



**ACT WorkCover**

**Preventing  
Workplace Bullying**

**A guide for employers and employees**

**July 2004**



## Preface

Bullying behaviour can adversely affect the health and safety of workers and should not be tolerated in any form. Apart from the physical and psychological effects on individuals and their families, bullying is also damaging to organisations.

The financial cost of workplace bullying to business in Australia is estimated to be between \$6 billion and \$13 billion a year. This includes indirect costs, such as absenteeism, labour turnover, loss of productivity and legal costs. According to research from Queensland's Griffith University, 3.5 per cent of the working population is bullied, and the average cost of serious bullying is \$20,000 per employee.

This guide provides practical information to help employers and employees deal with bullying in the workplace. Due to the sensitivity of many bullying incidents, this guide strongly recommends resolving issues quickly, in a confidential manner and as informally as possible to minimise conflict and stress for the individuals involved.

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## Definitions

### What is workplace bullying?

Bullying is a form of harassment. Bullying behaviour is based on the misuse of power in human relationships. From an occupational health and safety perspective, workplace bullying is defined as: *repeated, unreasonable behaviour directed towards a person or group of persons at a workplace, which creates a risk to health and safety.*

**“Unreasonable behaviour”** is behaviour that is offensive, humiliating, intimidating, degrading or threatening. It includes, but is not limited to:

- Verbal abuse
- Initiation pranks
- Excluding or isolating employees
- Giving a person the majority of an unpleasant or meaningless task
- Humiliation through sarcasm, or belittling someone’s opinions
- Constant criticism or insults
- Spreading misinformation or malicious rumours
- Setting impossible deadlines
- Deliberately changing work rosters to inconvenience certain employees
- Deliberately withholding information or resources, that are vital for effective work performance
- Manipulating the impression of others to split the work group into taking sides
- Displaying written or pictorial material which may degrade or offend certain employees

**“Repeated behaviour”** refers to the nature of the behaviour, not the specific form of the behaviour. Therefore, repeated unreasonable behaviour may be a pattern of diverse incidents, often escalating over time, eg. verbal abuse on one occasion, personal property intentionally damaged on another occasion, and subsequently being unreasonably threatened with the sack.

**“Occupational violence”** is defined as any incident where a person is physically attacked or threatened in the workplace. If bullying involves assault or threat of assault, criminal laws may apply and it may therefore become a police matter.

### What is not bullying?

#### Performance feedback

It is important to differentiate between a person’s legitimate authority at work, and harassment or bullying. All employers have a legal right to direct and control how work is done, and managers have a responsibility to monitor workflow and give feedback on performance.

Feedback or counselling on work performance or behaviour differs from bullying in that feedback or counselling is intended to assist staff improve work performance and/or the standard of their behaviour. If an employee has performance problems, these should be identified and dealt with in a constructive way that is not humiliating or threatening.

Disciplinary/grievance processes outlined in relevant enterprise bargaining agreements, industrial awards or other arrangements should be followed.

## Single incidents

Although a single incident of workplace harassment is not considered to be bullying behaviour, it can be distressing for the individual and can still cause injury. Employers should treat single incidents of harassment as warning signs and take preventative action.

Depending on the circumstances, a single incident of harassment may be an offence under the *Discrimination Act 1991*.

## Why is workplace bullying a problem?

Bullying should be recognised as a potential hazard in all workplaces, because it can occur in any workplace and under certain conditions most people are capable of bullying.

Bullying can be harmful to organisations as well as individuals, resulting in:

- High levels of absenteeism and staff turnover
- Breakdown of teams and work relationships
- Poor public image in terms of becoming known as a difficult place to work
- Reduced efficiency, productivity and profitability
- Increased costs associated with counselling, mediation and compensation claims, recruitment and re-training of new staff
- Potential litigation

Each individual will react differently to bullying behaviour, and the effects may include:

- High levels of distress
- Anxiety, panic attacks and depression
- Ill health, insomnia
- Loss of self esteem and confidence, feelings of social isolation
- Reduced work performance, incapacity to work
- Deteriorating relationships with family and friends

Bullying behaviour can be difficult to identify, and it may exist even if there are no reported incidents. There are a number of reasons why employees may not have raised concerns, including:

- Fear of retribution from the perpetrator
- Feeling too intimidated or embarrassed to complain
- Lack of confidence that anything will change if they report a problem
- Feeling powerless due to their position in the organisation
- Thinking it may affect their future prospects
- Accepting workplace bullying as a normal part of the work culture.

**It is easier to prevent bullying than it is to intervene after an event or mediate during an established pattern of bullying.**

## Roles and responsibilities

### Duty of Care

Under the *Occupational Health and Safety Act 1989*, employers and employees have key duties in relation to both bullying and occupational violence.

Employers must take all reasonably practicable steps to protect their employees' health, safety and welfare. Workplace bullying and occupational violence create an unsafe working environment and a risk to employees' health. Therefore, employers' obligations extend to eliminating or reducing the risk of bullying and violence in their workplaces.

Employees have a duty to ensure that they do not create or increase risk to another person. They must cooperate with the employer in adopting measures that prohibit bullying or violence.

Workplace bullying can occur between:

- Two or more employees
- Manager(s) and employees(s)
- Employees and other persons at the workplace (apprentices, students, clients).

There are bound to be occasional differences of opinion, conflicts and problems in the workplace – these are part of working life. But when the treatment of another person is unreasonable, offensive or harmful, then workplace bullying exists and should not be tolerated.

### Resolving occupational health and safety issues

The *Occupational Health and Safety Act 1989* requires employers to consult with employees to resolve health and safety issues. This can be achieved through health and safety representatives and committees at the workplace.

#### Health and Safety Representatives

The functions of an elected health and safety representative include liaising with employees on health and safety issues, and reporting to the employer any hazards or risks to which the employees may be exposed.

If workplace bullying is identified, the employer must provide the health and safety representative with any relevant information that the employer has. Consideration should be given to the extent to which health and safety representatives should be involved in resolving the issue, and the rights of both parties to confidentiality pending investigation.

#### ACT WorkCover's role

If an issue remains unresolved and there is a risk of injury or harm to someone, WorkCover inspectors may be called upon to investigate. In the case of workplace bullying, an inspector's role is not to mediate or provide counselling, but to ensure that the employer and employees meet their obligations under the Act.

## **Workplace bullying and discrimination laws**

Under the ACT *Discrimination Act 1991*, employers must take steps to ensure the workplace is free from sexual harassment, racial vilification, discrimination and victimisation.

Employees have a right to complain to the ACT Human Rights Office if they experience sexual harassment, racial vilification, discrimination or victimisation.

It may take only *one* incident for discrimination laws to be broken.

### **Sexual harassment and racial vilification**

The Discrimination Act makes sexual harassment and racial vilification unlawful in the workplace.

Sexual harassment is any behaviour in the workplace which is sexual in nature and causes another person to feel offended, humiliated or intimidated. It can include asking for sex, touching and pinching, sexual screen savers on computers, comments about a person's appearance or e-mail jokes which are sexual in nature.

Racial vilification happens when a person stirs up hatred of a person or group of people because of their race.

### **Discrimination**

Harassment, bullying or unfair treatment based on any of the attributes covered by the Discrimination Act is also against the law. The attributes that are covered are:

- Aid of an assistance animal
- Age
- Breastfeeding
- Impairment or disability
- Relationship status
- Membership or non-membership of an association or organisation of employers/employees
- Political conviction
- Pregnancy
- Profession, trade, occupation or calling
- Race
- Religious conviction
- Sex
- Sexuality
- Spent conviction
- Status as a parent or carer
- Transsexuality
- Association with a person who has an attribute listed here (eg. parents of a disabled child)

This means that it is unlawful to pick on a person in the workplace because of, for example, their age or religious conviction.

### **Victimisation**

The Discrimination law also protects people from victimisation if they have complained of sexual harassment, racial vilification or discrimination in the workplace.

## What should employers do?

The first step is to establish whether bullying exists in the workplace or whether there is the potential for it to occur. Common warning signs are:

- Sudden increase in absenteeism
- Unexplained requests for transfers
- Behavioural changes such as depression
- Sudden deterioration in work performance

Identify whether there are any factors that could increase the risk of bullying behaviour:

- **Significant organisational change** – major internal restructuring or technological change may inadvertently create an environment that increases the risk of bullying.
- **Workforce characteristics** – some employees may be at greater risk, such as new workers and those that represent a minority in the workplace due to age, gender, religion, race, etc.
- **Workplace relationships** – poor workplace relationships and inadequate communication can contribute to bullying behaviour, eg. workplaces that tolerate teasing and practical jokes.
- **Work systems** – staff shortages, poorly defined jobs, lack of policies and procedures, lack of training and supervision.
- **People management practices** – managers who have not had leadership training, poor interpersonal skills, a “command and control” management style.

The following methods can be used to collect information about potential bullying behaviour:

- Monitoring patterns of sick leave and workers compensation data
- Feedback from: worker attitude surveys, exit interviews, managers and supervisors, union representatives, employee assistance providers
- Consulting with health and safety representatives and committees
- Setting up a system to encourage reporting of incidents (eg, suggestion boxes to enable staff to raise concerns anonymously)

### Anti-bullying strategy

Develop and implement a plan to reduce the risk of workplace bullying, which should include the following steps:

1. **Develop a culture of support** for employees by:
  - Improving the quality of performance feedback, including informal development-oriented feedback as well as corrective feedback
  - Improving the availability of flexible working arrangements, and ensuring fair and reasonable treatment of staff
  - Communicating openly at all levels, fostering a more engaging work environment through involvement of staff in decision making processes that impact on their work

- Increasing accountability of management by setting targets/goals and ensuring effective reporting structures.
2. **Write a policy** or code of conduct, in consultation with employees (for guidance refer to *Appendix 1*).
  3. **Provide training** on the organisation's policies and procedures, and ensure that supervisors and managers have the skills to recognise and deal with inappropriate behaviour. Create awareness about what bullying is, the warning signals and effects, why it is not tolerated and include this information during induction of new employees.
  4. **Develop complaint handling and investigation procedures** and treat all complaints seriously.
  5. **Appoint a contact person** for informal enquiries, concerns or complaints, so that actions can be taken early in the process to avoid unacceptable behaviour escalating into workplace bullying. The contact person can be a trained person within the organisation or an employee assistance provider, whose role is to deal with various employee issues and who may be able to provide advice or mediate in bullying cases.
  6. **Monitor the effectiveness** of any action taken in response to bullying behaviour.

## Complaint resolution

Develop procedures for handling complaints about workplace bullying and make all workers aware of them. These may be incorporated into existing grievance procedures, and should:

- Be written in plain English, and if necessary, other languages
- Be fair and equitable
- Ensure the principles of natural justice are upheld and the alleged bully has an opportunity to respond to allegations
- Ensure privacy and confidentiality
- Aim to resolve complaints quickly

The procedures should not require complaints to be in writing before action is taken – this may discourage an employee from raising an issue. In most cases the best method to resolve complaints is through an informal process. Depending on the situation, the worker allegedly being bullied may choose to:

- Seek advice, support and assistance from the contact person
- Directly approach the person responsible for the inappropriate behaviour to discuss the matter. They may approach the person in the presence of someone they trust (eg. health and safety representative, supervisor, friend or union representative).
- Request a supervisor or other senior employee to speak to the alleged bully on their behalf. Anyone requested to act on behalf of the affected person should adopt a confidential, non-confrontational approach with a view to resolving the issue.
- Seek the assistance of an independent third party to mediate or facilitate face-to-face discussions. The agreement of all parties to participate in this discussion is important.

Informal options are designed to provide an avenue for resolution before the parties become entrenched in positions of bully or victim. In an informal resolution:

- Focus is placed on bullying behaviour rather than on personalities or individuals involved in the bullying

- Both parties are encouraged to take responsibility for their own behaviour and discuss resolutions
- A non-blaming approach is used and no disciplinary action needs to arise as a result.

More formal procedures may be necessary if the informal procedures are unsuccessful or if allegations are so serious that other approaches are inappropriate. The procedure for lodging written complaints should include when and how to lodge the complaint.

## Investigation procedures

After becoming aware of a bullying incident, a **prompt investigation** should be conducted to find out what happened and who was involved. Investigation procedures should address:

- Who will conduct the investigation – the person must be appropriately skilled and impartial – you may consider using an external professional for this role
- How the complaint will be investigated, eg through interviews with the complainant, the alleged bully, witnesses
- The rights of the involved parties to representation
- The timetable for dealing with the complaint
- Confidentiality – everyone involved is responsible for treating information in strict confidence to prevent the matter escalating and avoid potential defamation in case the matter is not proven.

It may be necessary to provide affected employees with alternative working arrangements to avoid further conflict while the bullying complaint is being investigated. The complainant may also require counselling to develop coping strategies for dealing with the bullying behaviour while the problem is being resolved.

Keep the affected parties informed and document all investigation actions and outcomes.

As soon as the investigation is complete, both parties should be informed separately of the outcome and the reasons for the conclusions. If a complaint is substantiated, disciplinary action for the bully may include:

- A written apology and a commitment to ceasing the behaviour
- A formal warning
- Counselling
- Transfer to another work area
- Suspension from the workplace
- Dismissal as a last resort (be aware of industrial relations laws)

If the complaint is not substantiated, both parties will require support to return to a normal working relationship. This may include ongoing counselling, changing working arrangements and addressing organisational issues raised by the incident.

Where the complaint has become “common knowledge” within the workplace, consent of both parties should be sought to inform staff in general terms of the outcome and to gain assistance from everyone in the workplace to return to productive working relationships.

Mechanisms should be established for appealing against a decision – internally and externally. For example, where the dispute is between a worker and their employer, a person may lodge a notice of dispute with the Industrial Relations Commission.

In cases where bullying is widespread, the employer should implement measures to effect cultural change in the workplace towards zero tolerance of workplace bullying:

- Brief all staff on their legal responsibilities and reinforce anti-bullying policies and procedures
- Regularly monitor the behaviour of staff

## What should employees do?

Understand your own behaviour and the impact it may have on others. Promote and model professional standards of conduct at all times. Contribute to health and safety in your workplace by referring bullying behaviour and incidents to the nominated contact person or manager.

If you are being bullied, you can take action informally or follow more formal procedures.

### Keep a record

Bullying can sometimes be difficult to define and to prove. It is therefore important to keep a diary of incidents, accurately recording:

- When and where it occurred, what was said or done, how it made you feel, who was involved, potential witnesses
- The names and addresses of people willing to support your claims

This diary can be used at a later date to illustrate a pattern of events that will help prove your case and may be seen as valid evidence in a tribunal or court of law.

You should also obtain regular health assessments from your doctor so that your health can be monitored and recorded.

### Check for a workplace bullying policy

Find out whether your employer has a policy and complaint procedure for workplace bullying. Information on workplace bullying may be:

- Included in induction programs, awareness session, in-house newsletters
- Displayed on noticeboards
- Discussed at staff meetings and team briefings

There may also be grievance procedures in your industrial award or employment agreement.

### Seek advice

Seek advice and support from the nominated contact person, or from your health and safety representative, human resources officer or union official. You should not make allegations about bullying behaviour or harassment to people who are not involved in the handling of complaints in your workplace.

### Counselling and personal development

Some workplaces offer counselling services through employee assistance programs. Counselling and personal development courses may help you deal with bullying behaviour and the effects of bullying, in terms of:

- Improving communication skills
- Conflict resolution
- Stress management
- Self-confidence and self-esteem

## **Dealing with bullying behaviour informally**

When you first see or experience harassment, ask the bully to stop the behaviour. Informing a person directly that their behaviour is unacceptable, hurtful or offensive provides an opportunity for the behaviour to change or stop immediately.

If you choose to deal with a situation personally:

- Do not retaliate and do not try to get even. Discuss your intended approach with a contact officer first. Consider what will be said to the bully. Focus on the unwanted behaviour, rather than on the person.
- Make a note containing the facts about the approach, the outcome and any follow-up.

If you do not feel comfortable approaching the bully yourself, ask someone else, such as a contact officer or supervisor, to approach the bully on your behalf; or to mediate or facilitate face-to-face discussions to find an acceptable resolution.

## **Using formal complaint procedures**

You may wish to lodge a formal written complaint if informal approaches are unsuccessful, or the allegations are so serious that other approaches are inappropriate.

Your employer should carry out an investigation into the allegations of bullying. Where the complaint of workplace bullying is justified, there may be disciplinary action or counselling for the bully to enable them to recognise and change their behaviour. The employer is also required to make changes in the workplace to ensure that any breaches of occupational health and safety or discrimination legislation are rectified.

## **Other legal considerations**

If a matter cannot be dealt with through organisational processes, then external legal options may be considered:

- Where bullying has become a workplace health and safety issue, it can be referred to ACT WorkCover to be addressed under the *Occupational Health and Safety Act 1989*.
- Where bullying involves acts such as sexual harassment or discrimination, a complaint may be lodged with the ACT Human Rights Office under the *Discrimination Act 1991*.
- Where bullying involves assault or threat of assault it may be a criminal matter that should be referred to the police.
- If you are dismissed as a result of making a complaint, or feel that you had to resign because of the complaint, you may be entitled to lodge a claim under the Unfair Dismissal provisions of the *Workplace Relations Act 1996*.

## Guide to developing an anti-bullying policy

An anti-bullying policy should outline an organisation's expectations of workplace behaviour and give everyone confidence that reports of bullying will be taken seriously. A policy can be brief or more detailed, depending on the organisation's needs and size. It should include the following:

- ✓ The organisation's commitment to providing employees with a safe and healthy work environment free from workplace bullying or harassment.
- ✓ A statement that all employees are entitled to be treated with dignity and respect by their colleagues, superiors and clients, and therefore bullying is inappropriate and will not be tolerated.
- ✓ A definition of bullying with examples of bullying behaviour.
- ✓ A statement that bullying causes risk to the health and safety of employees.
- ✓ A commitment that bullying allegations will be treated seriously and investigated promptly, confidentially and impartially.
- ✓ A statement that supervisors and managers are responsible for making sure bullying does not occur in their work areas.
- ✓ Encourage workers who experience or witness bullying behaviour to report it and that reporting is a legitimate and positive contribution to workplace well-being, thus ensuring that employees who make complaints are not victimised.
- ✓ Outline the types of disciplinary action that will be taken against a person who:
  - bullies or harasses a worker,
  - victimises someone who has made a complaint,
  - makes malicious, frivolous or vexatious complaints.
- ✓ If a Contact Officer has been appointed, list their name and contact details.

To demonstrate high level commitment to preventing bullying, the policy should be signed by the chief executive or equivalent in the organisation.

The policy should be displayed in the workplace and should be supported with procedures that allow the policy to be implemented, such as complaint handling, investigation and issue resolution procedures.

Where possible workplace bullying should also be addressed elsewhere in the organisation, such as the strategic plan, job selection criteria, induction, performance management, EEO policy, OHS policy and industrial agreements.

Two examples of anti-bullying policies follow, the first also covers violence.

**Example 1: The owner of a small vehicle repair workshop with six employees develops the following policy in consultation with employees.**

This is a bullying and violence free workplace. Bullying is unreasonable behaviour directed towards an employee or group of employees that creates a risk to health and safety. It includes behaviour such as: screaming at someone, initiation practices, interfering with repair work processing and belittling someone's opinions.

Bullying is not an acceptable part of this firm's work culture, it should be reported as soon as possible. Violence between workers is not tolerated under any circumstances. Supervisors are responsible for ensuring that no person in their work group is bullied, threatened or physically hurt by other employees.

Signed: ..... Date:.....

**Example 2: A large manufacturing company with 400 employees and a number of work sites develops the following policy in consultation with employees.**

\_\_\_\_\_ is committed to providing our employees with a healthy and safe work environment that is free from bullying.

Bullying is repeated unreasonable behaviour directed toward an employee, or group of employees, that creates a risk to health and safety. Examples of bullying include:

- verbal abuse and yelling
- humiliating someone through sarcasm, criticism, or insults
- constant criticism
- exclusion of a person from workplace activities
- giving someone the majority of unpleasant tasks

\_\_\_\_\_ *expects all employees to behave in a professional manner and to treat each other with dignity and respect when they are at work.*

We encourage all employees who experience bullying to report it.

Any reports of bullying will be treated seriously and investigated promptly, confidentially and impartially. The reporting and investigation procedures for dealing with bullying are set out in the personnel manual, as are disciplinary and appeals procedures.

Managers and supervisors have responsibility to ensure employees are not bullied.

The Contact Officer in your area is .....

Signed: ..... Date:.....

## Contacts for further information

### **Commonwealth Department of Employment and Workplace Relations**

GPO Box 9879  
Canberra ACT 2601  
Tel (02) 6121 6000  
Website: [www.dewr.gov.au](http://www.dewr.gov.au)

### **ACT WorkCover**

PO Box 224,  
Civic Square ACT 2608  
Tel (02) 6205 0200  
Website: [www.workcover.act.gov.au](http://www.workcover.act.gov.au)  
E-mail: [workcover@act.gov.au](mailto:workcover@act.gov.au)

### **Award Enquiry Service**

Federal award enquiries contact  
Wage Line on 1300 363 264  
Website: [www.wagenet.gov.au](http://www.wagenet.gov.au)

### **Industrial Relations Commission**

#### **ACT Registry**

PO Box 539  
Canberra City ACT 2601  
Tel (02) 6209 2400  
Website: [www.airc.gov.au](http://www.airc.gov.au)

### **ACT Human Rights Office**

GPO Box 158  
Canberra City, ACT 2601  
Tel. (02) 6207 0576  
Website: [www.hro.act.gov.au](http://www.hro.act.gov.au)  
E-mail: [human.rights@act.gov.au](mailto:human.rights@act.gov.au)

### **Human Rights and Equal Opportunity Commission**

GPO Box 5218  
Sydney NSW 2001  
Tel (02) 9284 9600 or 1300 369 711  
Website: [www.hreoc.gov.au](http://www.hreoc.gov.au)

### **UnionsACT**

Tel (02) 6247 7844  
PO Box 279  
Dickson ACT 2062  
Website: [www.unionsact.org.au](http://www.unionsact.org.au)

### **Australian Council of Trade Unions**

393 Swanston Street  
Melbourne VIC 3000  
1300 362 223 (local call cost)  
Website: [www.actu.asn.au](http://www.actu.asn.au)

### **Canberra Business Council**

71 Constitution Avenue  
Campbell ACT 2612  
Tel (02) 6247 4199  
Website: [www.cbc.asn.au](http://www.cbc.asn.au)

### **ACT and Region Chamber of Commerce and Industry**

PO Box 192  
Deakin West ACT 2600  
Tel (02) 6283 5200  
Website: [www.actchamber.com.au](http://www.actchamber.com.au)