



PREVENTING AND MANAGING BULLYING AT WORK

A guide for
employers



Australian Government

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ACKNOWLEDGEMENTS

Comcare acknowledges the contribution of the following organisations to this publication: Asciano, Australia Post, ACTU, Australian Air Express, ATO, Centrelink, Defence, FaHCSIA, APSC, NAB, WorkSafe Victoria. WorkSafe Victoria allowed use of their guide *Preventing and responding to bullying at work* (June 2009).

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1 INTRODUCTION

Workplace bullying is an issue for all employers. Bullying results in real costs to both the organisation and the individual. It constitutes a significant risk to the health, safety and wellbeing of the individual and can lead to serious psychological injury.

As an employer you are required to provide, under section 16(2)(a)(i) of the *Occupational Health and Safety Act 1991* (OHS Act), an environment 'that is safe for the employer's employees and without risk to their health'. Recent research¹ has shown that a positive workplace safety culture can reduce the incidence and severity of bullying in the workplace. Workplace bullying should be considered within the broader framework of psychological injury. Proactive prevention strategies should address organisational issues as well as apply a systematic risk management approach. Where a bullying issue does arise, employers need to take a holistic approach to managing and responding to the issues through a risk management approach.

Comcare has a range of publications on the prevention and management of work-related psychological injury. These can be accessed on the Comcare website www.comcare.gov.au.

1.1 PURPOSE

This guide describes the Safety Rehabilitation and Compensation Commission's (SRCC) and Comcare's position on the requirement for employers to prevent and manage bullying in the workplace.

Comcare assists employers to meet their obligations to protect the health and safety of individuals covered by the OHS Act. This guide has been produced to assist you to meet your duty of care by putting in place effective systems for the prevention and management of bullying in the workplace.

This guide provides information on:

- > what bullying is and is not
- > responsibilities of employers and employees
- > federal legislation that relates to workplace bullying and discrimination
- > promoting a positive workplace culture
- > proactive steps organisations can take to prevent and manage bullying.

1. Beswick J, Gore J, Palferman D, 2006, *Bullying at work: A review of the literature*, Health and Safety Executive, UK.

1.2 SCOPE

The scope of this guide is workplace bullying. Although the relationship of bullying to occupational violence and harassment is mentioned briefly, this guide does not cover these concepts in detail.

Other types of aggression under the broader category of occupational violence are also not covered in this guide. According to the US Department of Health and Human Services there are four broad categories of occupational violence². This guide addresses category Type 3: Worker to worker.

CATEGORY	EXPLANATION
Type 1: Criminal intruder	This category includes people who have no legitimate link to the workplace or organisation and are usually committing a crime with violence (e.g. robbers).
Type 2: Client or customer	This category refers to current or former clients/patients/customers who have been the recipient of a service provided by the organisation (e.g. customer aggression).
Type 3: Worker to worker	This category involves people who are, or were previously employees of the organisation (e.g. bullying, harassment).
Type 4: Personal relationship	This category involves people who have no legitimate relationship with the organisation. They have a relationship with an employee of the organisation (e.g. domestic violence).

You can find further information about occupational violence and the prevention and management of customer aggression in Comcare's publications available at www.comcare.gov.au.

1.3 WORKPLACE CULTURE

The presence of bullying in the workplace can be the result of a workplace culture and environment that permits such behaviours to occur. It can also be a product of poor people management skills and lack of supportive leadership.

All members of an organisation play an important role in preventing and managing bullying and other psychological injuries. A holistic approach promotes the involvement of all members of the workplace. Consultation, information and education are critical to the success of better practice management of psychological injury³. These practices have implications for the people management practices and also for the health and safety practices of your organisation.

According to Australian research on bullying in public sector work environments⁴, levels of bullying behaviour reflect the quality of an organisation's people management practices. The research suggests that organisations need to target four areas of their people management practices to reduce the incidence of bullying:

- > the quality and frequency of performance feedback
- > levels of supportive leadership
- > building an engaging work team environment by involving employees in decision-making processes
- > establishing that all supervisors and managers have accountability for people management.

² US Department of Health and Human Services, 2008, *Understanding and responding to workplace violence*.

³ Comcare, 2009, *Beyond working well: A better practice guide*.

⁴ Cotton P, Hart P, Palmer R, Armstrong K, Schembri C, 2001, *Working well: An organisational approach to preventing psychological injury, a guide for corporate, HR and OHS managers*.

2 WHAT IS BULLYING?

2.1 DEFINITION

Bullying is repeated unreasonable behaviour that could reasonably be considered to be humiliating, intimidating, threatening or demeaning to a person, or group of persons, which creates a risk to health and safety.

Repeated—refers to the persistent or ongoing nature of the behaviour. It does not refer to the specific type of behaviour, which may vary. Bullying may comprise a combination of behaviours including:

- > unwarranted criticism or insults
- > spreading malicious rumours
- > deliberately withholding information or resources
- > influencing others to exclude or isolate the targeted person or group.

In many instances bullying appears to begin as discreet and indirect behaviours escalating over time into more open and direct behaviours⁵.

Unreasonable behaviour—means behaviour that a reasonable person, having regard to the circumstances, would see as victimising, humiliating, undermining or threatening. It includes direct and indirect types of behaviour. Reasonable management action undertaken properly is not unreasonable behaviour. (Refer to section 2.2 for further information on reasonable management action)

Risk to health and safety—includes the risk to the emotional, mental or physical health of the person(s) in the workplace.

⁵ Workplace Bullying Taskforce Queensland, 2002, Report of the Queensland Government *Workplace Bullying Task Force: Creating safe and fair workplaces: strategies to address workplace harassment in Queensland*.

Workplace bullying can be:

- > intended—where actions are intended to humiliate, offend, intimidate or distress, whether or not the behaviour did in fact have that effect
- > unintended—which although not intended to humiliate, offend, intimidate or distress, did cause and should reasonably have been expected to cause that effect.

Bullying can be direct or indirect, inflicted by one person or groups. Abusive group behaviour or ‘ganging up’ against one or more individuals is a form of bullying that is sometimes called workplace ‘mobbing’⁶.

Examples of bullying behaviour:

Direct bullying

- > abusive, insulting or offensive language
- > spreading misinformation or malicious rumours
- > displaying offensive material
- > behaviour or language that frightens, humiliates, belittles or degrades, including criticism that is delivered with yelling and screaming
- > inappropriate comments about a person’s appearance, lifestyle or their family
- > teasing or regularly making someone the brunt of pranks or practical jokes
- > interfering with a person’s personal effects or work equipment
- > harmful or offensive initiation practices
- > physical assault or threats.

Indirect bullying

- > unreasonably overloading a person with work
- > setting timelines that are difficult to achieve or constantly changing deadlines
- > setting tasks beyond a person’s skill level, setting meaningless tasks, or unfairly assigning unpleasant tasks
- > excluding, marginalising, ignoring or isolating a person
- > deliberately denying access to information, consultation or resources
- > unfair treatment relating to work rosters or accessing entitlements such as leave or training.

2.2 WHAT IS NOT BULLYING?

Reasonable management action

It is important to distinguish between a person reasonably exercising their legitimate authority at work in a proper and reasonable way, and instances of bullying. Managers and supervisors have a broad range of responsibilities including directing and controlling how work is performed. They are responsible for monitoring workflow and providing feedback to employees on their work performance.

Feedback provided properly with the intention of assisting staff to improve performance or behaviour does not constitute bullying. Care should be taken, however, to ensure that any performance problems are identified and dealt with in an objective and constructive way that is neither humiliating nor threatening.

6 Australian Public Service Commission, 2009, *Respect: Promoting a culture free from harassment and bullying in the APS*.

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Examples of reasonable management action include:

- > performance management processes
- > action taken to transfer or retrench an employee
- > a decision not to provide a promotion in connection with an employee's employment
- > disciplinary actions
- > allocated work in compliance with systems and policies
- > managing an employee's injury or illness
- > business processes, such as workplace change or restructuring.

Examples of behaviours that are not bullying, if undertaken in a reasonable and proper way, include:

- > expressing differences of opinion
- > constructive and courteous feedback, counselling or advice about work-related behaviour and performance
- > making a complaint about a manager's or another employee's conduct.

Single incidents

A single incident does not constitute bullying, although it may be distressing or harmful to the affected individual and should not be tolerated. A single incident of harassment may be a warning sign for bullying and steps should be taken to prevent a reoccurrence.

Be aware that harassment, whether a single incident or repeated occurrences, may breach:

- > the APS Code of Conduct
- > the OHS Act
- > industry or organisation codes of conduct
- > Commonwealth anti-discrimination legislation
- > the *Fair Work Act 2009*.

Some types of harassment, such as those involving physical or indecent assault, amount to a criminal offence. In these cases the police should be contacted for advice and assistance.

More detail on what constitutes harassment can be found in the APSC publication *Respect: Promoting a culture free from harassment and bullying in the APS*—www.apsc.gov.au

2.3 WHO IS AT RISK?

All persons at the workplace are potentially at risk of experiencing bullying.

2.4 WHO BULLIES?

Under certain conditions most people are capable of bullying.

Workplace bullying can be:

- > upwards—directed towards a manager or supervisor
- > parallel—directed towards a colleague
- > downwards—directed towards a subordinate⁷.

Clients and customers may also bully employees⁸.

Note that bullying behaviour is not always intentional. Sometimes people do not realise that their behaviour can be harmful to others. Individuals should be sensitive about how they are perceived by others and know the best ways to communicate difficult or sensitive matters. In some situations, behaviour that is not intended to be humiliating, threatening or demeaning may cause distress and be perceived as bullying.

7 Office of the ACT Work Safety Commissioner, 2010, *Preventing and responding to bullying at work*.

8 Comcare, 2009, *Prevention and management of customer aggression, a guide for employers*.

3 BULLYING IS AN OCCUPATIONAL HEALTH AND SAFETY ISSUE

Bullying is a workplace hazard. Results from targeted investigations undertaken by Comcare indicate that bullying behaviour is commonly viewed as a conduct issue, rather than an occupational health and safety (OHS) issue. While some may see workplace bullying as a human resources issue only, bullying is also an OHS issue because it is a workplace hazard that poses a potential threat to health and safety. It is important that you recognise bullying as an OHS issue and direct your focus towards people's potential health outcomes, as well as their effectiveness at work or desire to leave the workplace.

3.1 IMPACTS OF BULLYING

Workplace bullying has significant impacts and consequences on those directly experiencing or witnessing the bullying, and the organisation.

Each individual will react differently to bullying and in response to the particular circumstances. Reactions may include any combination of the following:

- > distress, anxiety, panic attacks or sleep disturbance
- > impaired concentration or ability to make decisions
- > loss of self esteem and confidence, a sense of isolation or withdrawal from the workplace
- > physical illness, including digestive problems, skin conditions, headaches and musculoskeletal disorders
- > injury or increased risk of injury, particularly psychological injury
- > reduced work performance
- > incapacity for work resulting in workers' compensation claims

- > loss of employment
- > deteriorating relationships and reduction in quality of home life
- > depression and risk of suicide.

The effects of bullying are not confined to the individual victim. Other employees who witness what is happening may:

- > know it is wrong but feel guilty because they do not think they can do anything
- > be afraid to support or help the victim in case they too get bullied
- > feel angry, unhappy or stressed about the workplace culture.

4 COST TO ORGANISATIONS

Organisations are likely to experience considerable direct and indirect costs⁹. These include:

- > absenteeism and presenteeism resulting in loss of productivity
- > high levels of staff turnover with associated recruitment and training costs
- > breakdown of teams and work relationships leading to reduced efficiency, productivity and increased errors
- > poor public image (likely to impact on recruitment)
- > brain drain—good employees leave
- > intangible costs associated with decreased trust, loyalty and staff morale
- > costs associated with counselling, mediation and support
- > management time in addressing cases of workplace bullying
- > focus of involved staff directed away from core work priorities and activities
- > costs associated with compensation claims and litigation.

Workers' compensation claims that result from bullying are often high cost claims because employees are reluctant to return to their workplace.

⁹ Commission for Occupational Safety and Health, Western Australia, 2006, *Violence, aggression and bullying at work - Code of practice*.



5 BULLYING IN THE WORKPLACE—RESPONSIBILITIES

Employers and employees both have responsibilities under a number of legislative instruments.

5.1 OCCUPATIONAL HEALTH AND SAFETY LEGISLATION

What are an employer's responsibilities?

Under the OHS Act, you have a duty to take all reasonably practicable steps to protect the health and safety at work of your employees. You are required to take proactive steps to identify hazards with the potential to affect the health and safety of your employees. You are also required to implement measures to eliminate or control the risks arising from those hazards. This duty extends to psychosocial hazards¹⁰ in the workplace including bullying behaviours.

When an incident of bullying occurs you may be required to notify Comcare of the incident where it meets the statutory requirements for notification. Details including an explanation of the legislative requirements for notifying Comcare are available on the Comcare website www.comcare.gov.au.

Natural justice

You should observe natural justice in all dealings with people accused of workplace bullying. It is essential that people are protected from false and malicious allegations. People may be falsely accused of workplace bullying because of a desire on the part of others to harm them or an over-reaction to a trivial or isolated event. If a person accused of bullying is deprived of natural justice, then any formal action taken against them may be overturned should they appeal against it.

Natural justice is generally considered to include the rights to:

- > be fully informed of the complaint
- > be fully informed about the complaint process

- > reply in full to the complaint
- > be considered innocent until proven guilty
- > representation by a person of his or her choice
- > maintenance of confidentiality
- > be informed of any rights of appeal¹¹.

What are an employee's responsibilities?

Under the OHS Act, employees must take all reasonably practicable steps to ensure that they do not increase or create a risk to their health and safety or to the health and safety of other people at work. Employees who engage in bullying behaviour at work are creating or increasing a risk to the health and safety of others.

What can Comcare do?

Comcare can investigate incidents of bullying and pursue enforcement action against both the employer and/or the employee for identified breaches of their duty of care¹². Details of the relevant considerations when making the decision to investigate can be found on Comcare's website www.comcare.gov.au

5.2 OTHER LEGISLATION

Other legislation which may apply in cases of bullying includes¹³:

- > *The Safety, Rehabilitation and Compensation Act 1988*
- > *Disability Discrimination Act 1992*
- > *Sex Discrimination Act 1984*
- > *Age Discrimination Act 2004*
- > *Racial Discrimination Act 1975*
- > *Public Service Act 1999*
- > *Australian Human Rights Commission Act 1986*
- > *Fair Work Act 2009*.

¹⁰ Psychosocial hazards involve subjective aspects of work organisation and the workplace social environment and how they are perceived by the individual, as distinct from physical hazards.

¹¹ Commission for Occupational Safety and Health, Western Australia, 2006, *Violence, aggression and bullying at work - Code of practice*.

¹² Under section 16 and 21 of the OHS Act, respectively.

¹³ This list is indicative only and is not intended to be exhaustive.

6 TAKING A PROACTIVE APPROACH TO BULLYING

6.1 PROMOTING A POSITIVE WORKPLACE CULTURE

Understanding and awareness of the issue and the far-reaching effects of bullying is an essential step to creating a positive work culture and minimising the risk to health and safety posed by bullying behaviour. The goal of your prevention initiatives should be to create a culture where bullying is not tolerated, and, if it does occur, is recognised and acted upon. Therefore, the first step to preventing bullying is to secure the commitment and involvement of your organisation.

Health conditions in the workplace can lead to reduced performance on the job. Some cases of illness may be undiagnosed and, in other cases, people may try to hide or fail to acknowledge their conditions especially if they have mental health problems. This means that emerging mental health conditions may be demonstrated as reduced productivity at work and be seen as a performance issue by managers. Line managers need to be aware of this and feel equipped and confident about approaching sensitive or difficult areas of conversation to manage sickness, absence or performance issues. 'With a natural recovery rate of only 20% for depression and 5% for anxiety disorders the majority of people need support to achieve recovery from common mental health problems and to keep them in work'¹⁴. Support may mean adjusting or adapting working practices, patterns or job roles where appropriate to do so¹⁵.

6.2 SENIOR MANAGEMENT COMMITMENT

Promoting a positive work culture based on respect requires commitment from the top. Employers should make clear the expected standards of behaviour and demonstrate a strong and consistent commitment to them throughout the organisation.

Integrating a values-based culture with broader people management strategies and aligning them with business planning and expected outcomes helps to reinforce that commitment¹⁶.

Senior management can demonstrate commitment by:

- > actively endorsing a bullying policy
- > making it clear that bullying in the workplace will not be tolerated
- > ensuring that complaints of bullying are taken seriously and properly investigated
- > management is committed to a bullying-free environment
- > modelling positive behaviours of respect and courtesy
- > promoting the APS Values and Code of Conduct or industry or organisation code of conduct
- > consulting with staff at all levels.

6.3 DEVELOPING A BULLYING POLICY AND RELATED PROCEDURES

You should ensure your organisation has an up-to-date policy on bullying, which clearly addresses the issue and is developed and reviewed in consultation with employees. The contents of the policy must be made known to all staff, applied consistently and reviewed regularly.

As part of the policy package, clear reporting, investigation and resolution procedures are essential to the good management of bullying incidents. Reports which are ignored or mishandled decrease the likelihood that reports will be made in the future. Ignoring or mishandling a report may also send a signal to the bully that their behaviour is condoned. You should ensure procedures are in place and available to all staff. Each organisation should have clear complaint handling procedures in place for reporting and handling bullying complaints or grievances¹⁷. Refer to Comcare's *Bullying Policy Checklist for Employers* for further information on developing a bullying policy.

14 Clark D, Knapp M, Layard R and Mayraz G May 2006, 'Implementing the NICE guidelines for depression and anxiety: A cost benefit analysis', in Dame Carol Black, 2008, *Working for a healthier tomorrow: Review of the health of Britain's working age population*, page 76.

15 Dame Carol Black, 2008, *Working for a healthier tomorrow: Review of the health of Britain's working age population*.

16 Australian Public Service Commission, 2009, *Respect: Promoting a culture free from harassment and bullying in the APS*.

17 For more information on internal complaint procedures see www.humanrights.gov.au/info_for_employers and the *Better practice guide to complaint handling* – Commonwealth Ombudsman.

The written policy is only part of the framework. You need to follow through with action and regular reinforcement. Your organisation can also support managers and staff to promote a positive workplace culture by:

- > providing high quality learning and development programmes on leadership and people management, which include practical tips for encouraging a culture of mutual respect
- > establishing clear statements and guidelines on appropriate workplace conduct
- > involving employees in the processes that promote a positive workplace culture
- > giving employees the opportunity to participate in workplace surveys, consultations, team meetings and focus groups¹⁸.

6.4 COMMUNICATION AND CONSULTATION

One of the primary objectives of the OHS Act is 'to foster a co-operative consultative relationship between employers and employees on the health, safety and welfare of such employees at work'¹⁹. It is important that you consult with employees and encourage staff participation at all levels to develop prevention initiatives. Consultation encourages an open, involved and committed approach to all OHS issues. Consultation with employees will help you identify the extent of bullying in the workplace, including the local concerns of staff, and determine the most useful prevention measures.

Practical methods of consultation include:

- > using existing OHS consultation mechanisms, such as Health and Safety Committee meetings, discussion with Health and Safety Representatives (HSRs); or via mechanisms outlined in the Health and Safety Management Arrangements (HSMAs)
- > direct discussion with staff
- > setting up structured focus groups

- > involving staff in the risk management process
- > inviting comment on policies and proposed procedures.

6.5 INFORM, INSTRUCT AND TRAIN

You need to use a mix of information, instruction and training to promote and develop a positive work culture and reduce the risk of bullying in your workplace. As bullying has been linked to situations of role conflict and uncertainty it is important that employees understand their role and have the appropriate skills to do their job.

Employees who supervise others should receive training in supervisory skills to ensure their ongoing understanding of their role and to maintain currency with best practice. Employees should receive training to develop these skills before commencing their role, particularly where their skills appear to be lacking. These skills should be reinforced through annual refresher training.

Employees performing the role of harassment contact officers will need specific training to assist them in carrying out these tasks. This also applies to those employees with a role in handling bullying reports. You may want to ensure that all staff in your organisation receive training in recognising what bullying is and is not. Information about workplace bullying should be provided to all employees. This includes:

- > how to comply with related policies and procedures
- > measures used to prevent bullying
- > how your organisation deals with bullying behaviour
- > how to access support or advice.

Refer to www.comcare.gov.au for a case study and examples that explore how other organisations have responded to and addressed bullying incidents in the workplace.

¹⁸ Australian Public Service Commission, 2009, *Respect: Promoting a culture free from harassment and bullying in the APS*.

¹⁹ Section 3(e) of the OHS Act.

7 RISK MANAGEMENT PROCESSES

Under section 16(2)(a)(i) of the OHS Act employers are required to provide an environment 'that is safe for the employer's employees and without risk to their health'. In addition, section 1 of the Occupational Health and Safety (Safety Standard) Regulations 1994 and Part 1 of the Occupational Health and Safety Code 2008 provide practical guidance for employers to assist them to identify hazards, assess the risk and implement risk control measures in the workplace.

To ensure you meet your duty of care, you should apply a systematic risk management approach that is regular and ongoing. You can adapt existing risk management methodologies used in OHS to fit the nature of psychosocial hazards.

Risk management is important as it may identify particular problem areas in your organisation, focus on potential effects of changes and ensure new issues are noticed. For monitoring and evaluation purposes, this information can be useful to feed back into reviews of your organisation's policies and procedures.

For further information on practical considerations for applying the risk management process to bullying refer to the *Bullying Risk Management Tool* and the *Bullying Risk Factor Checklist* available at www.comcare.gov.au.



