

Fact sheet

Investigating psychosocial hazards

August 2024

Health and safety at mines and petroleum sites in NSW is regulated by the Resources Regulator. The Regulator may undertake incident investigations to improve health and safety.

This fact sheet explains what the Regulator can and cannot do when a psychosocial hazard is reported to it.

In this fact sheet a reference to ‘complaint’ includes a reportable incident concerning a psychosocial hazard.

Psychosocial hazards

Psychosocial hazards include		
<ul style="list-style-type: none">• Role overload	<ul style="list-style-type: none">• Inadequate reward and recognition	
<ul style="list-style-type: none">• Exposure to traumatic events	<ul style="list-style-type: none">• Remote or isolated work	<ul style="list-style-type: none">• Harmful workplace behaviours or workplace interactions:<ul style="list-style-type: none">- Conflict or poor workplace relationships and interactions- Workplace violence and aggression- Bullying and harassment including sexual harassment
<ul style="list-style-type: none">• Lack of role clarity	<ul style="list-style-type: none">• Poor procedural justice	
<ul style="list-style-type: none">• Poor support from supervisors, managers or co-workers	<ul style="list-style-type: none">• Poor change consultation	

Role of investigators

The primary role of our investigators is to determine the cause and circumstances of risks to health and safety arising from psychosocial hazards at a workplace and compliance with work, health and safety laws. This often requires us to look beyond the risks themselves and examine the controls in place to eliminate or manage those risks including the systems of work and work practices.

Investigations are carried out by specialist investigators with the necessary skills, training and experience.

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Action we can take

We can only act upon situations that fall within the scope of the *Work Health and Safety Act 2011*, the *Work Health and Safety (Mines and Petroleum Sites) Act 2013* and associated Regulations.

This includes verifying that a mine or petroleum site operator or other person conducting a business or undertaking (collectively referred to hereafter as PCBUs) is:

- ✓ consulting with workers about work health and safety
- ✓ providing and maintaining a work environment that is without risks to health and safety
- ✓ providing and maintaining safe systems of work
- ✓ monitoring the health and safety of workers and the conditions at the workplace to ensure that work-related illnesses and injuries are prevented
- ✓ providing appropriate information, instruction, training or supervision to workers and others at the workplace, to allow work to be carried out safely
- ✓ implementing control measures to eliminate or minimize the risks as far as is reasonably practicable.

Action we cannot take

There are some actions we cannot take. These include:

- ✗ investigating a psychosocial hazard complaint that did not arise from, or relate to, work, a work environment or workplace interactions or behaviors at a mine or petroleum site
- ✗ mediating between the parties involved
- ✗ providing legal advice
- ✗ providing counselling
- ✗ ordering a PCBU to discipline the alleged perpetrator or terminate their employment
- ✗ taking sides
- ✗ dealing with industrial matters or discrimination
- ✗ issuing an order to stop bullying. The Fair Work Commission has powers to issue these orders if required.

Action you should take as a complainant

Check that what is occurring to you is a psychosocial hazard (refer to definition and examples above and Psychosocial hazards in the workplace brochure).

Try to resolve the issue by:

1. talking to someone, such as your supervisor, manager, health and safety representative (HSR) or union representative, about what you are experiencing and what you can do about it
2. checking if your workplace has a psychosocial hazard policy and reporting procedure in place - and following it

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3. telling the other person that you object to their behavior and asking that it stop (if you feel safe and comfortable doing this)
4. reporting the behavior as early as possible – e.g. to your supervisor, manager, HSR or union representative – and/or using workplace reporting procedures.

Note:

If the PCBU has not been made aware of (or had an opportunity to respond to) your complaint this may limit the action the Regulator can take.

Read 'The investigation process' section below.

Provide specific examples that can be supported by evidence that you think are significant to your complaint. When describing your complaint it is important to so far as possible:

- include specific behaviours, dates, location
- identify potential witnesses
- provide supporting evidence such as diary entries, emails, text messages, WHS notifications, grievances, performance development or management related documentation etc.

Action you should take as a PCBU

Ensure that reporting, issue resolution and investigation procedures that capture psychosocial hazards are in place and implemented.

Conduct an investigation that is:

- timely
- independent, objective, transparent, fair and unbiased
- deep and detailed
- directed not only to the events constituting the complaint but also the effectiveness of measures to identify and control psychosocial hazards and risks benchmarked against the Work Health and Safety Regulation and the Code of practice: Managing psychosocial hazards at work.

Analyse the information gathered during the investigation to make sound evidence-based findings and conclusions.

Implement (where required) improvements to control measures and (where justified) sanctions against individuals that are proportionate to the offending and consistent with past sanctions.

Balance confidentiality with transparency in recognition that parties to a complaint may remain aggrieved at the end of an internal investigation if the reasons for findings, conclusions and outcomes of an investigation (including sanctions against individuals) are not communicated.

The investigation process

We will acknowledge in writing receipt of a complaint within 2 business days.

If a complaint concerns bullying or other inappropriate conduct, sexual harassment, workplace violence or sexual assault, a complainant will be required to complete and submit a Bullying and inappropriate conduct in the workplace form.

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We may contact the complainant for more information.

We will decide on the most appropriate action by assessing the information provided by the complainant having regard to our Compliance and enforcement approach.

We will contact the PCBU(s) to which the issue relates by one of the following methods:

- letter
- phone call
- visit by an investigator.

We will take care to not disclose any information that may identify the complainant if they have requested their identity remain confidential but it is possible that the other parties will make assumptions about who has raised the complaint with us. Remaining anonymous may limit the action we can take in some circumstances.

We will be transparent with the PCBU about why contact is being made and what are their obligations under the WHS Act. Initial steps will likely include:

- verifying the PCBU has been made aware of, or had an opportunity to, respond to the complaint in accordance with its issue resolution procedure
- undertaking a desktop assessment of the PCBU's internal investigation to determine its adequacy by reference to the factors set out above at 'Action you should take as a PCBU'

An investigator may visit the workplace to:

- identify the cause and circumstances of risks to health and safety arising from psychosocial hazards
- assess the extent of compliance by duty holders with WHS laws in relation to the alleged psychosocial hazard (s)
- support compliance with WHS laws.

Our primary purpose is to assess the extent of, and ensure compliance with, WHS laws not to support one version of events over another or examine a potential breach of a code of conduct (although this may occur incidentally whilst we make our enquiries).

We will keep you informed of progress, and when finalised, will provide you with the outcome, the reason for the decision and any action(s) taken. This will usually be by way of written correspondence.

We will ensure that our decisions and actions are reasonable, fair and proportionate having regard to the circumstances, WHS laws, codes of practice, policies and procedures.

We may not be in a position to continue to respond to issues that have already been actioned by us. We may stop responding to you if we have already investigated and responded to your issues. If you have been provided with an opportunity to express your concerns, have been treated fairly, given reasons for decisions made and a reasonable explanation as to why your request can go no further, the matter will be closed. Any further correspondence from you about matters already dealt with will be noted, and no further action will be taken.

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