



INFORMATION SHEET

Discrimination, coercion and misleading conduct in relation to WHS matters

The *Work Health and Safety Act 2020* (WHS Act) prohibits discriminatory, coercive and misleading conduct about WHS. This means that people can raise health and safety issues and concerns at their workplace without fear of discrimination or coercion.

What is discrimination?

Discrimination is the unjust or harmful treatment of different categories of people. While common examples of discrimination may be on the basis of race, age, sex, or disability, this information sheet looks at discrimination against a person where they are applying WHS laws.

Discriminatory conduct undertaken for prohibited reasons is unlawful under the WHS Act. Prohibited reasons generally relate to exercising a right, function or power under WHS laws.

Discriminatory conduct can include dismissing or refusing to engage a worker, terminating a contract for services with a worker or detrimentally changing the position of a worker.

Organising, or threatening to organise or take any of the above action can also be considered discriminatory conduct.

What is coercion?

Coercion is the practice of persuading someone to do something by using force or threats.

Coercion in relation to WHS means a person must not take any action intended to intimidate, force or cause a person to exercise, or not exercise, a health and safety power, function or role. This includes organising, or threatening to organise or take such action.

What does it mean to mislead?

It is an offence for a person to knowingly or recklessly make a false or misleading representation about another person's:

- rights or obligations under the WHS laws (for example, the right to cease work)
- ability to initiate or participate in, a process or proceedings under the WHS laws (for example, the right to request the election of a health and safety representative)
- ability to make a complaint or inquiry to a party with compliance powers under the WHS Act (for example, claiming that the circumstances do not allow a WorkSafe inspector to be called in to resolve an issue).

It is misrepresentation only if the party who is told could be expected to believe and rely upon the information.

Consequences

If a person is found liable or convicted, the relevant court or tribunal can impose penalties or make orders. For example, an order can be made for a worker to be reinstated or re-employed.

A defendant may not be liable if they can prove that the conduct was reasonable in the circumstances and that a substantial reason for the conduct was to comply with WHS laws.

Further advice

If you need help or you believe you have been subject to discriminatory, coercive or misleading conduct in relation to work health and safety, please contact WorkSafe Contact Centre by email WorkSafeCallCentre@dmirs.wa.gov.au or telephone 1300 307 877.

Other state, territory and Commonwealth laws also provide protections from discriminatory, coercive and misleading conduct. For example, the general protections in the *Fair Work Act 2009 (Cth)* or the *Equal Opportunity Act 1984 (WA)*. For further information on the *Fair Work Act 2009*, please contact the Fair Work Commission or the Fair Work Ombudsman.

For more information, read the [*Interpretive guideline: Discriminatory, coercive and misleading conduct*](#).

This is a short guide. Duty holders should refer to the *Work Health and Safety Act 2020* and associated regulations for a full understanding of duties and responsibilities.