

SPEAKOUT

THE MAGAZINE FOR AUSTRALIAN SPEECH PATHOLOGISTS

APRIL 2024



SPEECH SOCIETY STALL AT AUSTRALIAN CATHOLIC UNIVERSITY BRISBANE

Students with Katherine Cooper (Speech Pathology Senior Lecturer) at the ACU Speech Pathology Society orientation week stall.

Working with people with lived experience of dementia Practice Guideline (2024)

Are you ready to register for Speechie Library Talks 2024?



Speech Pathology Australia



WHAT DOES 'POSITIVE DUTY' MEAN FOR YOUR PRACTICE?

Key tips and reminders for practice owners, sole traders and independent contractors.

In recent legislative reforms, the term 'positive duty' appears in two different yet connected areas. One stems from anti-discrimination laws related to sexual harassment, sex-based harassment, sex discrimination, and victimisation, and the other stems from work, health and safety (WHS) regulations related to psychosocial hazards and psychological safety.

This article gives a brief overview of both areas with key considerations for speech pathology practice owners, sole traders and independent contractors.



RESPECT@WORK

In 2020, the Australian Human Rights Commission's (AHRC) landmark national inquiry revealed that workplace sexual harassment was widespread and pervasive, occurring in every industry, in every location and at every level.

The resulting Respect@Work Report revealed that some individuals and groups experience sexual harassment at much higher rates, such as women from culturally and racially marginalised backgrounds, First Nations women and people from LGBTIQ+ communities.

The *Anti-Discrimination and Human Rights Legislation (Respect at Work) Act 2022* introduced a new positive duty on employers to prevent and eliminate as far as possible, the following unlawful conduct:

- discrimination on the ground of sex in a work context
- sexual harassment in connection with work
- sex-based harassment in connection with work
- conduct that amounts to subjecting a person to a hostile workplace environment on the ground of sex
- related acts of victimisation.

The positive duty covers conduct being engaged in by:

- yourself (the employer, sole trader, or independent contractor)

- employees, workers, volunteers, agents, or sub-contractors
- third parties (e.g., clients, patients, visitors, or suppliers).

Under the *Respect At Work Act 2022*, proactive and meaningful action must be taken to prevent unlawful conduct—regardless of whether someone has made a complaint.

Effective 12 December 2023, the AHRC now has powers to investigate and enforce employers' positive duty under the *Respect At Work Act 2022*.

Practice owners, sole traders and independent contractors must continuously assess and evaluate whether they are meeting the requirements of the positive duty. This may include periodically undertaking risk assessments to identify hotspots, then managing these risks by adopting preventative measures.

PSYCHOLOGICAL HEALTH AND SAFETY

Employers are legally responsible for ensuring that the workplace does not cause psychological or physical injury, or worsen an existing condition. This responsibility applies to any person conducting a business or undertaking (PCBU) including but not limited to practice owners, sole traders and independent contractors.

On 1 April 2023, new WHS laws came into effect across all jurisdictions in Australia. Amendments to the *Model Code of Practice: Managing psychosocial hazards at work* reinforce PCBUs' positive duty to identify and manage hazards and risks to workers' psychological health and safety.

Psychosocial hazards are anything in the design or management of work that can affect an employee's mental health. Safe Work Australia (SWA) identifies a range of common psychosocial hazards in the workplace including bullying, harassment (including sexual and gender-based harassment), and poor workplace relationships.

Common psychosocial hazards in the workplace:

- job demands
- low job control
- poor support
- lack of role clarity
- poor organisational change management
- inadequate reward and recognition
- poor organisational justice
- traumatic events or material
- remote or isolated work
- poor physical environment
- violence and aggression
- bullying
- harassment, including sexual and gender-based harassment
- conflict or poor workplace relationships and interactions.



IT'S ALL CONNECTED

You can't have a mentally healthy workplace if you don't meet your duties under the *Respect at Work Act 2022*.

Practice owners, sole traders and independent contractors should take a consultative WHS risk management approach to managing the risk of psychosocial hazards and ensuring safe, inclusive and respectful workplaces. Risk management is a stepped process of identifying hazards, assessing risks, controlling those risks, then reviewing the efficacy of control measures over time or in response to an event.

Key tips and reminders

- Discrimination, sexual harassment and victimisation are against the law and a source of significant personal and organisational risk.
- Take a risk-based approach to preventing and responding to unlawful conduct.
- Develop, communicate and implement policies regarding respectful behaviour and unlawful conduct.
- Any time you update your policies and procedures, make sure all employees understand the changes.
- Foster a 'speak up culture' that empowers all workers to report concerns and unlawful conduct.
- Ensure the reporting and response options in your practice minimise harm to the people involved.
- Ensure staff know how to access appropriate support.
- Monitor and evaluate your workplace culture on a regular basis, implement improvement measures and promptly address concerns.
- Stay up to date on legislative requirements and employer obligations.

If you have any questions or require more information about your positive duties under anti-discrimination and WHS laws, it is advisable to seek professional advice, whether this be through the [Australian Human Rights Commission](#), the [WHS regulator in your jurisdiction](#) or an HR consultancy that works closely with the allied health sector such as [WorkPlacePLUS](#).

All Speech Pathology Australia members receive special member benefits through WorkPlacePLUS for support with HR and IR issues. For more information, contact Anna on (03) 9492 0958 or visit www.WorkPlacePLUS.com.au.

Anna Pannuzzo
WorkPlacePLUS

