

Responding to workplace sexual harassment

how to prevent investigation responses causing further harm.



Introduction

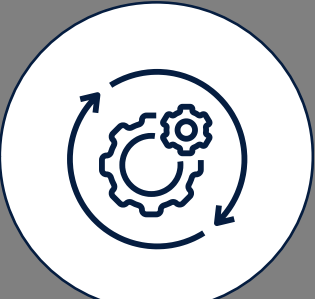
Legislation requires Australian employers to prevent workplace sexual harassment (1,2,3). Law governing workplace misconduct requires that if there is an allegation of sexual harassment, there must be a fair investigation response.

Interviews conducted to respond to and/or investigate workplace sexual harassment can cause further harm if conducted by untrained investigators. This research reviews available literature on the law that governs workplace sexual harassment, investigation practices, the impact of trauma and the risk interview practices have on re-traumatisation.



Aims

The aims of this literature review are to show how and why investigation responses to sexual harassment may cause further harm, and what employers, including Ambulance Services, can do to mitigate that risk of harm.



Method

A review of literature across the disciplines of psychology, forensic psychology, judicial, common and statute law was conducted. This review includes analysis of the guidance issued by the Australian Human Rights Commission (AHRC).

Results

How workplace investigations are conducted, and the ability of the workplace investigator, is central to employee well-being. Interviews can be stressful and confusing if not conducted well (4,5,6,7,8).

Interviews may re-traumatise people if not conducted using best practice techniques and a trauma informed approach (9,10).

Accuracy, quality and volume of information obtained is influenced by the ability of the person conducting the interview (11,12,13).

The AHRC recommends a trauma informed approach and acknowledges the stress the response to workplace sexual harassment can place on an employee (14).

There is a complex system of law that covers workplace sexual harassment, including:

- workplace health and safety law to prevent psychosocial hazards (15).
- judicial law governing workplace investigation practices (16,17,18,19).
- Federal and state discrimination, equal opportunity and human rights law (20,21).

Trauma Informed Approach to Investigation practices

A trauma informed approach for investigation responses requires:

- investigators to understand and apply knowledge of trauma responses and how they might impact an interview and effect information retrieval (22,23).
- an understanding of re-traumatisation potential (24,25).
- an understanding of memory function and effective questioning techniques (26).

Enhanced Cognitive Interview (ECI) practices

- Interview methodology that is well established as providing better quality outcomes with respect to volume and accuracy of information obtained (27).
- The ECI is based on knowledge and understanding of how memory operates (28).
- A key step in the ECI process is the building of rapport, which is centered on understanding the complainant/witness/respondent's perspective and situation (29).



Conclusion

Investigation responses to workplace sexual harassment may cause further harm if conducted by untrained investigators.

The ECI knowledge and methodology is a robust framework for a trauma informed approach.

Investigation interviews conducted by experienced and trained investigators minimises the risk of harm.

The complexity of relevant legislation creates further risk of harm if misunderstood by practitioners.

Interview practices validated by research increases the likelihood of legislative compliance and minimising further harm to employees

Creating a specialised investigation team of appropriately trained and skilled personnel, whether internal or external to the organisation, will assist in minimising harm.



Implementing an investigation response that prevents further harm

Responsibility for the quality of workplace investigation responses rests with employers. As an employer, Ambulance Services must comply with legislative requirements discussed in this review.

In order to minimise harm, Ambulance Services are encouraged to critically assess the capability of their investigation responses, including the skillset and experience of those leading and conducting workplace investigations.

Please click the QR code assigned to this poster to listen to further discussion on this review.

Please contact the author for a copy of the full reference list.



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