

PwC Regulatory Capability

Review of WorkSafe Mines Safety

WorkSafe Commissioner's response

June 2025





Foreword

On 22 June 2022, in response to the inquiry report, *Enough is Enough*, the Minister for Industrial Relations, the Hon Bill Johnston MLA, announced that PricewaterhouseCoopers (PwC) had been engaged to undertake a *Regulatory Capability Review of WorkSafe Mines Safety* (Review). The purpose of this Review was to understand the WorkSafe Group's (WorkSafe) of the Department of Energy, Mines, Industry Regulation and Safety (DEMIRS) protocols for responding to sexual assault and sexual harassment in the mining industry. Since the inquiry and the Review, significant progress has been made by WorkSafe Mines Safety, indicating a greater understanding of sexual assault and sexual harassment as a workplace health and safety issue under its regulatory responsibility.

The resulting Review provided WorkSafe Mines Safety with the unique opportunity to work collaboratively with other regulators, peak bodies, industry and workers to develop a regulatory response to better address the complex problem of sexual harassment at work.

The report from the Review made recommendations to improve WorkSafe Mines Safety's enforcement model when responding to incidents of sexual harassment and assault in the mining industry.

WorkSafe has directed significant attention to the Review's 43 recommendations that aim to improve enforcement structure, services, talent and systems. Since the Review, WorkSafe has identified and delivered: specialised competency and training; improved available measurement and analysis while planning for better system technologies; engaged experts to conduct detailed assessment of WorkSafe information materials for useability, trauma sensitivity, currency and accuracy; and reviewed the regulatory environment for better outcomes.

Importantly, WorkSafe recognises that psychosocial hazards, including sexual harassment, are present across sectors and is committed to improving information and compliance services accordingly.

Reducing sexual harassment and assault at work is a priority for WorkSafe. Psychosocial hazards have been identified as a priority in WorkSafe's three-year strategy, *WorkSafe: The way forward.* WorkSafe is committed to continuing to evolve its regulatory approach to gendered violence at work and encourages all stakeholders to do their part to reduce such risks too. Everyone has the right to a safe workplace and to be treated with respect at work.

Sally North WorkSafe Commissioner



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Acronyms and abbreviations

AHRC Australian Human Rights Commission

CARS Compliance and Regulation System

DEMIRS Department of Energy, Mines, Industry Regulation and Safety

FIFO Fly-in fly-out

MAPAC Mining and Petroleum Advisory Committee

MARS Mental Awareness, Respect and Safety

MOU Memorandum of Understanding

PCBU Person conducting a business or undertaking

PwC PricewaterhouseCoopers

SHare campaign Sexual harassment awareness reporting engagement campaign

SRS Safety Regulation System

SWA Safe Work Australia

WHS Work health and safety

WHS Act Work Health and Safety Act 2020

WHS Mines Regulations Work Health and Safety (Mines) Regulations 2022

WHSC Work Health and Safety Commission

WorkSafe WorkSafe Group of the Department of Energy, Mines,

Industry Regulation and Safety

Response to recommendations

Structure – Legislative framework

Recommendation 1

Progress amendments to the notification provisions within the WHS Act and WHS Mines Regulations.

Response

WorkSafe supports the recommendation in principle, noting it would most effectively be implemented through changes to national model WHS laws.

Regulations relating to psychosocial hazards came into effect on 24 December 2022, as part of Western Australian Government's response to the *Enough is Enough* report.

SWA is conducting a review of the incident notification provisions in the model WHS Act and will refer any recommendations for change to the WHS Ministers for decision.

SRS will be updated to reflect any amendments to the notification provisions within the legislation.

Progress amendments to the WHS Act and WHS Mines Regulations to include a definition of sexual assault and sexual harassment.

Response

WorkSafe supports the recommendation in principle, noting it would most effectively be implemented through changes to national model WHS regulatory framework.

WorkSafe is working with Australian states and territories and SWA through national forums to establish a consistent and comprehensive definition of sexual harassment that aligns with the framework of the model laws.

However if this is not addressed through national model laws, it will be considered during the statutory review of the WHS Act in 2025.

Additionally, sexual harassment have been defined in the national model *Sexual* and gender-based harassment: Code of practice, which the WHSC is considering recommending for approval in Western Australia.

A definition of sexual harassment consistent with that used in the Sex Discrimination Act 1984 (Cwlth), appears in the following codes of practice: Managing psychosocial hazards at work (SWA), Workplace behaviour (DEMIRS), Effectively preventing and responding to sexual harassment (AHRC).

Following a review of the *Equal Opportunity Act 1984*, the government is considering a new Equal Opportunity Act to also include a definition of sexual harassment consistent with the *Sex Discrimination Act 1984* (Cwlth).

A consistent and comprehensive definition of sexual harassment across the wider regulatory framework in Western Australia is also supported.

WorkSafe Mines Safety has improved its published guidance on what constitutes psychosocial harm.

Structure - Enforcement measures

Recommendation 3

Utilise stronger, existing enforcement measures and impose penalties for breaches of duties to notify sexual assault and sexual harassment.

Response

WorkSafe supports the recommendation.

In accordance with its Compliance and Enforcement Policy, WorkSafe will utilise the measures and powers provided in the WHS Act to investigate and use appropriate enforcement practices, such as prosecution, for breaches of the duty to notify of instances of sexual assault and sexual harassment.

Recommendation 4

Support reviewing the current test to apply a prohibition notice to include psychosocial elements.

Response

WorkSafe does not support the recommendation.

The power to issue a prohibition notice is set by the WHS Act, as part of a harmonised national model law.

WorkSafe Mines Safety will use prohibition notices when sufficient evidence to form a view is found.

WorkSafe will consider the settings for notices as part of the statutory review of the WHS Act in 2025.

Recommendation 5

Update WorkSafe inspector training materials to provide practical guidance on how different enforcement measures apply to sexual assault and sexual harassment.

Response

WorkSafe supports and has addressed the recommendation.

WorkSafe has developed and provided consolidated psychosocial guidance material for inspectors.

WorkSafe Mines Safety inspectors and ancillary staff have completed training in responding to disclosures and prevention of vicarious trauma.

All WorkSafe Mines Safety inspectors have completed psychosocial training. This training is now part of baseline onboarding training for all new inspectors.

Refinement of training materials will be ongoing.

Structure - Collaboration

Recommendation 6

Strengthen working arrangements with key agencies.

Response

WorkSafe supports the recommendation.

WorkSafe continues strong collaborative interactions with other agencies to progress actions identified by the *Enough is Enough* inquiry. These include WA Police, Mental Health Commission, Equal Opportunity Commission, Department of Communities, and other stakeholders via the MARS Program.

Recommendation 7

Map and communicate the roles and responsibilities of WorkSafe and other key parties in sexual assault and sexual harassment.

Response

WorkSafe supports and has addressed the recommendation.

WorkSafe has engaged with the University of Western Australia (UWA) McCusker Centre to develop a simple 'trauma-informed' self-assessment, which leads the person to the most appropriate information in a timely manner. This supports traumatised persons to access relevant information quickly during a challenging time.

Recommendation 8

Continue to enhance ways of working and collaboration across WorkSafe.

Response

WorkSafe supports and has addressed the recommendation.

WorkSafe Mines Safety is committed to enhancing collaboration across WorkSafe. WorkSafe safety directorates are now structured under a single WorkSafe Group. The focus on psychosocial hazards is leveraged through:

- · WorkSafe Leadership Committee
- WorkSafe Operational Management Committee
- · Psychosocial Inspectors Working Committee.

Develop and provide collaborative resources on preventing and responding to sexual assault and sexual harassment to the mining industry through WorkSafe channels, for example the MARS Program.

Response

WorkSafe supports and has addressed the recommendation.

Both the WorkSafe and MARS Program websites already contain guidance and resources, such as four different codes of practice about workplace behaviours, as well as information sheets on gendered violence aimed at employers and affected persons. Additional material is being prepared for publication and promotion.

Recommendation 10

Strengthen engagement with the mining industry to address sexual assault and sexual harassment, for example through a targeted and regular engagement plan to address the issues identified in this Review.

Response

WorkSafe supports and has addressed the recommendation.

WorkSafe Mines Safety has an ongoing commitment to strengthen engagement with the mining sector.

This includes engaging with industry through MAPAC and the WHSC to support necessary changes across the sector to ensure workers are safe and respected in the workplace.

WorkSafe Mines Safety has delivered, in conjunction with Dr Dean Laplonge, a series of workshops with industry frontline workers, health and safety representatives, human resources representatives and supervisors.

These workshops addressed how to identify and manage psychosocial hazards, reduce risks related to harassment and violence in the sector and inform future strategies.

Additionally, WorkSafe has supported the MARS SPEAK UP, REPORT IT advertising campaign which communicates to people in the mining sector that sexual harassment is a WHS issue and they can contact WorkSafe Mines Safety about it.

Collaborate with Department of Communities to establish a community of practice for sexual assault and sexual harassment.

Response

WorkSafe supports and has addressed the recommendation.

Through the MARS Program, an informal community of practice has been established with the Department of Communities and DEMIRS. Engagement and sharing of learnings occurs with relevant organisations such as the Centre for Women's Safety and Wellbeing, Circle Green and the Equal Opportunity Commission.

Services - Industry guidance

Recommendation 12

Work with MAPAC to update the psychosocial hazards and FIFO codes of practice.

Response

WorkSafe supports the recommendation, noting the WHSC has the role of making a recommendation to the Minister in relation to codes of practice.

Progress is being made through MAPAC and a dedicated WorkSafe team of Mines Safety inspectors, subject matter experts, editors and communication experts. Review and development of the materials is being progressed as a priority. This aligns with the government recommendations made in the Enough is Enough report.

Recommendation 13

Clarify and provide specific guidance around reporting requirements for sexual assault and sexual harassment under the WHS Act and WHS Mines Regulations.

Response

WorkSafe supports and has addressed the recommendation.

The *Incident reporting: Interpretive guideline*, has been published and promoted to industry. Further promotion is planned.

The guideline provides clarification on reporting psychosocial hazards, sexual harassment, assault and bullying.

This guideline is supported by a dedicated information sheet, *Gendered violence*: Notification of sexual harassment and/or assault to WorkSafe Mines Safety.

Recommendation 14

Update the WorkSafe website for ease of use and clarity on sexual assault and sexual harassment.

Response

WorkSafe supports the recommendation.

Updating of the website is underway.

Enhance sexual assault and sexual harassment guidance materials for simplicity, practicality and relevancy.

Response

WorkSafe supports the recommendation and is addressing it as part of its routine review of publications and website content.

Guidance materials continue to be reviewed and enhanced using feedback from workers, industry and specialists, such as the Department of Communities, WA Police and Circle Green.

A user-friendly tool to guide people to appropriate resources has been implemented and viewed approximately 4,000 times between September 2023 to February 2024.

Recommendation 16

Run a dedicated roadshow and future annual campaigns, as part of the ongoing education program, focussed on sexual assault and sexual harassment.

Response

WorkSafe supports and has addressed the recommendation.

As provided in response to Recommendation 10, WorkSafe Mines Safety held a roadshow workshop series with Dr Dean Laplonge titled "How tough are we now?". These workshops discussed gendered violence, psychosocial harm, and what needs to be done to support industry in the ongoing education necessary to prevent these hazards and incidents.

A broader schedule of work health and safety events are run each year. Education and roadshow topics are determined through analysis of data. There has been an increasing focus on psychosocial risks over the past few years.

In 2023, MARS Program ran the *Mining Industry Summit – Driving Respect*, which was held as a state government response to the Enough is Enough recommendations.

Services – Investigation processes

Recommendation 17

Develop specialised sexual assault and sexual harassment reporting pathways.

Response

WorkSafe supports and has addressed the recommendation.

Reporting pathways align with Recommendation 13.

The SPEAK UP. REPORT IT campaign promotes the use of a 24/7 telephone service, as well as email, mail and online options to report incidents that occur in the course of work to WorkSafe.

Services - Confidentiality and anonymity

Recommendation 18

Communicate availability of anonymous complaints with guidance on required information to investigate.

Response

WorkSafe supports and has addressed the recommendation.

Guidance material, such as the *Guidance for individuals when making a complaint about gendered violence* information sheet, sets out the reporting process for people making a complaint and for those who witnessed incidents. Industry education has been provided through SRS on protecting the anonymity of persons involved and how to communicate with WorkSafe Mines Safety directly to confidentially share information.

A WorkSafe telephone reporting line with provision for anonymous reporting is available 24/7 to individuals, bystanders, PCBUs, site senior executives and management. The WorkSafe SPEAK UP, REPORT IT campaign has promoted the 24/7 reporting line.

The UWA self-assessment tool was developed as part of this guidance. See Recommendation 7.

Recommendation 19

Develop and circulate minimum required information to investigate anonymous complaints to internal stakeholders.

Response

WorkSafe supports and has addressed the recommendation.

Publications to address this recommendation have been produced.

Recommendation 20

Standardise processes for communicating circumstances where anonymity cannot be maintained.

Response

WorkSafe supports and has addressed the recommendation.

Standardised processes are useful as guidelines. WorkSafe is aware of the complexities of anonymity and its application, which may vary on a case-by-case basis. Newly published materials and information provide guidance on the process for the reporting of incidents.

Services – Experience of affected persons

Recommendation 21

Establish an employee focused section of the WorkSafe website.

Response

WorkSafe supports the recommendation which will be considered as part of a major website refresh planned for 2024.

Existing website resources are available for workers, such as the sexual harassment evaluation tool and the information sheet on how to make a complaint.

Recommendation 22

Translate important materials around sexual assault and sexual harassment into other languages.

Response

WorkSafe supports the recommendation.

WorkSafe will continue to offer translation services as per the government's commitment to culturally and linguistically diverse people.

Tailored guidance material is being developed to support diverse audiences as part of the Sexual harassment awareness reporting engagement (SHare) campaign. The guidance is aimed at individuals, bystanders and PCBUs.

Recommendation 23

Design culturally specific materials for Aboriginal and Torres Strait Islander peoples on reporting pathways, rights and protections with respect to sexual assault and sexual harassment.

Response

WorkSafe supports the recommendation.

Tailored guidance material is being developed to support diverse audiences, including Aboriginal and Torres Strait Islander peoples, as part of the *Sexual harassment awareness reporting engagement (SHare)* campaign. The guidance is aimed at individuals, bystanders and PCBUs.

Consider options to engage directly with FIFO workers.

Response

WorkSafe supports and has addressed the recommendation.

WorkSafe Mines Safety inspectors engage directly with workers and health and safety representatives during site visits, follow-up contact and investigations.

The WorkSafe Mines Safety Mental Health and Wellbeing team has been created to focus on psychosocial hazards and support engagement directly with workers. In addition, the SHare campaign focused on FIFO workers through advertisements at airports used by FIFO workers.

Further workshops will occur in 2024 to address gendered violence in at-risk groups.

Recommendation 25

Provide the opportunity for affected persons to give feedback on their experience with WorkSafe Mines Safety investigations.

Response

WorkSafe supports the recommendation.

An affected person is welcome to provide feedback on their experience with WorkSafe Mines Safety. They can use the existing feedback link found on the bottom of the DEMIRS homepage.

Recommendation 26

Review and update all policies and processes for victim-centricity.

Response

WorkSafe supports the recommendation.

WorkSafe Mines Safety will review existing policies and processes for victim-centricity, amending or developing new guidance where necessary. The material will be published internally to WorkSafe for use by staff once it has been vetted.

Review the use of referral and support services.

Response

WorkSafe notes the recommendation.

WorkSafe, through the MARS Program, is working with support services, such as Circle Green, to ensure appropriate referrals and advice are provided to affected people. Additionally, a range of support services are provided on WorkSafe's website.

Recommendation 28

Communicate how affected persons and persons making a complaint can seek remediation for victimisation.

Response

WorkSafe notes the recommendation.

People who have experienced gendered violence at work can access a list of services, and a description of what help these services provide, on WorkSafe's website.

Recommendation 29

Consider supporting changes on the requirement to display notices for sexual assault and sexual harassment.

Response

WorkSafe notes the recommendation.

The WHS Act requires notices to be displayed in the workplace for transparency and as a deterrent to unsafe practices.

WorkSafe acknowledges the importance of displaying notices and ensures identifying information is not included on notices. WorkSafe will consider the settings for notices during the statutory review of the WHS Act. In the interim, the affected person will be consulted about the wording of notices where practicable.

Talent - Resourcing and capacity

Recommendation 30

Develop a strategic workforce plan for WorkSafe Mines Safety.

Response

WorkSafe supports the recommendation.

The WorkSafe strategic workforce plan was undertaken in late 2023 and will be regularly reviewed.

Recommendation 31

Develop employee value proposition and review other role related documents to increase ability to attract and retain key talent.

Response

WorkSafe supports the recommendation and role based documents will continue to be reviewed on a regular basis, particularly prior to recruitment.

DEMIRS provides the overarching human resource services to WorkSafe. Within this, WorkSafe engages with specialist consultants to specifically focus on improved recruitment and retention strategies.

Recommendation 32

Increase the number of specialist inspectors in the WorkSafe Mines Safety Mental Health and Wellbeing team and develop approaches to create surge capacity as needed.

Response

WorkSafe supports the recommendation, noting that government approval is required to increase expenditure on inspectorate positions.

There are six permanent and two temporary roles in the Mental Health and Wellbeing team.

Ongoing recruitment is undertaken to fill inspector positions as they arise and forward recruitment planning is taken into account.

An internal Mental Health and Wellbeing training officer has been recruited to assist with upskilling inspectors.

Introduce key enabling roles to help increase capacity of Mental Health and Wellbeing team.

Response

WorkSafe supports the recommendation.

A review of the Mental Health and Wellbeing team identified the potential for key support positions to be adopted, thus increasing the team's capacity. WorkSafe will continue it's efforts to establish these positions and recruit suitable people to fulfill the roles, subject to necessary approvals.

Recommendation 34

Increase the diversity of WorkSafe Mines Safety inspectors including:

- a. increasing the representation of women;
- b. increasing the representation of culturally and linguistically diverse people; and
- c. ensuring a breadth of industry backgrounds.

Response

WorkSafe supports the recommendation.

The DEMIRS' Diversity, Multicultural and Inclusion Plan 2023–2027 demonstrates its commitment to fostering a workforce where diverse backgrounds, abilities and experiences of our staff and communities are understood, embraced and celebrated. DEMIRS aims to use inclusive and barrier free recruitment practices to attract diverse talent, supported by an inclusive and accessible workplace.

Talent - Training and capability

Recommendation 35

Improve internal understanding of WorkSafe's role in preventing and responding to sexual assault and sexual harassment.

Response

WorkSafe supports and has addressed the recommendation.

The role of WorkSafe is well understood as recent training has focused on sexual harassment, assault and psychosocial requirements.

Recommendation 36

Develop a clear, relevant competency framework for WorkSafe psychosocial inspectors.

Response

WorkSafe supports the recommendation.

The development of a competency framework for all WorkSafe inspectors, including Mines Safety Mental Health and Wellbeing inspectors, is underway.

Recommendation 37

Include psychosocial hazards (including relevant refreshers) within the WorkSafe inspector curriculum, including specific examples and advice on dealing with sexual assault and sexual harassment.

Response

WorkSafe supports the recommendation.

Current training for WorkSafe's inspectors includes psychosocial content. A review of the curriculum will occur, with a view to include specific information and advice about sexual harassment and sexual assault.

Provide training in victim-centricity to key support staff as a priority.

Response

WorkSafe supports the recommendation.

A training matrix for staff to receive a high level of training has been developed. This includes training for victim-centric behaviours, trauma-informed responses, managing potentially traumatic events and personal exposure to psychosocial harm.

Recommendation 39

Review Professional Association Membership Policy.

Response

WorkSafe notes the recommendation.

DEMIRS specifies that workers maintain their own professional association memberships, other than where membership is required as part of the role.

Systems - System functionality

Recommendation 40

Maintain as a priority the safety system renewal project as a priority and implement interim enhancements to the SRS to support sexual assault and sexual harassment reporting.

Response

WorkSafe supports the recommendation.

The delivery of the CARS transformation project is a priority for WorkSafe. A dedicated team has been established to assess and implement a single solution across the whole of WorkSafe.

Recommendation 41

Review SRS access or develop a direct system reporting solution for affected persons, bystanders and third parties.

Response

WorkSafe notes the recommendation.

WorkSafe Mines Safety converts information received into an SRS case which is then triaged and allocated to an appropriate inspector.

As advised previously, a 24/7 reporting line has been established. Reports can also be made to WorkSafe by telephone, mail or email.

Systems - Data and reporting

Recommendation 42

Share appropriate sexual assault and sexual harassment data with the mining industry.

Response

WorkSafe notes the recommendation.

WorkSafe Mines Safety continues to provide appropriate sexual assault and sexual harassment data with the mining industry to educate and inform, with victim-centricity paramount. An example is the sexual harassment and sexual assault statistics in DEMIRS' 2022–23 Annual Report.

Additionally, consideration is being given to including such data in the quarterly performance snapshot on work health and safety in the mining sector.

Recommendation 43

Develop a common reporting framework between external sources and SRS.

Response

WorkSafe notes the recommendation.

The SRS system has been modified and will be replaced by CARS.



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