Guidelines for Complying with the Positive Duty
Maturity Model: Gap Analysis

The Seven Standards for Positive Duty	Unprepared	First Step	Leading	In Our DNA
Leadership	?	?	?	?
Culture	?	?	?	?
Knowledge	?	?	?	?
Risk Management	?	?	?	?
Support	?	?	?	?
Reporting & Response	?	?	?	?
Monitoring, Evaluation & Transparency	?	?	?	?

Majority of organisations today

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Standard 1: Leadership

Standard	Key Criteria	Unprepared	First step	Leading	In our DNA
1: Leadership Senior leaders understand their obligations under the Sex Discrimination Act and have up-to-date knowledge about relevant unlawful conduct. Senior leaders are responsible for ensuring that appropriate measures for preventing and responding to relevant unlawful conduct are developed, recorded in writing, communicated to workers and implemented. Senior leaders regularly review the effectiveness of these measures and update workers. Senior leaders are visible in their commitment to safe, respectful and inclusive workplaces that value diversity and gender equality. They set clear expectations and role model respectful behaviour.	Senior leaders have a deep understanding of this topic.	Senior leaders lack awareness of new and current legislation and their role in prevention.	Senior leaders have read the guidance material, completed training, and subscribed to receive regular updates about unlawful conduct.	Senior leaders actively participate in discussions led by industry experts on trends and best practices on prevention.	Senior leaders are informed by research, data and case studies to understand what drive unlawful behaviour in their teams and effective strategies for elimination.
	Senior leaders take ownership of prevention.	HR or Risk manages prevention and response, not senior leaders.	Senior leaders actively participate in creating, reviewing, and endorsing the prevention and response plan.	The effectiveness of the prevention plan is systematically evaluated using incident data, worker input, and prevalence data, ensuring at least annual reviews.	Executive leaders take ownership of the prevention plan, aligning its effectiveness with Key Performance Indicators (KPIs) to ensure accountability and continuous improvement.
	Senior leaders make safety and respect a personal priority.	Senior leaders lack visibility on this topic.	Senior leaders make a public leadership statement about their commitment to safety and respect.	Senior leaders actively participate in various committees, communities, or industry groups focused on Diversity, Equity & Inclusion (DEI) and Workplace Health and Safety (WHS).	Senior leaders consistently advocate not only their successes but also openly discuss their commitments, challenges faced, and practical actions taken to enhance DEI efforts or address safety issues.
	Senior leaders communicate the importance - 'talk the talk'.	Senior leaders provide limited or no communication on this topic.	Senior leaders address and reinforce behavioral expectations regarding respect across various platforms such as emails, conversations, meetings, and the intranet.	Senior leaders formalise expectations for respectful conduct towards external parties like contractors, suppliers, and customers, integrating these expectations into contracts and regular communications.	Senior leaders go beyond treating safety and respect as standalone topics, consciously linking these principles with other business facets in their regular communications, meetings, and town halls.
	Senior leaders exemplify the values - 'walk the talk'.	Senior leaders are not equipped to lead a culture of safety and respect.	Senior leaders undertake training and education focused on safe, respectful and inclusive leadership practices.	Senior leaders' evaluations encompass their own conduct, capability to cultivate an inclusive culture and address disrespectful behavior. This influences hiring, compensation, and promotion decisions.	Explicit consequences are outlined and consistently enforced, emphasizing a zero-tolerance policy even for high-performing individuals - "no brilliant jerks".

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Standard 2: Culture

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2: Culture Organisations and businesses foster a culture that is safe, respectful and inclusive and values diversity and gender equality. This culture empowers workers (including leaders and managers) to report relevant unlawful conduct, minimises harm and holds people accountable for their actions.	Diversity, Equity & Inclusion (DEI) is a priority.	DEI is not a business focus.	Diversity factors into recruitment, development, and promotions, documented with clear goals and metrics. Regular evaluation ensures progress.	Organisations undertake consultation and research into the systemic barriers to greater diversity and inclusion in their organisation and formalise a plan to address them.	DEI is not a standalone initiative but is integrated into all aspects of the organisation, including strategy, values, structures, incentives, systems and brand.
	Senior leaders and people managers promote a culture of safety and respect.	Team leaders are not equipped to lead a culture of safety and respect.	Team leaders receive regular training on how to lead inclusive cultures and how to role model behavioural expectations.	Team leaders communicate behavioural expectations regularly, and through multiple platforms.	Team leaders' abilities to role model safety, respect, and inclusion are assessed, directly influencing their pay and promotion decisions.
	Valuing and celebrating respect within the organisation.	Organisational values are non-existent or not rewarded.	When someone models the values of safety and respect, they are acknowledged and celebrated.	HR practices (e.g. hiring, development, performance and pay) align with rewarding model behaviours.	A culture of respect is considered a key success factor for the organisation and is robustly measured, shared, and celebrated.
	Shared responsibility for safety and respect.	Employees do not understand their role in promoting safety and respect.	Employees understand their role in building a culture of safety and respect through training, policy, and regular communication.	Employees are trained and encouraged to call out inappropriate behaviour when they see or experience it.	Employees use informal and formal channels to report misconduct but also to raise concerns about everyday disrespect, inappropriate behaviour, and psychosocial safety risks.
	Zero tolerance for instances of poor behaviour.	Unchecked instances of poor behaviour persist.	Transparent consequences exist for both workers and external parties, clearly outlined and uniformly applicable for instances of disrespectful or unlawful behavior.	Actions taken in response to inappropriate behavior are systematically documented and consistently reviewed to ensure uniform application.	Organisations review case studies and data concerning unlawful behavior, with the aim to understand the underlying causes and assess the efficiency of consequences and actions taken in response.

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Standard 3: Knowledge

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3: Knowledge Organisations and businesses develop, communicate and implement a policy regarding respectful behaviour and unlawful conduct. Organisations and businesses support workers (including leaders and managers) to engage in safe, respectful and inclusive behaviour through education on: - expected standards of behaviour, including actions and attitudes that foster equality and respect - identifying behaviours that constitute relevant unlawful conduct and the consequences for engaging in such conduct - their rights and responsibilities in relation to safe, respectful and inclusive workplaces and working relationships. This includes their role in preventing and responding to relevant unlawful conduct.	Policies provide clear guidance.	Lack of formalized expectations and processes for unlawful conduct.	The organisation has a policy in place regarding respectful behaviour and unlawful conduct.	The policy is regularly reviewed, updated and communicated to everyone in the organisation.	The policy is designed to complement and align with other pertinent policies and HR procedures within the organisation.
	Universal training on the new approach is completed.	Lack of training.	Employees across all levels are required to undergo yearly training focusing on safe and respectful behaviors, along with understanding their rights and responsibilities.	Employees receive tailored training that aligns with their specific roles, locations, and contextual risk factors, ensuring relevance to their responsibilities.	Education is not a one-time occurrence but a continual process happening throughout the year. It is delivered through diverse formats such as online modules, in-person sessions, communications, and team discussions, aiming to reinforce and expand knowledge consistently.
	Information is readily available and accessible.	Employees do not have an easy way to access policies and information.	Relevant information and policies are compiled and readily accessible to employees.	Employees have access to policies and pertinent information not only during business hours but also outside of regular working times.	Key information is disseminated through various formats such as posters, factsheets, and case studies, ensuring accessibility beyond sole reliance on an intranet.

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Standard 4: Risk Management

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4: Risk Management Organisations and businesses recognise that relevant unlawful conduct is an equality risk and a health and safety risk. They take a risk-based approach to prevention and response.	Identification of unlawful conduct as a significant safety, quality, and legal risk.	Exclusion of unlawful conduct from the risk register.	A risk-based strategy involving identification, assessment, implementation of control measures, and regular effectiveness reviews concerning unlawful conduct.	Senior leaders and business owners actively engage in and hold responsibility for managing risks associated with relevant unlawful conduct.	Organisations hold leaders and managers accountable for monitoring risks and creating workplace cultures and systems promoting safety and respect.
	Employee engagement in preventive measures.	Employees have not been consulted on the topic.	Employees and their representatives are engaged in both the development and review of the risk management plan.	Employees' opinions and experiences are gathered through diverse channels, including meetings, anonymous surveys, exit interviews, and de-identified reports.	Employees are empowered to develop practical control measures and strategies ensuring their teams' safety in high-risk situations.

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Standard 5: Support

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5: Support Organisations and businesses ensure that appropriate support is available to workers (including leaders and managers) who experience or witness relevant unlawful conduct. Workers are informed about the available support, and can access the support, regardless of whether they report the conduct.	Accessible support that is victim-centric and trauma informed.	Employees do not have access to support, or do not know where to access support.	Both internal and external support options are offered to those affected by unlawful conduct, ensuring widespread awareness and regular communication of these options.	Multiple internal and external support options are provided, including culturally specific services or specialist experts.	A network of support champions is created, trained, and resourced such as through peer support networks, trained line managers, trained contact officers, and accredited mental health first-aid officers.
	Comprehensive support for individuals who make a report.	Reporters do not receive information regarding available support options. .	Reporters are reminded of the internal and external support options available to them.	Reporters are provided with a nominated contact person with whom they can discuss concerns and understand and access support options.	Reporters are part of regular check-ins during and after the reporting process to assess any impacts on their health, wellbeing and career, while reiterating the availability of support options.

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Standard 6: Reporting & Response

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6: Reporting & Response Organisations and businesses ensure that appropriate options for reporting and responding to relevant unlawful conduct are provided and regularly communicated to workers and other impacted people. Responses to reports of relevant unlawful conduct are consistent and timely. They minimise harm to, and victimisation of, people involved. Consequences are consistent and proportionate.	Reporting options are available and well-known.	Employees do not know how to make a report.	Access is available to various internal and external reporting options, including outside business hours. All reporting pathways are clearly outlined.	Ensure accessibility and suitability of reporting options for your workforce and context, considering the requirements of high-risk groups.	Engage with workers to identify obstacles preventing reporting and implement strategies to address these barriers.
	Reporting empowers choice and options for the reporter.	Reporting is limited to a single option, such as directly contacting HR.	Anonymous and confidential reporting pathways are available.	Various options exist for both informal and formal reports, each process clearly outlining expectations.	Reporters are empowered with choices regarding anonymity, informal or formal reporting, reporting channels, and preferred outcomes.
	Reporting and response procedures are victim-centric and trauma-informed.	Reporting channels are in place but are not being used.	Reporting and response processes are tailored specifically for psychosocial harm (not the same as other misconduct).	Emphasis is placed on prioritising the safety and wellbeing of the reporter during report handling.	Reporting procedures align with victim-centric and trauma-informed criteria, such as timeliness, transparency, choice, and support. Regular check-ins for reporters to feel safe and supported.
	Consistent consequences for inappropriate behaviour.	A lack of clarity around the type of consequences that can be expected.	Organisational actions are reasonable and proportionate, including a mix of corrective actions aimed at cultural change such as training and communications, as well as specific disciplinary outcomes including an apology, warning or dismissal. Different outcomes and consequences are clearly explained and documented.	Escalation options are built into the response process to ensure that reports involving senior leadership are handled objectively and consistently to other reports.	Data is captured on the type of behaviour, the action or consequence assigned, and feedback from the reporter to ensure that action is consistent and effective.
	Regular evaluation of reporting effectiveness.	Low reporting rates are mistaken for low prevalence.	Reporting rates are reported annually and compared organisational prevalence (obtained through an annual prevalence survey), or industry prevalence data.	Employees are consulted, for instance, through surveys or focus groups, aims to uncover existing barriers to reporting.	Detailed metrics, including reporting rates, prevalence rates, as well as response details like timeliness, assigned actions and individual impact, are regularly gathered and reviewed.

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Standard 7: Monitoring, Evaluation & Transparency

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7: Monitoring, Evaluation & Transparency Organisations and businesses collect appropriate data to understand the nature and extent of relevant unlawful conduct concerning their workforce. Organisations and businesses use the data they collect to regularly assess and improve the work culture, as well as to develop measures for preventing and responding to relevant unlawful conduct. Organisations and businesses are transparent about the nature and extent of reported behaviours that could constitute relevant unlawful conduct concerning their workers and actions taken to address it.	Data provides a clear picture of what is happening in your organisation.	Relying on reporting numbers as a proxy for prevalence.	An annual, anonymous, survey is conducted asking whether employees have experienced or witnessed unlawful behaviours.	Detailed metrics are gathered on every aspect of the prevention plan, spanning leadership, culture, knowledge, risks, support, and reporting.	Ongoing encouragement and promotion of reporting pathways as an efficient means to acquire real-time, comprehensive data on prevalence, risk, response, and outcomes.
	Data informs the evaluation of prevention and response initiatives.	Prevention and response activities are not measured and reviewed.	Data is collected on the efficiency of prevention and response initiatives, assessing training impact, reporter outcomes, and effectiveness of risk controls. Insights from this data guide future decision-making.	Continual refinement and enhancement of the prevention plan and strategies, leveraging evidence of successful practices within the organisation or from accessible research.	Gathered data use to devise customised interventions and initiatives, focusing on specific business areas in need, for instance, low reporting rates among First Nations workers prompt targeted training, communications, and support tailored to this segment of the workforce.
	Shared data and insights to foster collective learning.	Incidents are perceived as single occurrences and not analysed for patterns or learnings.	Leaders receive information on the nature and extent of unlawful conduct, along with actions taken to prevent and respond to it.	De-identified data, recurring themes, and key lessons learned are shared with employees (balancing the need for confidentiality and privacy).	Sharing of data, recurring themes, and insights on a wider scale, such as with industry groups or researchers, to foster a collective understanding of effective strategies in preventing and addressing unlawful conduct.

FURTHER SUPPORT

RespectX is an end-to-end prevention system that incorporates all seven minimum standards for complying with the positive duty. Our team has deep expertise in the field and work with organisations across all sectors.

If you would like to tap into our knowledge and expertise as you prepare your organisation for the positive duty, please reach out to us at support@respectx.com.au

DISCLAIMER

The Maturity Model: Gap Analysis was developed by RespectX, and is based on the Australian Human Rights Commission Guidelines for Complying with the Positive Duty. It stands as a practical interpretation of the new legislation, derived from from our collective expertise in Diversity Equity & Inclusion (DEI), organisational culture, and behavioural change management. This publication is intended to serve as a guide for organisations in conducting their own gap analysis and improve their own organisational practices, and does not constitute legal advice.

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