



Department of **Energy, Mines,  
Industry Regulation and Safety**



GUIDE

# Use of confidentiality clauses in the resolution of workplace sexual harassment complaints

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## Acknowledgment

This guide is based on the Australian Human Rights Commission. *Guidelines on the use of confidentiality clauses in the resolution of workplace sexual harassment complaints*. 2022 and used with permission.

# Terms in the Guide

**Affected person:** the individual who has been subjected to the alleged sexual harassment and is sometimes referred to as a 'victim', 'complainant' or 'claimant' in relation to sexual harassment.

**Confidentiality clause:** a confidentiality clause is a section within a workplace sexual harassment settlement agreement that requires particular details to be kept confidential as part of reaching the settlement. Confidentiality clauses are sometimes referred to as NDAs.

**Intersectional:** examining how different forms of inequality interact to create complex experiences of discrimination. This can be by understanding how one person's diversity – their gender, race, ability, sexuality, age, class or immigration status – makes their experience different to someone else's.

**Organisation:** refers to the workplace party responding to a sexual harassment complaint, such as a person conducting a business or undertaking (PCBU).

**Non-disclosure agreements:** confidentiality clauses, and settlement agreements containing confidentiality clauses, are sometimes referred to as NDAs, including in the Respect@Work Report. This Guide uses confidentiality clause rather than NDA as the preferred term. This is because the term "NDA" implies that the primary purpose of the overarching settlement agreement is to limit disclosure of information. This is not often the case – settlement agreements cover a range of matters beyond confidentiality.

**Respondent:** refers to anyone who is alleged or reported to have committed an act of sexual harassment.

**Sexual harassment:** is any unwelcome sexual advance, unwelcome request for sexual favours or unwelcome conduct of a sexual nature in circumstances where a reasonable person would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated.

Sexual harassment is unlawful under the *Sex Discrimination Act 1984* (Cth) in different areas of public life, including employment, service delivery, accommodation and education. Some types of sexual harassment may also be criminal offences.

The Respect@Work Report set out a list of behaviours that are likely to constitute sexual harassment, which included:

- unwelcome touching, hugging, cornering or kissing
- inappropriate staring or leering that made you feel intimidated
- sexual gestures, indecent exposure or inappropriate display of the body
- sexually suggestive comments or jokes that made you feel offended
- sexually explicit pictures, posters or gifts that made you feel offended
- repeated or inappropriate invitations to go out on dates
- intrusive questions about your private life or physical appearance that made you feel offended
- inappropriate physical contact
- being followed or watched or having someone loitering nearby
- requests or pressure for sex or other sexual acts
- actual or attempted rape or sexual assault
- indecent phone calls, including someone leaving a sexually explicit message on voicemail or an answering machine
- sexually explicit comments made in emails, text messages or on social media
- repeated or inappropriate advances on email, social networking websites or internet chat rooms
- taking images of you without consent
- sharing or threatening to share intimate images or film of you without your consent
- any other unwelcome conduct of a sexual nature that occurred online or via some form of technology.

**Workplace sexual harassment settlement agreement:** (settlement agreement) is a legally enforceable arrangement made to resolve or settle a sexual harassment complaint. The parties to a settlement agreement will usually include the affected person and the organisation responding to it, and may also include the respondent. The settlement agreement will set out the actions each party will take to resolve and close the complaint.

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# 1 Introduction

As part of the Respect@Work National Inquiry, the Australian Human Rights Commission (AHRC) heard concerns about how confidentiality clauses in workplace sexual harassment settlement agreements (settlement agreements) can be used to intimidate and silence victims, conceal the behaviour of respondents, and inhibit oversight by leaders (including PCBUs, managers and executives) and boards who, in some cases, may not be aware that complaints have been raised if they were settled confidentially. This has, in turn, enabled respondents to remain in the same workplace or move within industries and continue to engage in sexual harassment.

The AHRC also recognised that confidentiality clauses can have benefits for the affected person and other parties and as such, should not be subject to a blanket ban. Instead, the Respect@Work Report recommended that the AHRC develop guidance for the use of confidentiality clauses in workplace sexual harassment matters (recommendation 38, [Respect@Work: Sexual Harassment National Inquiry Report](#) (2020)). WorkSafe Western Australia has adapted this Guide from the AHRC to provide guidance to PCBUs, workers and other interested parties in Western Australia.

This Guide outlines a recommended approach for the use of confidentiality clauses in settlement agreements. Adopting this approach will help contribute to improving the way confidentiality clauses are used in relation to workplace sexual harassment complaints. It will also help support individuals and PCBUs to meet their obligations under the *Fair Work Act 2009* (Cth) and discrimination laws, including the *Sex Discrimination Act 1984* (Cth), as well as the *WA Work Health and Safety Act 2020* (WHS Act) and associated regulations by, for example, reducing the risk of repeated instances of workplace sexual harassment occurring, and helping to identify and control hazards that contribute to the risk of workplace sexual harassment.

## Who is the Guide for?

This Guide can assist an affected person, as well as PCBUs, respondents, employer organisations, unions, legal practitioners, mediators, insurers and anyone else involved in the process of resolving a workplace sexual harassment complaint.

This Guide is not legal advice. People who have experienced sexual harassment or made a workplace sexual harassment complaint and PCBUs, others responding to complaints of workplace sexual harassment may wish to seek independent advice about how to best resolve the matter.

## How should the Guide be used?

This Guide may be used throughout the process of negotiating a workplace sexual harassment settlement agreement that contains a confidentiality clause. This Guide can be used before the process begins and referred back if necessary.

While this Guide focuses on the use of confidentiality clauses in settlement agreements (and the process for negotiating a settlement agreement containing a confidentiality clause), the Guide may also help inform the development of organisational responses to sexual harassment complaints more broadly, including investigations in response to a complaint. As such, organisations are encouraged to consider how the recommended approach could apply to their internal complaint management processes.

## What are confidentiality clauses?

A confidentiality clause refers to a section within a settlement agreement that requires particular details to be kept confidential as part of reaching a settlement.

Historically, it has been common for settlement agreements to contain a confidentiality clause which binds all parties to maintain confidentiality on the complaint and the settlement process. However, there is no legal requirement for confidentiality to be a term of settlement agreements.

A confidentiality clause may be requested by the affected person who may not want details disclosed. As the National Inquiry heard, many confidentiality clauses are requested by the PCBU as part of a negotiated resolution, which means the affected person will agree to give up their right to take further action, and to keep information confidential about the sexual harassment complaint in exchange for an agreed outcome. This may include a payment, an apology, or another action the PCBU will take, such as introducing or improving sexual harassment training in the organisation.

Settlement agreements containing confidentiality clauses can be helpful because they can allow parties to resolve a complaint quickly and without requiring a full commission, tribunal or court proceeding. This can give the affected person greater control over the resolution of their dispute. It can also reduce legal and other costs.

## What can't confidentiality clauses do?

Confidentiality clauses cannot prevent the disclosure of information in all circumstances, even if they claim to do so. There are some legal reasons why a confidentiality clause will not prevent a person from disclosing information.

For example, a confidentiality clause will not prevent a person from:

- disclosing information because they are compelled to provide the information by law or by Parliament or a Parliamentary Committee
- disclosing information to the Western Australian Police Force or WorkSafe where the person is under an obligation to report an offence or notifiable incident
- making a protected disclosure under the *Public Interest Disclosure Act 2013* (Cth) or other applicable 'whistle-blower' legislation
- answering a subpoena, summons or other compulsory court process.

## A note on non-disparagement clauses

Another common feature of settlement agreements is a non-disparagement clause. This usually requires the parties to the settlement agreement to not say things about each other that are critical, dismissive or disrespectful. A non-disparagement clause is different to a confidentiality clause but can have a similar effect because it limits what the parties to the agreement can say.

It is important to consider whether a non-disparagement clause is necessary, and how it will operate with any confidentiality clause in a settlement agreement. While this Guide applies to confidentiality clauses, organisations are also encouraged to consider how the recommended approach could apply to their use of non-disparagement clauses.

## 2 Recommended approach to the use of confidentiality clauses

Confidentiality clauses should not be seen as standard terms in workplace sexual harassment settlement agreements. When resolving an allegation of workplace sexual harassment, organisations should aim to promote openness and transparency to ensure they are able to take steps to address and prevent sexual harassment.

Based on the findings of the Respect@Work Report, the following approach should inform the use of confidentiality clauses in all workplace sexual harassment settlement agreements. These are discussed in the sections that follow:

- consider the need for a confidentiality clause on a case-by-case basis
- the scope and duration of the confidentiality clause should be as limited as possible
- confidentiality clauses should not prevent organisations from responding to systemic issues and providing a safer workplace
- all clauses in a settlement agreement should be clear, fair, in plain English and, where necessary, translated and/or interpreted
- the affected person should have access to independent support or advice to ensure they fully understand the meaning and impact of the settlement agreement, including any confidentiality clause
- negotiations about the terms of a settlement agreement should ensure so far as possible the wellbeing and safety of the affected person, and be trauma-informed, culturally sensitive and intersectional.

This Guide is directed towards confidentiality obligations contained in legally binding settlement agreements. Nothing in this document prevents the parties choosing to keep details of the complaint or settlement confidential, including the affected person.

### Provision of information about the confidentiality clause

The safety and wellbeing of the affected person should be a central consideration in all discussions about confidentiality clauses in settlement agreements. The affected person should be fully informed at every stage of the process so that they have an opportunity to decide what is in their best interests. To ensure the affected person is aware of the settlement agreement process and what a confidentiality clause means, they should be provided with:

- a copy of this Guide and a copy of WorkSafe's *Use of confidentiality clauses in the resolution of workplace sexual harassment complaints: Information sheet for affected workers*.
- where possible, a copy of any proposed settlement agreement drafted in an accessible format, including plain language
- information about how to access legal services including Legal Aid Commissions, Aboriginal and Torres Strait Islander Legal Services, community legal centres or other sources where they may be able to access free legal advice
- information about how to access support and counselling services, including union representatives where appropriate
- adequate time to read, understand and sign the settlement agreement.



### 3 When to include a confidentiality clause

Confidentiality clauses should not be a standard term of workplace sexual harassment settlement agreements and should be used on a case-by-case basis.

Parties and representatives should treat all workplace sexual harassment complaints on a case-by-case basis. Not all sexual harassment complaints are the same and confidentiality will not always be helpful, appropriate or in the best interests of the parties to the complaint.

The need for, and approach to, confidentiality should vary depending on the individual situation, and all confidentiality clauses should be tailored to reflect the circumstances of each case. Competing interests should be fairly and carefully balanced, with particular consideration given to the wellbeing and safety of the affected person.

Some questions to consider:

- Is a confidentiality clause necessary in this matter, and if so, why?
- Has the affected person requested a confidentiality clause?
- Has the affected person had an opportunity to understand what a confidentiality clause is and what are its implications and alternatives? This may include:
  - having a translator and/or interpreter to assist
  - discussing with legal aid, union etc.
- Is a confidentiality clause necessary to protect the identity of some of the parties involved, such as witnesses?

## 4 Scope and duration

If parties to a settlement agreement agree to include a confidentiality clause in a settlement agreement, the clause should be as limited as possible in both scope and duration. This section outlines some key matters to consider when determining the appropriate scope and duration of a confidentiality clause.

The affected person should have access to independent legal advice and/or support to assist them in this process (further detail below).

### Exceptions allowing disclosure

Confidentiality clauses may contain exceptions that enable the affected person to be able to disclose information about their experience or the settlement agreement to a list of agreed people and organisations where the parties agree that disclosure is appropriate. These people and organisations may include: close family members, law enforcement officials, legal professionals, regulators and external authorities, financial advisers, union representatives, a prospective PCBU, workers compensation insurer, counsellors or medical and mental health professionals. Confidentiality clauses should not prevent the affected person from seeking professional support and advice or talking to their close family members about their experience.

Where a confidentiality clause has exceptions, it may be appropriate to include conditions on the disclosure to those people. For example, disclosure will only be made to another person if that person has first agreed to treat the information as confidential, or that information will be disclosed for the purpose of obtaining advice (such as tax advice).

### Other confidentiality requirements

If the person has existing confidentiality obligations, for example in their employment contract or as part of a misconduct investigation or process, the organisation should consider whether these need to be waived, varied or otherwise dealt with so that any settlement agreement or confidentiality clause has meaningful operation.

### Include an end date and/or a waiver

Confidentiality clauses do not need to be permanent.

Parties should consider whether a confidentiality clause should no longer apply after certain events or an agreed period of time has passed. This may accommodate the changing circumstances of a person who does not want information about the underlying incident to be released early on, but may decide to speak about their experience in the future.

### Future incidents and taking action in event of breaches of the settlement agreement

A confidentiality clause should not prevent an affected person from exercising their right to make an allegation of workplace sexual harassment about future conduct or taking action for non-compliance with a settlement agreement.

## Confidentiality clauses do not need to be mutual

In some cases, an organisation may consider that it does not want to disclose information about the complaint or settlement whilst permitting the affected person to talk about these aspects in some capacity. For example, a confidentiality clause might permit the affected person to talk about their experience whilst keeping other details such as the settlement sum or the identity of witnesses confidential.

Some questions to consider:

- Should some information be able to be shared while other information is kept private?
- Does the affected person want to talk to their family members, a counsellor, medical or mental health practitioners, regulators or others about the workplace sexual harassment complaint?
- What is an appropriate end date for the confidentiality clause? Might the affected person want to talk about the allegation at a later stage?
- If a confidentiality clause is requested, does it ensure the safety and wellbeing of the affected person?

## 5 Responsibility to provide a safe workplace

Organisations should strive to build healthy workplace cultures and eliminate workplace sexual harassment, and have a duty to comply with their legal obligations. Confidentiality clauses that limit or prevent discussion about addressing sexual harassment in the workplace are inconsistent with this objective. If the affected person requests confidentiality to protect their privacy, the organisation should support the request and work with the person on how the incident could be disclosed or reported in an appropriate way (such as with de-identified information) for the purpose of addressing systemic issues and providing a safer workplace.

Confidentiality clauses should not seek to protect the respondent or the reputation of the organisation if this would enable unsafe or harmful workplace conduct to continue. Where possible, they should also not prevent an affected person from participating in internal or external surveys, reviews or investigations that deal with culture and systemic issues. By adopting strategies for the appropriate disclosure of information about the incidence of sexual harassment in workplaces and how the organisation responds to complaints, an organisation can position itself as a promoter of a safe workplace culture that takes its responsibility to address sexual harassment seriously.

Organisations must also comply with their obligations under the *Fair Work Act 2009* (Cth) and discrimination laws, including the *Sex Discrimination Act 1984* (Cth), as well as the WHS Act and associated regulations.

When considering the use of a confidentiality clause, organisations should ensure that it does not prevent them from:

- communicating with the affected person about what the organisation intends to do to prevent repeat conduct and promote a healthy workplace culture (if the person wants this)
- allowing affected people to participate in organisational surveys, reviews or investigations that deal with culture and systemic issues (whether internal or external)
- reporting data and de-identified information on the incidence of sexual harassment in the workplace to management, boards and relevant authorities
- dealing with systemic issues, repeat offenders or repeated conduct, and providing a safer workplace
- communicating with staff about sexual harassment as a workplace health and safety issue, and asking questions and seeking feedback about ways to improve preventative measures and other initiatives
- regularly reviewing and updating dispute processes concerning allegations of sexual harassment and other processes that might help stop and prevent harmful behaviour.

Organisations should also take a proactive approach to considering their use of confidentiality clauses in settlement agreements more generally, including:

- developing protocols, policies and procedures to guide how confidentiality clauses are used during settlement agreements
- creating a leadership communication strategy to ensure that confidentiality clauses do not prevent oversight by leaders (including managers and executive) and boards.

## Data and reporting

Confidentiality clauses should not prevent the PCBU from disclosing aggregate or de-identified information, especially where there is a public interest, and for the purposes of data collection, to relevant authorities including WorkSafe, the AHRC, and statutory authorities such as the Workplace Gender Equality Agency.

There may be other circumstances where a party is required to disclose information subject to a confidentiality clause, such as in a law enforcement context.

## Confidentiality clauses and future employment references

Resolving an allegation of sexual harassment does not end with the signing of a settlement agreement – with or without a confidentiality clause. When a confidentiality clause is used, an organisation should also consider how the confidentiality clause affects their ability to provide an accurate future employment reference. Parties should not enter an agreement that requires them to provide a misleading employment reference.

Some questions to consider:

- Will a confidentiality clause help or hinder organisational efforts to prevent and address workplace sexual harassment?
- Are there aspects of the workplace sexual harassment complaint or allegation that should be made public – for example, to demonstrate the organisation’s commitment to taking measures in response?
- Is the organisation managing the use of confidentiality clauses in a way that allows it to address existing or emerging cultural or systemic issues relating to sexual harassment, including repeated conduct?
- Will a confidentiality clause be inconsistent with any of the organisation’s statutory duties (such as under the *Fair Work Act 2009* (Cth), discrimination law and WHS law)?
- Does the confidentiality clause limit the organisation’s ability to collect data on or report on allegations of sexual harassment?

### Resources:

- WorkSafe has a number of [resources to support workplaces](#) to manage the WHS risks of workplace sexual harassment,
- The [Respect@Work website](#) provides comprehensive resources to help individuals and organisations understand, prevent, and respond to workplace sexual harassment.
- Safe Work Australia has a [suite of information](#) to support organisations to manage the WHS risks of workplace sexual harassment.
- Comcare has developed [Regulatory Guidance for Employers on their Work Health and Safety Responsibilities](#).

## 6 Use accessible language

It is important that everyone involved in negotiating a settlement agreement understands what the agreement, including any confidentiality clause, means, and what their responsibilities are. Any discussion or communication about the settlement agreement and the confidentiality clauses should be communicated clearly and written in plain language.

This may involve the use of translators and/or interpreters and other supports and resources to ensure that people genuinely understand the information that is provided.

### **Draft in plain language**

Any settlement agreement that contains a confidentiality clause should be drafted using accessible, plain language that is understood by all parties involved.

The confidentiality clause itself should clearly state what information can and cannot be disclosed, what exceptions are permitted (see example list above), how long the clause is in effect for, and any legal rights and responsibilities the confidentiality clause cannot or will not remove.

### **Ensure all documents are accessible**

Organisations should be aware of and proactively accommodate the accessibility needs of the individuals involved in a workplace sexual harassment complaint. This includes assessing whether interpreting or translating services, accessible materials, or other supports are required, and ensuring that all communication is in plain language.

Some questions to consider:

- Is the language of the settlement agreement clear, balanced and easy to understand?
- Does the confidentiality clause set out the expectations and responsibilities for all parties?
- Is the duration and scope of the settlement agreement clear (See [Section 4](#) for more information)?
- Could more be done to ensure that the parties know what the confidentiality clause means for them?
- Does the document need to be translated, or made available in plain English, braille or any other format?

## 7 Independent support and advice

Discussions about the use of confidentiality clauses should ensure so far as possible the wellbeing and safety of the affected person, and that they are adequately supported to participate fully and safely in the process. If the affected person does not feel heard in the process of resolving their allegation of workplace sexual harassment, their sense of control, healing and ongoing wellbeing may be compromised.

Independent legal advice can support the affected person to make informed decisions during the negotiation of, or agreement to, a settlement agreement, including any confidentiality clause. The 'Where to find help' ([Section 9](#)) contains resources for obtaining independent legal advice.

Similarly, access to counselling services can ensure that the affected person is psychologically safe and supported throughout the negotiation and agreement process. Organisations should ensure that the affected person is aware of available resources and has enough time to access them before and during settlement agreement negotiations.

### Manage power imbalances

Organisations and their legal representatives should be mindful of power imbalances when negotiating settlement agreements.

Power imbalances may result from different work roles, age differences, a person's visa or migration status and other circumstances that may put a person at a disadvantage. When negotiating a settlement agreement, power imbalances can also arise when one person has access to more resources than another, or where there is no access to independent advice or a lack of awareness of legal rights. There is further information on how to consider the diverse needs of all people involved when negotiating a settlement agreement below.

Power imbalances can include, or result in, using undue influence or pressure to secure agreement to a confidentiality clause. No one should organise or take, or threaten to organise or take, any action against another person with intent to pressure them into requesting or agreeing to a confidentiality clause.

All people involved in negotiating a settlement agreement should work to anticipate and manage any power imbalances to minimise the potential for unfairness.

### Allow time for consideration and advice before signing any settlement agreement

The affected person should be provided with a reasonable amount of time to seek independent legal advice before and during negotiations and before signing any settlement agreement.

The affected person should also be provided with a reasonable amount of time to read and understand any proposed settlement agreement and confidentiality clauses before signing the agreement.

## Mediation and conciliation

Mediation or conciliation is a process where practitioners assist parties to resolve a complaint. The practitioner helps the parties to identify issues and develop options to reach an agreement to resolve the dispute.

The settlement process may involve conciliation or mediation between the PCBU and the affected person, and sometimes, the respondent. Where possible, attempts to resolve workplace sexual harassment complaints by conciliation or mediation should be facilitated by someone who is impartial and, ideally, independent from all parties involved. This helps to ensure the needs of all involved are heard so that they can inform any settlement agreement on terms that are appropriate and fair.

Where possible, mediation or conciliation should be conducted by a qualified mediator or conciliator who has been trained in trauma-informed practice and cultural competency.

Where possible, representatives employed by the organisation from which the workplace sexual harassment complaint arose should not facilitate the negotiations due to a risk of bias.

The mediator or conciliator should encourage the affected person to seek independent legal advice prior to signing any agreement containing confidentiality clauses and provide adequate time to source such support. The mediator or conciliator should also provide information to the affected person about accessing legal advice and support, including through community legal centres, unions, interpreting and translation services and counselling services.

During negotiations between parties, the mediator or conciliator should remain impartial. They should understand this Guide and be mindful of any power imbalances in the negotiation of terms that might advantage one party over another.

Some questions to consider:

- Has the affected person had an opportunity to seek independent legal advice about the settlement agreement?
- Has information about access to internal and/or external support services been provided to the affected person?
- What do all parties need so that they will be able to understand any confidentiality obligations in the agreement?
- Is the affected person fully informed about what the confidentiality obligations are, and if not, do they need any additional information or support to understand?
- Has the affected person been given time to understand their rights and obligations, and the terms of the settlement agreement and confidentiality clause?
- Who is facilitating the settlement agreement discussion? Will they be accepted by all parties as impartial, independent and qualified?

### Resources:

- The [Australian Pro-Bono Centre](#) offers advice and information about what organisations across WA and nationally may provide legal help.
- The [Mediator Standards Board](#) contains a register of Nationally Accredited Mediators and more information on accreditation bodies.



## 8 Trauma-informed and culturally sensitive negotiations

All persons involved in settlement negotiations should be treated fairly and equally. Care should be taken to ensure so far as possible the wellbeing and safety of the affected person.

It is important to consider that people who have experienced sexual harassment may have experienced trauma. Talking about the allegation, including when discussing confidentiality, can re-open trauma or make it worse.

### Trauma-informed practice

Everyone involved in the settlement process should be trained to recognise that an experience, or experiences, of sexual harassment can be traumatic, and aim to prevent any re-traumatisation. Discussions about the use of confidentiality clauses should ensure so far as possible the wellbeing and safety of all persons involved, including the affected person. This can be done by taking a trauma-informed approach, which is based around the following five principles:

- **Safety:** ensuring physical and psychological safety
- **Trustworthiness:** building trust with the person who has experienced trauma
- **Choice:** increasing their options and choices in a conversation
- **Collaboration:** cooperating in conversation with the affected person
- **Empowerment:** maximising empowerment in conversations with the person.

Taking a trauma-informed approach may include taking steps such as:

- ensuring the affected person's safety and wellbeing in discussions, and considering the specific needs of all parties during discussions
- not requiring the affected person to re-tell their story on multiple occasions
- offering support or referring the affected person to support services including access to an independent trauma expert or counsellor, union or legal representative, and permitting them to discuss the negotiation with those supporting them during the process
- considering whether discussions or negotiations should occur at a neutral location to prevent possible re-traumatisation
- considering whether parties should be in separate rooms during discussions or negotiations
- including a support person, including interpreters or translators where necessary, for the affected person
- offering to take breaks when someone is showing signs of stress.

## Consider whether groups may need additional supports

All persons involved in the process should be treated fairly and with dignity and respect. Negotiations should be accessible and consider the particular needs and circumstances of the individuals involved. Groups who may require specific supports may include:

- First Nations Peoples
- Culturally and Linguistically Diverse (CALD) people
- people with disability
- LGBTQIA+ people
- older people
- young people.

It is also important to be mindful that some people may be in a vulnerable position or at higher risk of harm. Workers at higher risk of harm can include:

- volunteers
- workers who do not have English as their first language
- temporary visa holders
- those employed in insecure or precarious work, such as seasonal workers
- casual workers
- international students
- remote workers
- young or older workers
- people living with a disability or who have caring responsibilities.

Some questions to consider:

- What do all parties need to be active, equal, and respected participants in the discussion?
- Does everyone involved in the negotiations have access to relevant support or representation?
- Is it appropriate to conduct the negotiations in, or away from, a particular place?
- Do you know how to recognise the symptoms of a stress response, and what you can do to reduce distress?
- Are there any factors that could affect the quality of agreement to a confidentiality clause, such as a lack of specific supports or resources? If so, what are the factors and how can they be mitigated?

### Resources:

- The [Blue Knot Foundation](#) offer resources and information on ways that you can learn how to apply trauma-informed principles.
- The [Centre for Cultural Competence](#) provides information and services including training and support to develop culturally appropriate and trauma-informed policy, programs and service delivery for Aboriginal and Torres Strait Islander peoples.

# 9 Where to find help

## Resources and other agencies

### Circle Green Community Legal

- The Mining Industry Respect Infoline is a **dedicated telephone support service** which provides information, social support, and referrals to people who:
  - have been **affected by sexual harassment, sex-based harassment and sex discrimination** in connection with your work, whether as the target of this conduct, a support person, or as a bystander or whistle-blower; and
  - are seeking assistance in relation to work performed in the **WA mining industry or on a WA mine site**.

Website: [www.circlegreen.org.au](http://www.circlegreen.org.au)

Phone: 08 9221 9322

### Western Australian Police Force

- If actual or attempted sexual assault or a threat to your security occurs, you can report the matter to police.

Website: [www.police.wa.gov.au](http://www.police.wa.gov.au)

Phone: 000 for emergency or 131 444

### The Western Australian Equal Opportunity Commission (WAEOC)

- The WAEOC investigates and conciliates complaints of discrimination, including in respect of workplace sexual harassment.

Website: [www.wa.gov.au/organisation/equal-opportunity-commission](http://www.wa.gov.au/organisation/equal-opportunity-commission)

Phone: (08) 9216 3900 or 1800 198 149 (free call from landlines)

Email: [eoc@eoc.wa.gov.au](mailto:eoc@eoc.wa.gov.au)

### Sexual Assault Resource Centre (SARC)

- Provides crisis services to people who have experienced a recent sexual assault (rape) in the last two weeks and counselling for sexual assault / abuse experienced recently or in the past.
- Services are available for people of all sexualities and gender identities aged 13 years and above.

Website: [www.kemh.health.wa.gov.au/Other-Services/SARC](http://www.kemh.health.wa.gov.au/Other-Services/SARC)

24-hour Crisis Phone: (08) 6458 1828 or 1800 199 888 (free call from landlines)

### **Fair Work Commission (FWC)**

- The FWC is Australia's national workplace relations tribunal and assists workers of a corporation (these typically contain 'Ltd' within its name) or a Commonwealth employer.
- The FWC may be able to assist in workplace sexual harassment matters where sexual harassment is relevant to an application lodged in respect of:
  - an order to stop sexual harassment or an order to stop bullying and sexual harassment (stop sexual harassment order)
  - general protections
  - unlawful termination
  - unfair dismissal.

Website: [www.fwc.gov.au/](http://www.fwc.gov.au/)

Phone: 1300 799 675

### **Lifeline**

- 24-hour crisis support and suicide prevention.

Website: [www.lifeline.org.au](http://www.lifeline.org.au)

Phone: 13 11 14

### **WA Mental Health Commission**

- Provides contact with a trained mental health clinician and aims to keep individuals safe by connecting them with appropriate support services.
- The Mental Health Emergency response line is a 24-hour telephone service for people in the Perth/Peel area experiencing a mental health crisis.

Phone: 1300 555 788 (Perth)

1800 676 822 (Peel)

### **Rurallink**

- An after-hours telephone service for people in rural and regional WA experiencing a mental health crisis.

Phone: 1800 552 002

### **Western Australian Industrial Relations Commission (WAIRC)**

- Those workers that do not fall within the FWC may be covered by the WAIRC. The WAIRC's jurisdiction covers PCBUs and their workers where the PCBU is not a corporation (that is, does not have 'Ltd' within its name). Examples include sole traders, partnerships, some trusts, employers who are unincorporated businesses, the State government and some local government employers.
- The WAIRC may be able to assist in workplace sexual harassment matters where sexual harassment is relevant to an application lodged in respect of an order to stop sexual harassment or an order to stop bullying and sexual harassment (stop sexual harassment order).

Website: [www.wairc.wa.gov.au](http://www.wairc.wa.gov.au)

Phone: 1800 624 263

### **WorkCover WA**

- WorkCover WA is the government agency responsible for regulating and administering the workers' compensation scheme in WA under the *Workers' Compensation and Injury Management Act 1981* (WA).

Website: [www.workcover.wa.gov.au](http://www.workcover.wa.gov.au)

Phone: 1300 794 744

**Department of Energy, Mines,  
Industry Regulation and Safety**

WorkSafe Western Australia  
303 Sevenoaks Street  
Whadjuk Noongar Country  
CANNINGTON WA 6107

**Telephone:** 1300 307 877

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**Email:** [wscallcentre@demirs.wa.gov.au](mailto:wscallcentre@demirs.wa.gov.au)

**Website:** [www.demirs.wa.gov.au](http://www.demirs.wa.gov.au)

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