

DEALING WITH WORKPLACE BULLYING - A WORKER'S GUIDE

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Safe Work Australia is an Australian Government statutory agency established in 2009. Safe Work Australia consists of representatives of the Commonwealth, state and territory governments, the Australian Council of Trade Unions, the Australian Chamber of Commerce and Industry and the Australian Industry Group.

Safe Work Australia works with the Commonwealth, state and territory governments to improve work health and safety and workers' compensation arrangements. Safe Work Australia is a national policy body, not a regulator of work health and safety. The Commonwealth, states and territories have responsibility for regulating and enforcing work health and safety laws in their jurisdiction.

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1. INTRODUCTION

Workplace bullying is a risk to health and safety because it may affect the mental and physical health of workers.

Everyone at the workplace has a work health and safety duty and can help to ensure workplace bullying does not occur. Under work health and safety (WHS) laws workers must take reasonable care that their behaviour does not adversely affect the health and safety of other people. Workers must also comply, so far as is reasonably practicable, with any reasonable instruction given by the person conducting the business or undertaking and co-operate with any reasonable policies and procedures, such as a workplace bullying policy.

This guide may help workers determine if workplace bullying is occurring and how the matter may be resolved. It provides information for workers who believe they may be experiencing or witnessing workplace bullying and those who have had a bullying report made against them.

This is the first version of this guide. It will be revised to incorporate any significant developments in workplace bullying as these evolve.

1.1 What is workplace bullying?

Workplace bullying is defined as *repeated and unreasonable behaviour* directed towards a worker or a group of workers that creates a *risk to health and safety*.

Not all behaviour that makes a person feel upset or undervalued at work is classified as workplace bullying. Examples of behaviour, whether intentional or unintentional, that may be considered to be workplace bullying if they are *repeated, unreasonable and create a risk to health and safety* include, but are not limited to:

- abusive, insulting or offensive language or comments
- unjustified criticism or complaints
- deliberately excluding someone from workplace activities
- withholding information that is vital for effective work performance
- setting unreasonable timelines or constantly changing deadlines
- setting tasks that are unreasonably below or beyond a person's skill level
- denying access to information, supervision, consultation or resources to the detriment of the worker
- spreading misinformation or malicious rumours
- changing work arrangements, such as rosters and leave, to deliberately inconvenience a particular worker or workers.

A single incident of unreasonable behaviour is not considered to be workplace bullying however it may have the potential to escalate and should not be ignored.

1.2 What is not considered to be workplace bullying?

REASONABLE MANAGEMENT ACTION TAKEN IN A REASONABLE WAY

It is reasonable for managers and supervisors to allocate work and to give fair and reasonable feedback on a worker's performance. These actions are not considered to be workplace bullying if they are carried out lawfully and in a reasonable manner, taking the particular circumstances into account.

Examples of reasonable management action can include but are not limited to:

- setting reasonable performance goals, standards and deadlines
- rostering and allocating working hours where the requirements are reasonable
- transferring a worker for operational reasons
- deciding not to select a worker for promotion where a reasonable process is followed
- informing a worker of their unsatisfactory work performance
- informing a worker of their unreasonable or inappropriate behaviour in an objective and confidential way
- implementing organisational changes or restructuring
- taking disciplinary action including suspension or termination of employment.

DISCRIMINATION OR SEXUAL HARASSMENT

Discrimination and sexual harassment in employment is unlawful under anti-discrimination, equal employment opportunity, workplace relations and human rights laws.

Discrimination generally occurs when someone is treated less favourably than others because they have a particular characteristic or belong to a particular group of people.

Sexual harassment is associated with unwelcome sexual advances, requests for sexual favours or other unwelcome conduct of a sexual nature.

It is possible for a person to be bullied, sexually harassed and discriminated against at the same time.

WORKPLACE CONFLICT

Differences of opinion and disagreements are generally not considered to be workplace bullying. People can have differences and disagreements in the workplace without engaging in repeated, unreasonable behaviour that creates a risk to health and safety. However, in some cases, conflict that is not managed may escalate to the point where it meets the definition of workplace bullying.

If workplace conflict is affecting you, you should raise your concerns with your manager, supervisor, human resources officer or grievance officer.

1.3 How can workplace bullying occur?

Workplace bullying can be carried out in a variety of ways including in person, through email, text messages, internet chat rooms, instant messaging or other social media channels. In some cases workplace bullying may escalate beyond the workplace and normal working hours.

Workplace bullying can be directed at a single worker or group of workers and be carried out by one or more workers. It can also be directed at or perpetrated by other people at the workplace, for example clients, patients, students, customers and members of the public.

2. WHAT CAN YOU DO?

2.1 Seek advice

To be able to take the most appropriate action it is important to first find out whether the behaviour you are experiencing or witnessing is workplace bullying. It can be difficult in times of stress to be objective about what is happening to you. Therefore, in considering the questions below, it may be helpful to seek the perspective of another person who is not involved to help you determine whether the behaviour meets the definition of workplace bullying. If available in your workplace, you can also discuss the situation with a human resources officer, health and safety representative (HSR) or union representative.

■ *Is the behaviour being repeated?*

Repeated behaviour refers to the persistent nature of the behaviour and can involve a range of behaviours over time.

■ *Is the behaviour unreasonable?*

Unreasonable behaviour means behaviour that a reasonable person, having considered the circumstances, would see as unreasonable including behaviour that is victimising, humiliating, intimidating or threatening.

■ *Is the behaviour creating a risk to your health and safety?*

Workplace bullying can be harmful to the person experiencing it and to those who witness it, although the effects will vary depending on individual characteristics as well as the situation and may include one or more of the following:

- distress, anxiety, panic attacks or sleep disturbance
- physical illness, for example muscular tension, headaches and digestive problems
- deteriorating relationships with colleagues, family and friends
- depression
- thoughts of suicide

If workplace bullying behaviour involves violence, for example physical assault or the threat of physical assault, it should be reported to the police.

2.2 Next steps if the behaviour does not appear to be workplace bullying

Seek advice on strategies that may help solve what has happened and how you are feeling. For example, if the behaviour seems unreasonable but it has not escalated in to workplace bullying raise it either with the person directly or with your supervisor. If necessary, conflict resolution, mediation or counselling services may assist in resolving the issue.

Investigate other sources of information if the behaviour involves discrimination or sexual harassment.

Continue to monitor the situation over time.

2.3 Next steps if workplace bullying appears to be occurring

REFER TO YOUR WORKPLACE POLICIES AND PROCEDURES

Check whether your workplace has a bullying policy and reporting procedure. The policy should outline how the organisation will prevent and respond to workplace bullying.

Your supervisor, manager or human resources officer will be able to tell you whether there are relevant policies in place. Information on your workplace bullying policy may also be provided in:

- induction information, awareness sessions, in-house newsletters and displayed on notice boards
- documents such as a 'code of conduct'
- discussions at staff meetings and in team briefings.

SPEAK TO THE OTHER PERSON

If you feel safe and comfortable doing so, calmly tell the other person you object to their behaviour and ask that it stop. They may not realise the effect their behaviour is having on you and your feedback may give them the opportunity to change their actions. You may also consider suggesting an alternate way of behaving in the circumstance that is acceptable to you.

If you choose to deal with the situation personally you should consider:

- acting as early as possible
- raising your concerns informally and in a non-confrontational manner
- not retaliating
- focusing on unwanted behaviour rather than the person
- being open to feedback.

You may ask your HSR, union representative or supervisor for assistance with this process or to accompany you when you approach the person.

REPORT IT

If you believe you are experiencing or witnessing workplace bullying, report it as early as possible. Your employer cannot address the problem if they do not know about it. If your supervisor is the person whose behaviour is concerning you, speak to the next person of seniority in your workplace.

You can make a workplace bullying report in any of the following ways:

- informing your supervisor or manager
- informing your health and safety representative (HSR) or union representative
- using established reporting procedures.

HSRs can make a report on your behalf if you give them permission. They can also give you advice on how to make a report. HSRs do not have any other role or responsibility for resolving the matter. They may, however, work with your organisation to improve the policies and procedures for preventing and responding to workplace bullying.

2.4 What to do if you are accused of workplace bullying

Being accused of bullying someone can be upsetting and come as a shock but it's important to be open to feedback from others, and to be prepared to change your behaviour. Keep the following points in mind:

DON'T DISMISS THE COMPLAINT OUT OF HAND

If someone approaches you about your behaviour, try to remain calm and avoid aggravating what is likely to be an already difficult situation.

Listen carefully to the particular concerns expressed. Apologise for causing offence and discuss how you might work together more effectively.

The other person is more likely to share their views with you if you choose a neutral space and ask open questions without attempting to justify your behaviour. Even so, the other person may not be comfortable speaking to you. If you do receive feedback, reflect on the information you have been provided and decide how you will react or modify your behaviour.

If you do not understand the complaint, discuss the matter with someone you trust. This might be your manager, colleagues, friends or a counsellor engaged through your organisation's employee assistance program. Any discussion should be strictly confidential.

If you believe you are being unjustly accused, or the complaint is malicious, you should discuss this with your manager or human resources officer. It may be that an informal discussion between you, the person making the allegation and a third party will solve the problem.

STOP DOING ANYTHING THAT CAUSES OFFENCE

Stop the behaviour complained of and review what you are doing. It may be you have upset other colleagues who have not complained.

If you are found to have bullied someone after their objection to your behaviour was made known to you, the fact you persisted will make the offence more serious if disciplinary proceedings commence.

3. WHAT SHOULD YOU EXPECT FROM YOUR WORKPLACE?

A person conducting a business or undertaking has the primary duty under the WHS Act to ensure, so far as is reasonably practicable, that workers and other persons are not exposed to health and safety risks arising from the business or undertaking. This includes having systems in place to prevent and respond to workplace bullying.

If you inform your workplace that you are experiencing workplace bullying or someone has made a report against you, your workplace should:

- respond to the bullying report quickly and reasonably in accordance with the policies and procedures at your workplace
- treat all reports seriously
- inform you of the process of how the matter will be dealt with
- maintain confidentiality
- allow the parties to explain their version of events
- remain neutral and impartial towards everyone involved
- advise you of support options available to you, such as counselling
- allow you to have a support person present at interviews and meetings, for example a friend, health and safety representative or union representative
- keep records, for example of conversations, meetings and interviews
- attempt to resolve the matter.

If the matter is resolved, your workplace should follow-up with you at a later date to review whether the actions taken have been effective. Your workplace may also provide you with ongoing support or advise you of external support services, such as an Employee Assistance Program.

Your workplace may decide to investigate workplace bullying allegations of a serious or complex nature. The investigator should be a suitably skilled, neutral person from within the workplace or an external investigator.

4. WHERE ELSE CAN YOU GO FOR HELP?

If you have not been able to resolve the situation within your workplace, there are a number of organisations that may be able to offer you further advice and assistance:

Work Health and Safety Regulators

Commonwealth

Comcare
Website: www.comcare.gov.au
Email: General.Enquiries@comcare.gov.au
Phone: 1300 366 979

Australian Capital Territory

WorkSafe ACT
Website: www.worksafe.act.gov.au
Email: worksafe@act.gov.au
Phone: 02 6207 3000

New South Wales

WorkCover NSW
Website: www.workcover.nsw.gov.au
Email: contact@workcover.nsw.gov.au
Phone: 13 10 50

Northern Territory

NT WorkSafe
Website: www.worksafe.nt.gov.au
Email: ntworksafe@nt.gov.au
Phone: 1800 019 115

Tasmania

Workplace Standards Tasmania
Website: www.wst.tas.gov.au
Email: wstinfo@justice.tas.gov.au
Phone: 03 6233 7657 (outside Tasmania) or 1300 366 322 (Tasmania)

South Australia

SafeWork SA
Website: www.safework.sa.gov.au
Email: help@safework.sa.gov.au
Phone: 1300 365 255

Queensland

WorkCover Queensland
Website: www.workcoverqld.com.au
Email: info@workcoverqld.com.au
Phone: 1300 362 128

Victoria

WorkSafe Victoria
Website: www.worksafe.vic.gov.au
Email: info@worksafe.vic.gov.au
Phone: 1800 136 089 or 03 9641 1444

Western Australia

WorkSafe WA
Website: www.commerce.wa.gov.au/WorkSafe/
Email: safety@commerce.wa.gov.au
Phone: 08 9327 8777

Fair Work Commission

From 1 January 2014, a worker, for example an employee, contractor, apprentice or volunteer who reasonably believes they have been bullied at work may apply to the Fair Work Commission for an order to stop the workplace bullying. Such workers should contact the Fair Work Commission to find out if they are eligible to apply for an order.

The Fair Work Commission will only make an order if satisfied the worker has been bullied at work by an individual or a group of individuals and there is a risk the worker will continue to be bullied at work.

The Fair Work Commission will take into account:

- internal procedures available to resolve grievances and disputes at the workers' workplace
- final or interim outcomes arising from an investigation carried out by the worker's employer or other body, and
- any other matters the Fair Work Commission considers relevant.

Orders could be based on behaviour such as threats made outside the workplace, if those threats result in the worker being bullied at work, for example threats made by email or telephone.

The power of the Fair Work Commission to grant an order is limited to preventing the worker from being bullied at work. The Fair Work Commission cannot make orders requiring payment of money. The focus is on resolving the matter and enabling normal working relationships to resume.

Further information on the Fair Work Act amendments and the role of the Fair Work Commission is located at <http://www.fwc.gov.au/>.

FAIR WORK COMMISSION OFFICES

Australian Capital Territory

Telephone: (02) 6209 2400
Out of hours emergency: 0408 447 112
Email: canberra@fwc.gov.au

Sydney

Telephone: (02) 8374 6666
Out of hours emergency: 0419 318 011
Email: sydney@fwc.gov.au

Northern Territory

Telephone: (08) 8936 2800
Out of hours emergency: 0439 593 579
Email: darwin@fwc.gov.au

Victoria

Telephone: (03) 8661 7777
Out of hours emergency: 0419 960 157
Email: melbourne@fwc.gov.au

Support services

Lifeline 13 11 14
Beyond Blue 1300 224 636

Queensland

Telephone: (07) 3000 0399
Out of hours emergency: 0419 335 202
Email: brisbane@fwc.gov.au

South Australia

Telephone: (08) 8308 9863
Out of hours emergency: 0419 563 601
Email: adelaide@fwc.gov.au

Tasmania

Telephone: (03) 6214 0200
Out of hours emergency: 0418 124 021
Email: hobart@fwc.gov.au

Western Australia

Telephone: (08) 9464 5172
Out of hours emergency: 0448 275 936
Email: perth@fwc.gov.au



