where sexual harassment is not tolerated.

The department has an obligation to take reasonable and proportionate measures to eliminate sexual harassment in the workplace.

1.1 Scope

This guideline applies to all workers and the department's workplaces, including any location that workers may be considered to be carrying out duties in the course of their employment. This includes labor hire staff and casual staff. Equally, it applies when engaging with other workers, clients or members of the public encountered in the course of duties.

The department's workers have shared obligations for creating a respectful, courteous and harmonious workplace and must treat everyone with respect and courtesy.

1.2 Definitions

APS Code of Conduct - Sets out the standard of conduct required of APS employees, designed to protect the integrity of the APS and thereby maintain public confidence in public administration.

APS Values - The Australian Government's expectations of public servants in terms of performance and standards of behaviour.

Behaviour - The way in which a person acts or conducts themselves, especially towards another person.

Bystander - Any persons who are present and witness an incident that do not condone or take part in the inappropriate behaviours(s).

Complaint - A statement that something is unsatisfactory or unacceptable.

Confidentiality - Confidentiality is the protection of personal information. Confidentiality means keeping a worker's information private and refrain from sharing information without the express consent of the worker.

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Employment Principles – Defines the APS as a career based service that amongst a number of key principles, provides a safe workplace which is free from discrimination and fosters diversity.

Reasonable Person - An individual with an ordinary degree of reason, prudence, care foresight, or intelligence whose conduct, conclusion, or expectation in relation to a particular circumstances or fact is used as an objective standard by which to measure or determine something.

Relevant Authority - The appropriate person or organisation having administrative power and control. For example: An employer, or the Police.

Serious Incident - An occurrence, condition, or situation arising in the course of work that has the ability to cause significant harm, which may be physical and/or psychological, to a worker.

Trauma informed approach – An approach to addressing sensitive matters that works to avoid re-traumatization and works collaboratively with the person impacted.

Sexual Harassment - Any unwelcome sexual advance, request for sexual favours or conduct of a sexual nature where a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated.

Worker - Under the [Work Health and Safety Act 2011](#) (Cth) (WHS Act), a worker includes any person who works, in any capacity, in or as part of the business or undertaking.

Workplace - Under the [Work Health and Safety Act 2011](#) (Cth) (WHS Act), a workplace is a place where work is carried out for a business or undertaking and includes any place where a worker goes, or is likely to be, while at work. This includes, a vehicle, aircraft or other mobile structure.

2 What is sexual harassment?

Sexual harassment is unwelcome sexual behaviour, which could be expected to make a person feel offended, humiliated or intimidated.

Sexual harassment can be physical, spoken or written. Importantly, behaviour may be sexual harassment even if that is not the intention behind the actions.

Context is important in understanding sexual harassment. Things that may affect whether a person could feel offended, humiliated or intimidated by the behaviour include:

- The relationship between the people involved, including previous patterns of behaviour.
- Tone, verbal and non-verbal cues.
- Where and when the incident takes place.
- Other personal characteristics such as age, gender identity, sexual orientation, marital or relationship status, religious belief, cultural background, employment status or seniority, or job security.

Sometimes there can be an overlap between sexual and other forms of harassment, discrimination and bullying, or you can be unsure if an incident constitutes harassment, discrimination or bullying. You can still ask the department for support and advice.

Sexual harassment in the workplace can take various forms and may involve:

- Comments about a person's private life or the way they look.
- Sexually suggestive behaviour, such as leering or staring.
- Brushing up against someone, touching, fondling or hugging.

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- Sexually suggestive comments or jokes.
- Displaying offensive screen savers, photos, calendars or objects.
- Repeated unwanted requests to go out.
- Requests for sex.
- Sexually explicit posts on social networking sites.
- Insults or taunts of a sexual nature.
- Intrusive questions or statements about a person's private life.
- Sending sexually explicit emails or text messages.
- Inappropriate advances on social networking sites.
- Accessing sexually explicit internet sites.
- Behaviour that may also be an offence under criminal law, such as physical assault, indecent exposure, sexual assault, stalking or obscene communications.

Just because someone does not object to inappropriate behaviour in the workplace at the time, does not mean that they are consenting to the behaviour. A single incident is enough to constitute a matter that requires employers and managers to respond quickly and appropriately.

3 What is not sexual harassment?

Sexual harassment is not sexual interaction, flirtation, attraction or friendship if they are welcome, wanted, mutual and consensual.

Relationships between colleagues may need to be disclosed through the department's Conflict of Interest form. Employees in a relationship with another staff member are encouraged to read the department's Conflict of Interest policy and take appropriate measures to address any perceived or apparent conflict of interest.

Interactions between workers such as banter, jokes, being mutually attracted to another person or asking a person they like out on a date, does not immediately constitute sexual harassment on the condition that the behaviour is welcomed, reciprocal, consensual and appropriate, in line with our [Workplace Behaviours Policy](#).

4 What to do if you are experiencing sexual harassment

The department recognises the importance of taking a trauma informed approach to supporting individuals who have, or are experiencing workplace sexual harassment. It is important that anyone who has experienced sexual harassment is empowered to select the method of reporting that they are comfortable with. Options available to staff include:

- If you feel safe and comfortable to do so, telling the person the behaviour is inappropriate and asking them to stop.
- Remove yourself from the situation or asking the person to leave.
- Disconnect or end the conversation with the person if the harassment occurs on the phone or online.
- Alert your manager or a trusted co-worker immediately.
- Seek support from a trusted colleague, a manager, a Workplace Contact Officer (WCO), the Employee Assistance provider (EAP), and/or personal contacts such as family members or friends.

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- Report your experience as per below.
- Keep a record of the incident, when and where, who was involved and any other relevant information.
- Talk to the Safety, Wellbeing and People Support team in People Branch about other options available to assist you including [reasonable adjustments](#) at work or access to the department's [InjuryAssist](#) service.
- The decision to report sexual harassment rests with the person who has experienced it. However, should the department become aware of sexual harassment, there is an obligation to act. This can include approaching the employee to offer support. In instances of high risk to someone's immediate safety the relevant authorities may be contacted.

5 Bystander intervention

Bystanders who witness or are aware of sexual harassment, play an important role in preventing and addressing incidents of sexual harassment and sexism in the workplace.

When safe to do so, bystanders that are aware of sexual harassment should:

- Informally address the behaviour.
- Provide support to the worker who is being subjected to sexual harassment.
- Seek advice from a manager, Workplace Contact Officer (WCO) or People Branch.
- Seek support for their own wellbeing as they require.

In addition, bystanders that are aware of sexual harassment must:

- Report the behaviour to the Safety, Wellbeing and People Support team, People Branch. Bystanders can make this report anonymously by phoning (02) 6213 7024.
- Where possible, reports should include dates, times, locations, the names of individuals and a summary of what occurred.

6 Reporting behaviour which could be sexual harassment

- All workers should report behaviour which could be sexual harassment.
- All workers have a right to report behaviour anonymously through the Safety, Wellbeing and People Support team or through a Public Interest Disclosure.
- A worker who has experienced or witnessed sexual harassment is empowered to report the matter either informally, formally or through external mechanisms. Further information is available on [iCentral](#).
- Early reporting provides the department with the opportunity to review the details, determine the appropriate course of action consistent with the policy and arrange support for all parties involved.
- All reports of sexual harassment will be taken seriously, and appropriate action will be taken to address the matter and to prevent further incidents.
- In accordance with the *Public Interest Disclosure Act 2013* and the Code of Conduct Procedure, complainants and participants in the complaint process are protected from victimisation or retaliation from other workers for lodging a complaint.
- De-identified reporting is provided to the People, Safety and Culture Committee (PSCC) on sexual harassment incidents to monitor the safety and culture of our workplace.

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7 Receiving a report

How one responds to a report of sexual harassment can make a big difference to someone's recovery. It can be hard to know how to respond and you may be worried about doing the wrong thing. There are some simple things you can do, and the following information will help you respond.

- **Believe** – when someone tells you they have experienced sexual harassment, you should believe them. It is normal to want to ask lots of questions, but it can make someone feel uncomfortable, or doubted. Before asking, listen and give the person time to provide their story in their own way.
- **Listen** – some people want to talk about what happened to them straight away, others may take time to disclose. It is important to listen without interrupting, talking too much and engage without judgement. It is important to never ask *“why didn't you do tell someone when it happened?”*
- **Never blame** – no one should be blamed for experiencing sexual harassment.
- **Refer** – you can seek the consent of the person to call 1800 Respect, the EAP or the Safety, Wellbeing and People Support to assist in the conversation.

It is important to acknowledge your own feelings in receiving the report and seek support for yourself as required.

8 Informal reporting and advice

The department acknowledges that reporting experiences of sexual harassment can be difficult. All staff members are able to seek guidance through internal and external mechanisms about reporting and accessing support. A worker who has experienced or witnessed sexual harassment, should report it through one or more of the following channels:

- [Workplace Contact Officer](#) (WCOs) - WCOs are trained to provide support to workers for any events related to harassment and behaviours inconsistent with fostering a diverse and inclusive culture. WCOs are geographically dispersed and their location and contact information is available on iCentral. Employees can contact any WCO in any location. WCOs report contact they receive to People Branch through the WCO Contact Form. Reports will remain anonymous, unless the reporter provides the WCO permission for their details to be disclosed.
- [Safety, Wellbeing and People Support Team](#) - The Safety, Wellbeing and People Support team are specifically trained to receive reports and support all staff members who have experienced sexual harassment, or have allegations made against them. The team can provide advice on addressing the behaviour, options to report the behaviour and support to workers to protect their health and wellbeing.
- A manager.

Managers may take a variety of action. These could range from a single discussion with one or more of the parties involved, to formal reporting of a complaint.

A manager **must** raise the matter as a formal complaint with the Safety, Wellbeing and People Support team if a worker reports an incident that meets the following criteria:

- Is serious or has the potential to be a serious matter.
- Is affecting the worker's health and/or wellbeing for example, making them feel distressed.
- Is affecting the worker's ability to attend work.
- Is affecting the workers performance or participation.

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- Is affecting other workers.

The definition of a serious incident or matter is defined in section 1.2 of this guideline.

Managers, or staff, meeting their obligations to report matters to the Safety, Wellbeing and People Support team can do so anonymously by phoning (02) 6213 7024. They should also advise the employee of their obligations and that they will reporting the matter. With the consent of the employee, managers and employees can make the report together.

8.1 Making an anonymous report

To make an anonymous report verbally, workers can contact the Safety, Wellbeing and People Support team on (02) 6213 7024 with caller identification switched off.

Workers may like to use anonymous reporting simply to share experiences. If workers would like a response, the department can take indirect action targeted at a particular location or work area, such as:

- Ask managers to discuss appropriate workplace behaviours with their teams.
- Arrange training or presentations at team meetings.
- Provide information on appropriate behaviours and reporting in communal areas.
- Ask managers to keep watch for signs of inappropriate behaviour or poor culture in their work areas.

Anonymous reporting limits what the department can do at an individual level. Further, if the report is missing key information the department may not be able to respond effectively. If anonymous reporting is the preferred option, it is important to remember these limitations.

Employees also have the option to report their experiences by lodging a Public Interest Disclosure (PID) under the *Public Interest Disclosure Act 1998* (the PID Act), which protects current and former public officials (including contractors) reporting suspected wrongdoing. Anonymous reporting is also available under the PID Act. More information is available on [iCentral](#).

8.2 Formal complaints

A worker may choose to formally report the behaviour in writing to the [Safety, Wellbeing and People Support team](#). The team will assess the report and determine the appropriate action based on the circumstances, relevant policies and guidelines.

If the worker is an employee, this may include:

- Alternative dispute resolution options such as mediation or conciliation.
- Making a referral for a formal Code of Conduct investigation.
- Depending on the circumstances, a decision may be made to respect your wishes and take no further action but take note of the matter.
- Reporting the complaint to a relevant authority, such as the police.

Formal complaints should include as much information as possible, including the names of all parties and the nature of their involvement. These reports can be made verbally in the first instance to the Safety, Wellbeing and People Support team; however, a written complaint should be made in writing and emailed without delay.

In managing a sexual harassment complaint, the department's response will be unbiased and follow principles of procedural fairness, including giving the alleged harasser with support and providing them the opportunity to understand and respond to the allegations against them before any decision is made about what, if any, employment action may be appropriate. A formal

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complaint of sexual harassment will be managed in accordance with the [Code of Conduct Procedure](#).

If the worker is not an employee the complaint will be reported to the relevant contract manager, organisation or service provider. The Safety, Wellbeing and People Support team will provide support and ensure EAP services are made available to all parties involved.

To support the wellbeing of the person making the allegations, and those the allegations are against, the department will take all active and reasonable steps to expedite the investigation, consistent with the APSC Guidance on undertaking workplace investigations.

8.3 External mechanisms

Workers are encouraged to raise matters through internal channels in the first instance before making a complaint or application to an external authority.

Workers may choose to take a complaint of sexual harassment to the following organisations:

- **Fair Work Commission**
Phone: 1300 018 228 or website: <https://www.fwc.gov.au/>
- **Australian Human Rights Commission (AHRC)**
The AHRC is not a court and cannot determine that sexual harassment has happened, instead, the AHRC role is to get both sides of the story and help to resolve the complaint.
Phone: 1300 656 419 or website: <https://humanrights.gov.au/>
- **Ethics Advisory Service** at the Australian Public Service Commission.
- Applying to the **Merit Protection Commission (MPC)** for a Secondary Review of Action if you are dissatisfied with action taken in response to your complaint or applying instead for a primary review by the Merit Protection Commissioner (this is only an option in limited circumstances).
- Making an external disclosure under the **PID Act**. A public official may make a relevant disclosure to anyone outside of government (other than a foreign official) provided that:
 - They have first made an internal disclosure and they reasonably believe that the investigation or the agency response was inadequate or not completed within the time limit, and
 - The disclosure is not, on balance, contrary to the public interest.
 More guidance on the PID Act is provided on the [intranet](#).
- **Australian Federal Police**
Phone your local police station or website: <https://www.afp.gov.au>

9 Record keeping and confidentiality

All parties to allegations of sexual harassment should consider how to maintain confidentiality as far as possible. Workers may need to discuss the allegations with multiple people to receive the support and advice they need, or to be safe and comfortable at work. For example, a worker may decide to discuss the allegations with the EAP, their manager, and a close colleague.

The department encourages workers to seek support and advice, while being mindful that discussing allegations widely could in itself be inappropriate behaviour and affect the procedural fairness to which an alleged harasser is entitled.

Before discussing allegations workers should consider:

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- Whether the conversation is for the purpose of obtaining appropriate support and advice.
- Whether the person they propose talking to is the most appropriate person.
- Whether the conversation will affect the procedural fairness to which all parties are entitled.

10 Available support

10.1 Employee Assistance Program (EAP)

Workers are entitled to access professional counselling from the department's EAP service provider. Up to six free sessions are available per employee per 12 month period.

EAP counselling is confidential and nothing discussed with a counsellor will be communicated back to the department. EAP counselling is available 24 hours a day, seven days a week, regardless of whether the issue is related to a workplace problem or some other issue.

Further details on accessing the EAP are available on [iCentral](#).

10.2 External support options

Workers may choose to seek support or information through the following organisations:

Sexual assault support services

- [1800 Respect](#) - 1800 737 732
- [Bravehearts](#) - 1800 272 831

Mental health support services

- Lifeline - 13 11 14
- BeyondBlue – 1300 224 636
- Headspace – 1800 650890
- Suicide Call Back Service – 1300 659467

National sexual assault support services

- [ACT](#)
- [NSW](#)
- [NT](#)
- [QLD](#)
- [SA](#)
- [TAS](#)
- [VIC](#)
- [WA](#)

10.3 Other support options

If you need more information, please contact the People Support team in the Safety, Wellbeing and People Support section of People Branch via email at Peoplesupport@industry.gov.au

11 Roles and responsibilities

Department of Industry, Science and Resources	The department recognises its obligations to take reasonable and proportionate measures to eliminate sexual harassment from its workplaces. The department is committed to:
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	<ul style="list-style-type: none"> • Ensure that there are clear processes in place for raising grievances and complaints. • Take action if the department is aware of any behaviour which could constitute sexual harassment even if no formal complaint has been lodged. • Clearly communicate and promote these processes amongst workers. • Monitor the implementation of this guideline. • Identify potential risk factors and taking prompt, reasonable action to minimise those risks including: <ul style="list-style-type: none"> ○ managing organisational change in an inclusive and participatory way, for example, consulting with workers affected as early as possible and developing and maintaining effective communication throughout the process, ○ implementing work systems to prevent the risk of sexual harassment, ensuring these systems maintain privacy and confidentiality of the data collected, and review and evaluate those systems, for example, seek feedback from workers through staff surveys and, ○ promoting positive working relationships in the department's workplaces. • Ensure information and training to support the effective implementation of this guideline is accessible. • Review the guideline every two years or as required, and communicating any changes or updates to the guideline amongst workers.
Managers	<p>Managers are responsible to:</p> <ul style="list-style-type: none"> • Model appropriate behaviour and acting on any observed inappropriate behaviour. • Monitor the working environment to ensure as far as practicable that acceptable standards of conduct are maintained at all times and that sexual harassment is not tolerated. • Promote awareness of avenues for advice and the complaints procedures with respect to sexual harassment as set out in this procedure. • Treat complaints and behaviour which may constitute sexual harassment seriously and taking immediate action. • Treat complaints of sexual harassment with appropriate sensitivity and confidentiality. • Ensure that a person is not victimised for making, or being involved in, a complaint of sexual harassment. • Provide contact details for the Safety, Wellbeing and People Support to complainants or respondents. • Ensure that their workers abide by this guideline and the Workplace Behaviours Policy.
Workers	<p>The responsibilities of all workers are to:</p> <ul style="list-style-type: none"> • Model appropriate behaviour which reflects and upholds the department's and APS Values. • Comply with this guideline. • Report any incident of sexual harassment that they have experienced or witnessed.

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	<ul style="list-style-type: none"> • Treat any allegations or complaints of sexual harassment with appropriate confidentiality. • Ensure that a person is not victimised for making, or being involved in a complaint of sexual harassment.
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12 Version control

Version Number	Date of Issue	Author/s	Brief Description of change	Next review date
1.0	May 2023	People Branch	Initial Policy	May 2025