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Work Health and Safety (Sexual Harassment) Amendment Regulation 2024

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Workplace Health and Safety Queensland
worksafe.qld.gov.au



Acknowledgement of Country

We respectfully acknowledge the Traditional Custodians of the land on which we meet today. We also pay our respects to Elders past and present and extend that respect to Aboriginal and Torres Strait Islander people.



Queensland

Work Health and Safety (Sexual Harassment) Amendment Regulation 2024

Subordinate Legislation 2024 No. ...

made under the

Work Health and Safety Act 2011

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What we will cover today:

- Changes to the Work Health and Safety Regulation 2011
- Why are these amendments being made?
- What is sexual harassment and sex or gender-based harassment?
- Impacts of sexual harassment and sex or gender-based harassment
- What do PCBUs need to do?
- Matters PCBUs must consider
- Implementing control measures
- Reviewing control measures
- Prevention Plan – required from 1 March
- Further resources and support




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Changes to the Work Health and Safety Regulation 2011

What is the Work Health and Safety (Sexual Harassment) Amendment Regulation 2024?

On 1 September 2024, new requirements for stronger regulation of sexual harassment and sex or gender-based harassment at work commenced in Queensland.

The amendments are the first of their kind in Australian WHS legislation.

They mean persons conducting a business or undertaking (PCBUs) must be **proactive** about preventing sexual harassment and sex or gender-based harassment at work.

Why are these amendments being made?

- Sexual harassment and sex or gender-based harassment are work health and safety hazards that can cause psychological or physical harm.
- Recent national reviews indicate these issues are widespread, with the potential to impact workers within all workplaces, in all industries.
- While PCBU's should already be managing the risk of sexual harassment, and are required to, data and review findings shows this is not always the case.
- One in three people have experienced sexual harassment at work in the past five years.

What is sexual harassment and sex or gender-based harassment?

Sexual harassment

Sexual harassment means any unwelcome sexual behaviour that a reasonable person could anticipate may make another person feel offended, intimidated or humiliated in that situation.

Sex or gender-based harassment

Sex or gender-based harassment means harassment of a person on the basis of the person's sex or gender, by unwelcome conduct of a demeaning nature, where a reasonable person would have anticipated the person would be offended, humiliated or intimidated by the conduct.

What is sexual harassment and sex or gender-based harassment?

- Sexual harassment and sex or gender-based harassment can be a one-off incident or repeated behaviour and can be overt or subtle. The most serious acts, such as sexual assault, may constitute criminal offences.
- Harassment may be committed by co-workers, supervisors, managers, customers, clients, patients, visitors or others who interact with a worker or a group of workers.
- Harassment can also include behaviour that, while not directed at a particular person, can affect someone who is exposed to or witnesses it.

What is sexual harassment and sex or gender-based harassment?

- inappropriate physical contact
- being followed (either in person or via technology)
- sexual comments, gestures or indecent exposure
- sexist comments, insults or jokes
- inappropriate staring or leering
- deliberately misgendering someone
- intrusive questions or comments about a person's private life
- sexually explicit gifts, images, videos, cartoons, drawings and photographs
- repeated or inappropriate invitations to go out on dates
- gendered double-standards or different repercussions for the same actions.

Impacts of sexual harassment and sex or gender-based harassment

For affected workers:

- decreased job satisfaction, commitment to work and productivity
- negative impacts on a person's job or career, including resignation
- emotional/cognitive reactions including loss of confidence, low self-esteem, irritability, anger, tearfulness and mood swings
- behavioural changes such as withdrawal and substance abuse
- physical injuries and physical reactions in the event of assault
- illnesses such as cardiovascular disease, musculoskeletal disorders, immune deficiency and gastrointestinal disorders (as a result of stress)
- stress, depression, anxiety, post-traumatic stress disorder, self-harm or suicidal thoughts
- severe cases may lead to death by suicide.

What do PCBUs need to do?

PCBUs must manage the risk of sexual harassment and sex or gender-based harassment by:

- identifying foreseeable risks
- implementing control measures
- reviewing control measures
- implementing a prevention plan (from 1 March 2025).

PCBUs must use an active systems-based prevention measure, rather than relying on individual workers to report that harassment has already occurred.

Matters PCBUs must consider



Matters relating to characteristics of workers

For example—

- women workers where most workers at the workplace are men
- workers who identify as LGBTQIA+, non-binary, or gender non-conforming
- workers with a disability
- Aboriginal and Torres Strait Islander workers
- persons from diverse ethnic backgrounds
- young workers.



Matters relating to the characteristics of workplaces

For example—

- the workplace culture permits inappropriate behaviour
- there is a lack of diversity, generally or in management positions
- the worker may be exposed to people consuming alcohol
- the worker may be exposed to third parties at the workplace
- the work is remote or isolated.

NOTE: the lists for worker, workplace and work environment characteristics are example considerations for PCBU's and are not exhaustive

Implementing control measures

PCBUs must eliminate the risk of harassment so far as is reasonably practicable.

If it is not reasonably practicable to eliminate the risk, PCBUs must minimise the risk in accordance with the hierarchy of controls.

Examples of controls include:

- changing the design of work to avoid workers working alone
- changing the design and layout and environmental conditions of the workplace by ensuring lighting provides good visibility
- implementing administrative controls such as formal training on the prevention of sexual and sex or gender-based harassment
- providing and using PPE, such as the provision and use of personal distress alarms.

Reviewing control measures

As with other health and safety risks, PCBU's must review and modify or replace a control measure for managing sexual harassment and sex or gender-based harassment if it is not working effectively.

Reviewing control measures should be done regularly and must be done if there is:

A report of harassment

Inadequate controls

A change to risks

A new hazard

**Consultation indicates a
review is necessary**

A HSR requests one

Prevention Plan – required from 1 March

Identify the risks

Identify the control measures

The Prevention Plan must:

Identify matters the PCBU considered

Set out the procedure for dealing with reports of sexual harassment



PCBU Obligations

PCBUS are must prepare the prevention plan but also—

- consult with their employees in its development
- implement the plan
- make the plan accessible and known to all workers
- review the plan every three years or sooner, where sexual harassment has been reported, or if a review is requested by a HS committee, WHS representative, or HSR.

If a risk of sexual harassment or sex or gender-based harassment has not been identified, for example the PCBU is a sole trader, a prevention plan is not required.

Further resources

The Office of Industrial Relations is developing guidance material regarding these changes. Other supporting resources are available at worksafe.qld.gov.au – search for:

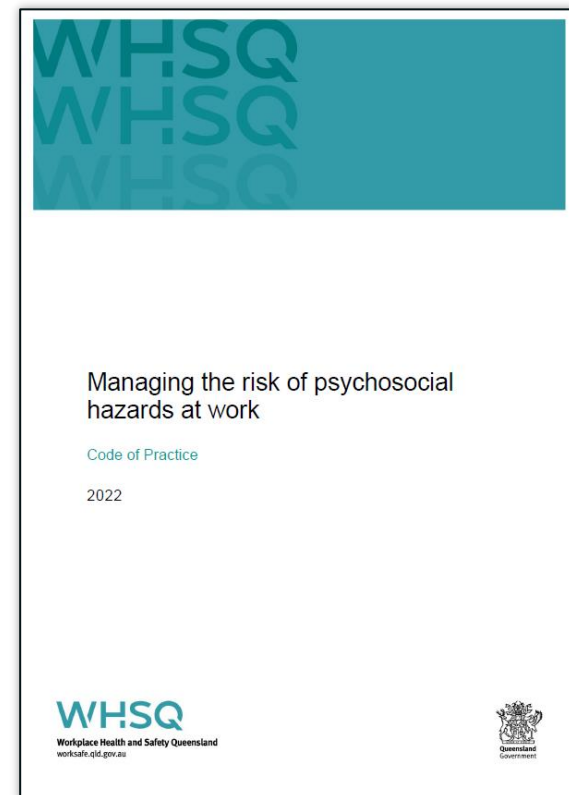
- ‘Managing the risk of psychosocial hazards at work Code of Practice 2022’
- ‘Mental health resources’
- ‘Mentally healthy workplaces toolkit’

Plus, visit worksafe.qld.gov.au/SexualHarassment for the fact sheet guidance and other resources

You can also visit Peopleatwork.gov.au – a free psychosocial risk assessment tool.

[Workers’ Psychological Support Service](https://WorkersPsychologicalSupportService.org.au) – assists Queensland workers who have experienced a work-related psychological injury. Visit wpss.org.au

Contact us: WHSQ Advisory Services on **1300 362 128**.



Support is available

In an emergency call 000 or go to your local hospital emergency department.

24/7 crisis services

- [Lifeline](#) 13 11 14
- [Suicide Call Back Service](#) 1300 659 467
- [Beyond Blue](#) 1300 224 636
- [MensLine Australia](#) 1300 789 978
- [Kids Helpline](#) 1800 551 800
- [1800 Respect](#) 1800 737 732
- [13 YARN](#) - 13 92 76 - for Aboriginal and Torres Strait Islander people



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