

Your guide to

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# Workplace bullying – prevention and response

October 2012

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# 1.

# Introduction

Workplace bullying can happen in any workplace. Under certain conditions, anyone can be capable of bullying behaviour. It can have an impact on an individual's health and affect their ability to do their job. It can also contribute to loss of productivity, staff turnover, absenteeism, low morale and financial costs.

This guide provides information on how employers can implement measures to eliminate or reduce workplace bullying, so far as is reasonably practicable. It also provides practical information for employers on what to do when an issue is raised. This information will help employers and employees comply with their duties under the Victorian *Occupational Health and Safety Act 2004* (OHS Act). It can also be used by health and safety representatives (HSRs).

The focus of this guide is preventing and responding to workplace bullying from an occupational health and safety (OHS) perspective. Workplace bullying can be covered by laws and agencies other than WorkSafe Victoria. Those agencies can also provide employers and employees with advice and assistance (see chapter 5).

Threats to harm someone, acts of violence, assault, property damage and stalking are criminal matters that should be referred to the police. Responses at the workplace should be appropriate to the seriousness of what has occurred.

This guide is not intended to cover dissatisfaction or grievances with organisational and management practices or poor management practices on their own, as they are not workplace bullying. At times people may feel that their working life is unpleasant and that they are being inappropriately treated, but feeling upset or undervalued at work does not mean an individual is being bullied at work.

# 2.

# Workplace bullying and OHS law

Workplace bullying is characterised by persistent and repeated negative behaviour directed at an employee that creates a risk to health and safety.

OHS law places duties on employers to eliminate, so far as is reasonably practicable, risks to the health and safety of their employees. If it is not reasonably practicable to eliminate risks to health and safety, then an employer must reduce those risks so far as is reasonably practicable.

OHS law places duties on employees to take reasonable care for the health and safety of persons who may be affected by their acts or omissions at a workplace and to cooperate with their employer's actions taken to comply with the OHS Act.

## Consultation

OHS law requires employers to consult with, so far as is reasonably practicable, employees who are, or who are likely to be, directly affected by a health and safety matter.

Health and safety matters requiring consultation include:

- identifying or assessing hazards or risks arising from activities of the business
- making decisions about the measures to be taken to control risks to health or safety in the workplace.

Consultation can assist employers implement prevention measures and raise awareness in the workforce.



## When can workplace bullying be an offence under OHS law?

Workplace bullying may amount to a breach of the OHS Act where:

- it has created a risk to an employee's (or another person's) health and safety, and the employer has failed to take all reasonably practicable steps to prevent and address it
- an employee has acted in a way that fails to take reasonable care for the health and safety of others at a workplace.

# 3.

# Prevention

Employers have a duty under the OHS Act to provide and maintain for its employees, so far as is reasonably practicable, a working environment that is safe and without risks to health. This includes providing and maintaining systems of work that are, so far as is reasonably practicable, safe and without risks to health.

Because there is a risk of workplace bullying wherever people work together employers should implement all of the measures outlined in this section to control the risk. When fully implemented in consultation with employees and HSRs (where they are in place), the measures in this section will help employers eliminate or reduce the risk of workplace bullying at their workplaces so far as is reasonably practicable.

## 3.1 Policies and procedures

Policies and procedures are a good starting point for preventing workplace bullying. Employers (in consultation with employees and HSRs) should develop and implement a workplace policy and a procedure for workplace bullying. Having an agreed procedure and a policy will assist an employer to take a consistent approach to resolving workplace bullying.

Employers can set and enforce clear standards of behaviour for their employees through workplace policies. A workplace policy sets the standards of behaviour at a workplace and makes a clear statement that bullying behaviour will not be tolerated. Workplace procedures set out how issues will be dealt with if they are reported or come to the attention of the employer (or their representative).

### Workplace policy

A workplace policy sets out the standard of behaviour that needs to be followed at work. It can be drafted in a positive way such as outlining how everyone should be treated at work or it can outline what people shouldn't do.

The workplace policy can be set in a number of areas such as through a stand-alone workplace bullying policy, an OHS policy, an anti-discrimination or equal opportunity policy, a code of conduct, or another policy on behaviour at work. Wherever the workplace policy on workplace bullying is placed, employees must be consulted in its development.



### What should be in a workplace policy?

- commitment to providing employees with a safe working environment
- the standard of behaviour that all employees are expected to comply with
- where relevant, a statement that the policy includes communication through SMS, email and social media
- what can happen if the policy is not complied with
- how and where to report issues
- where to get more information.

## Promote the workplace policy

The workplace policy should be communicated and promoted through notice boards, team meetings, the intranet and by management regularly discussing the policy with their team/s. The policy should also be reinforced through training (see chapter 3.2). For small businesses the workplace policy can be promoted by talking about it.

Policy checklist	
<input checked="" type="checkbox"/>	Policy developed in consultation with employees/HSRs (where they are in place)
<input checked="" type="checkbox"/>	Policy in place and communicated to all employees
<input checked="" type="checkbox"/>	Policy is included in induction for new employees
<input checked="" type="checkbox"/>	Policy is implemented business-wide
<input checked="" type="checkbox"/>	Policy is discussed at team meetings
<input checked="" type="checkbox"/>	Policy has a review date

## Encourage reporting

Employees will be more likely to report workplace bullying if they have confidence in the workplace procedure and know it will be used when necessary.

Encouraging reporting assists employers to:

- take action to address the issues as early as possible
- assess whether workplace bullying prevention measures are working
- provide prompt assistance and support to employees.

Reporting can be encouraged by:

- consistent and effective responses to issues
- supervisors and managers acting appropriately on issues when they become aware of them
- regularly providing information (eg quarterly) to the health and safety committee on numbers of reports made, how they were resolved and what actions were taken
- regularly providing information to employees on numbers of reports made, how they were resolved and what actions were taken.

## Workplace procedure

To assist employers with a consistent approach, WorkSafe Victoria recommends developing and implementing a set procedure for responding to workplace bullying.

A workplace procedure should suit the size and structure of a business and be developed in consultation with employees and HSRs. Workplace procedures should outline how issues will be dealt with (see chapter 4).

Workplace procedure checklist	
<input checked="" type="checkbox"/>	Procedure developed in consultation with employees/HSRs (where they are in place)
<input checked="" type="checkbox"/>	Procedure in place and communicated to all employees
<input checked="" type="checkbox"/>	Employees know how and where to report workplace bullying
<input checked="" type="checkbox"/>	Procedure is included in induction for new employees
<input checked="" type="checkbox"/>	Procedure has a review date

## 3.2 Information, instruction, training and supervision

Employers must also provide such information, instruction, training and supervision to employees, as is necessary, to enable them to work in a way that is safe and without risks to health. Employers should ensure employees understand their role and have the appropriate skills to do their job. This includes making sure that employees who supervise others have appropriate skills and, if necessary, giving them training to get the skills before starting supervisory duties.

### Induction

Employers should ensure that information about workplace bullying, including any relevant policies and procedures, is included in new employee inductions. Inductions should cover the range of employees at the work-site (eg permanent employees, casuals, part-timers, shift workers, volunteers and labour hire workers).

## Workplace bullying prevention training

Employers should train employees in the policy and procedure that applies to workplace bullying. Information on how employees can manage an issue should also be included.

Topics to cover in training include:

- the workplace policy and how to comply with it
- the workplace procedure and how to report
- how to deal with workplace bullying
- technology and workplace bullying.

More specific training should be provided to the employees who have a role in the workplace procedure (eg investigators, employer representatives, line managers and supervisors). That training should provide participants with the skills they need to perform their role in the procedure and how and when to directly intervene in a situation.

Employers should ensure the person who is their representative in resolving OHS issues when they are raised, is also able to deal with workplace bullying.

## Supervision

Line managers and supervisors should know what to do if an issue is reported to them or they become aware of a problem in their work group. Supervisors should know how to recognise and act on workplace bullying and demonstrate positive behaviour. Supervisors should be provided with ongoing training on managing performance and providing feedback.

### Induction, training and supervision checklist

<input checked="" type="checkbox"/>	All new employees receive induction on workplace bullying policy and procedure
<input checked="" type="checkbox"/>	Supervisors and line managers have been trained in responding to reports
<input checked="" type="checkbox"/>	Supervisors monitor their workgroups for signs of workplace bullying
<input checked="" type="checkbox"/>	Supervisors are trained in managing employees performance
<input checked="" type="checkbox"/>	Supervisors are trained in providing feedback

## 3.3 Monitor and review

Monitoring can be done through regular scheduled discussion at management meetings, board meetings, staff meetings, and health and safety committee meetings. The aim of monitoring is to check that prevention measures are still working and implement new measures if needed.

It is not enough for an employer to just establish a safe system of work – they must also maintain the system and ensure it is complied with.

Monitoring workplace prevention measures can help an employer check their safe system of work is being maintained.

A review of the policy and procedures should be done regularly (eg every 12 months). While it can be done anytime, WorkSafe recommends employers have a planned approach that involves consulting employees and HSRs. Reviewing the workplace policy and/or procedure can help educate and engage employees.

Results of reviews and suggested improvements/recommendations should be reported to health and safety committees, HSRs, senior leadership and the board of management.

### Monitoring and review checklist

- |                                     |  |
|-------------------------------------|--|
| <input checked="" type="checkbox"/> | Clear standards of behaviour are set, communicated and enforced                                    |
| <input checked="" type="checkbox"/> | All employees (including supervisors and managers) know the standards of behaviour and follow them |
| <input checked="" type="checkbox"/> | New employees are inducted   |
| <input checked="" type="checkbox"/> | Training is provided   |
| <input checked="" type="checkbox"/> | Procedures for dealing with workplace bullying are in place  |
| <input checked="" type="checkbox"/> | Procedures allow for early intervention and formal investigation                                   |
| <input checked="" type="checkbox"/> | Supervisors know what to do if it is reported and know how to act on bullying behaviour            |

# 4.

# Response

Like other OHS risks, workplace bullying is best managed by dealing with it as soon as an employer is aware there is a problem. An employer's failure to prevent or address workplace bullying may contribute to a working environment that creates a risk to health and safety.

Act promptly – as soon as an employer is aware of behaviours that may be workplace bullying then they should take action.

Workplace bullying may be raised with an employer in a number of ways, including:

- a written or verbal report
- directly observing behaviour
- an HSR raising an issue for a member of their designated work groups (DWG) or the whole DWG
- a workers' compensation claim being made
- being told about an individual using an early intervention approach.

Effectively responding to issues when they are raised can stop the situation happening again and reinforce for employees that workplace bullying is dealt with seriously by their employer. Effective response involves selecting an approach to deal with the issue, either through early intervention or a formal investigation.

Early intervention usually suits situations where behaviour may have just occurred or has not escalated. Formal investigation should be used for serious allegations.

## 4.1 Early intervention

Early intervention is a way of solving an issue without a formal report, investigation or discipline being taken against an individual. Early intervention can be achieved through an individual self-managing a situation or seeking help from someone else to raise the issue. Generally, employers should encourage self-management as a first step to resolve an issue.

## **Self-managing an issue**

Self-management is an informal approach to address workplace bullying. It involves the individual who experiences the negative behaviour directly telling the other person that the behaviour is not welcome and it should not happen again. It should be done in a calm and professional way (eg telling the person about the impact of the behaviour and asking them not to do it again). If the behaviour continues or gets worse then a formal report should be made.

If an individual doesn't feel confident enough to manage a situation themselves, the issue can be raised through another person. This includes:

- a supervisor or manager
- the other employee's supervisor or manager
- an HSR
- human resources department.

Anyone asked to act on behalf of an individual should use a confidential and non-confrontational approach when discussing the issue.

## **Supervisors, line managers and early intervention**

Supervisors and line managers should intervene in issues they directly observe in their workgroups or if they are requested to intervene by a member of their team. If a supervisor or manager approaches an individual directly about their behaviour they should record the action/s taken. Supervisors should know how and when it is appropriate to escalate an issue.

## **HSRs and early intervention**

HSRs can raise issues on behalf of their DWG. They can also give advice to members of their DWG on how to approach an issue.

## **4.2 When and how to investigate**

The aim of investigation is to work out what happened and what the appropriate course of action is. Where a serious allegation has been made, an investigation should be the first step taken. An investigation should be used:

- for reports that cover a long period of time
- for reports that include threats
- for reports against a number of employees
- when an early intervention approach has not addressed the issue.

## How to investigate

Appoint an impartial and experienced person (someone neutral to all parties involved who has no conflicts of interest) to investigate. That person should:

- **set the scope** of the investigation by determining what allegations will be tested
- **set the process** (who will be interviewed, when, and how long it should take etc).

Use an experienced external investigator to undertake the investigation when:

- there is no suitably skilled person available at the workplace
- a suitably skilled person has a conflict of interest.

The person conducting the investigation should:

- treat all matters being investigated seriously and confidentially
- examine matters impartially and in a timely way
- allow for appropriate time
- identify and speak to relevant witnesses
- inform everyone involved of the possible investigation results and outcomes
- assess reports on their merits and facts
- hear parties separately (versions of what allegedly happened may differ)
- record the facts surrounding the matter.

To ensure the investigation process is conducted in a fair, objective and timely way, it is important to ensure the respondent:

- is fully informed of all allegations against them
- is fully informed about the investigation process and possible outcomes (eg disciplinary action)
- has an opportunity to seek independent advice and representation
- is given full opportunity to reply to the complaint/s
- has their confidentiality maintained
- is informed how they can seek a review of a decision.

At the end of an investigation, the person investigating should submit an objective report that:

- describes the allegations/what was reported
- describes the investigation processes
- outlines all relevant evidence (including who was interviewed)
- concludes whether workplace bullying can or cannot be substantiated

The report should be acted on and its key findings communicated in a sensitive way to the complainant and respondent.

## 4.3 After an investigation

Where an investigation has substantiated that workplace bullying occurred, recommendations should be made on the actions that will be taken to finalise the matter (eg actions to assist resolution, ways to improve response procedures in the future). In some circumstances, an investigation may find that a report of workplace bullying cannot be substantiated and no further action can be taken.

Communicate recommendations to relevant people (eg the complainant, the respondent and other relevant parties). Where appropriate, recommendations for improvements should also be communicated to HSRs (where in place), the OHS committee and employees.

The options used to resolve a substantiated complaint will vary according to the nature of the situation and on a case-by-case basis. Actions taken to resolve complaints are outlined below. Note: these actions can be combined, and taken at both the individual and organisational level.

Organisational level	Individual level
<ul style="list-style-type: none"><li>• run an awareness session</li><li>• run training sessions (eg communication skills, conflict management, interpersonal skills. This can be for one person, a workgroup or section or organisation-wide</li><li>• ongoing monitoring of the affected work group</li><li>• review the workplace policy with employees and managers or workgroups</li><li>• review the workplace prevention measures</li><li>• review workplace procedures and improve the process in consultation with employees.</li></ul>	<ul style="list-style-type: none"><li>• direct an employee to stop the behaviour</li><li>• invite an apology</li><li>• individual training</li><li>• provide mediation or other dispute resolution process</li><li>• coach, counsel and/or mentor an employee/s</li><li>• use disciplinary action.</li></ul>

# 5.

# Further information

## **Fair Work Ombudsman 131394**

**[fairwork.gov.au](http://fairwork.gov.au)**

The role of the Fair Work Ombudsman is to work with employees, employers, contractors and the community to promote harmonious, productive and cooperative workplaces. They investigate workplace complaints and enforce compliance with Australia's workplace laws.

## **Victorian Equal Opportunity and Human Rights Commission 1300 292 159**

**[humanrightscommission.vic.gov.au](http://humanrightscommission.vic.gov.au)**

Provide a range of training programs and resources for employers and employees on anti-discrimination law and good employment practices. Many of these include a focus on workplace bullying.

## **Victoria Police**

Matters involving allegations of assault, damage to property, sexual assault and stalking should be referred to the police.

## **Unions and industry associations**

Members of unions or industry associations can contact those organisations for advice and assistance in relation to workplace bullying.

## **WorkSafe Victoria 1800 136 089**

**[worksafe.vic.gov.au/bullying](http://worksafe.vic.gov.au/bullying)**

Can provide information about what to expect from WorkSafe.



## WorkSafe Victoria

### WorkSafe Agents

Agent contact details are all available at  
[worksafe.vic.gov.au/agents](http://worksafe.vic.gov.au/agents)

### Advisory Service

Phone.....(03) 9641 1444  
Toll-free..... 1800 136 089  
Email.....[info@worksafe.vic.gov.au](mailto:info@worksafe.vic.gov.au)

### Head Office

222 Exhibition Street, Melbourne 3000  
Phone.....(03) 9641 1555  
Toll-free..... 1800 136 089  
Website.....[worksafe.vic.gov.au](http://worksafe.vic.gov.au)

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