

Guide

Preventing and responding to workplace bullying

Disclaimer

This publication contains information regarding work health and safety. It includes some of your obligations under the *Work Health and Safety (National Uniform Legislation) Act* – the WHS Act – that NT WorkSafe administers. The information provided is a guide only and must be read in conjunction with the appropriate legislation to ensure you understand and comply with your legal obligations.

Acknowledgement

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Introduction

Workplace bullying is a risk to health and safety. It can occur wherever people work together in all types of workplaces. It is best dealt with by taking steps to prevent it from occurring and responding quickly if it does occur. The longer the bullying behaviour continues, the more difficult it is to address and the harder it becomes to repair working relationships.

This Guide provides information for persons conducting a business or undertaking (PCBU) on how to manage the risks of workplace bullying as part of meeting their duties under the *Work Health and Safety (National Uniform Legislation) Act* and the WHS Regulations. It includes advice on what workplace bullying is, how it can be prevented and how to respond to allegations that may arise.

Practical guidance for workers is available in the publication *Workers guide to dealing with workplace bullying*.

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.

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

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.

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.

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

What is not considered to be workplace bullying?

Reasonable management action taken in a reasonable way

The PCBU may take reasonable management action to direct and control the way work is carried out. 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 in an honest, fair and constructive way
- 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

Unreasonable behaviour may involve discrimination or sexual harassment which in isolation is not considered to be bullying.

Discrimination occurs when someone is treated less favourably than others because they have a particular characteristic or belong to a particular group of people. For example, it would be discriminatory not to hire or promote a woman because she is pregnant or may become pregnant.

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

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

The WHS Act includes specific protections against discriminatory conduct for people raising health and safety concerns or performing legitimate safety-related functions.

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.

How can workplace bullying occur?

Workplace bullying behaviour can be carried out in a variety of ways including through email, or text messaging, internet chat rooms, instant messaging or other social media channels.

Workplace bullying can be directed at a single worker or group of workers and be carried out by one or more workers. It can occur:

- sideways between workers
- downwards from managers to workers
- upwards from workers to supervisors or managers.

Workplace bullying can also be directed at or perpetrated by other people at the workplace such as clients, patients, students, customers and members of the public.

Impact of workplace bullying

Workplace bullying can be harmful to the person experiencing it and to those who witness it. The effects will vary depending on individual characteristics as well as the specific 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
- reduced work performance
- loss of self-esteem and feelings of isolation
- deteriorating relationships with colleagues, family and friends
- depression
- thoughts of suicide.

Workplace bullying can also have a negative impact on the work environment, damage the reputation of a business and can lead to:

- high staff turnover and associated recruitment and training costs
- low morale and motivation
- increased absenteeism
- lost productivity
- disruption to work when complex complaints are being investigated
- costly workers' compensation claims or legal action.

Who has duties in relation to workplace bullying?

Everyone at the workplace has a work health and safety duty and can help to ensure workplace bullying does not occur. 'Health' is defined in the WHS Act– as both physical and psychological health.

Table 1 Duties in relation to workplace bullying

Who	Duties
Person conducting a business or undertaking - PCBU (section 19)	<p>A person conducting a business or undertaking (PCBU) has the primary duty of care under the WHS Act to ensure, so far as is reasonably practicable, that workers and other people are not exposed to health and safety risks arising from the business or undertaking.</p> <p>This duty includes, so far as is reasonably practicable:</p> <ul style="list-style-type: none"> ■ providing and maintaining a work environment that is without risks to health and safety ■ providing and maintaining safe systems of work ■ monitoring the health and safety of workers and the conditions at the workplace to ensure that work related illnesses and injuries are prevented ■ providing appropriate information, instruction, training or supervision to workers and other people at the workplace to allow work to be carried out safely.
Officers (section 27)	<p>Officers, such as company directors, must exercise due diligence to ensure the business or undertaking complies with the WHS Act and Regulations. This includes taking reasonable steps to ensure the business or undertaking has and uses appropriate resources and processes to eliminate or minimise risks associated with workplace bullying.</p>
Workers (section 28)	<p>Workers including employees, contractors, subcontractors, labour hire employees, outworkers, apprentices or volunteers have a duty to:</p> <ul style="list-style-type: none"> ■ take reasonable care for their own health and safety ■ take reasonable care that their acts or omissions do not adversely affect the health and safety of other people ■ comply, so far as is reasonably practicable, with any reasonable instruction given by the PCBU, and ■ co-operate with any reasonable policies and procedures of the PCBU, for example a workplace bullying policy.
Others (section 29)	<p>Other people at a workplace, such as visitors and clients, have similar duties to that of a worker and must:</p> <ul style="list-style-type: none"> ■ take reasonable care for their own health and safety ■ take reasonable care that their acts or omissions do not adversely affect the health and safety of other people, and ■ comply, so far as is reasonably practicable, with any reasonable instruction given by the PCBU.

How can the risk of workplace bullying be managed?

Health and safety risks in a workplace must be eliminated so far as is reasonably practicable. If this is not possible, the risks must be minimised so far as is reasonably practicable. The risk of workplace bullying can be eliminated or minimised by taking a proactive approach that involves:

- early identification of unreasonable behaviour and situations likely to increase the risk of workplace bullying
- implementing control measures to manage the risks, and
- monitoring and reviewing the effectiveness of the control measures.

Consulting workers

Section 47: The PCBU must consult, so far as is reasonably practicable, with workers who carry out work for the business or undertaking who are (or are likely to be) directly affected by a work health and safety matter.

Section 48: If the workers are represented by a health and safety representative, the consultation must involve that representative.

Consultation involves sharing information, giving workers a reasonable opportunity to express their views and taking those views into account before making decisions on health and safety matters.

Consultation enables workers to have input in developing policies and procedures for workplace bullying that are best suited to the needs of the business or undertaking. Effective consultation can also help raise awareness of workplace bullying. Consultation with workers is required when:

- making decisions about measures to control the risks of workplace bullying, including policies and procedures for preventing and responding to workplace bullying
- making decisions about procedures for providing information and training on workplace bullying
- proposing changes that may affect the health and safety of workers.

Consultation can be conducted in various ways to suit the nature and size of the business.

Consulting, co-operating and co-ordinating activities with other duty holders

Section 46: If more than one person has a duty in relation to the same matter, each person with the duty must, so far as is reasonably practicable, consult, co-operate and co-ordinate activities with all other persons who have a work health or safety duty in relation to the same matter.

In some situations there may be a risk of a worker being bullied by a worker of another business.

For example, labour hire workers may be exposed to workplace bullying by workers in a host business and vice versa. Both the on-hire company and the host business have a duty of care to manage the risk of workplace bullying.

The businesses must consult and co-operate with each other on the standards of behaviour expected in the workplace including workplace bullying policies and procedures. They should develop an agreed approach for the reporting and investigation of potential workplace bullying incidents.

Further guidance on consultation is in the Code of Practice: *Work health and safety consultation, co-operation and co-ordination*.

Preventing workplace bullying

There is a risk of workplace bullying wherever people work together. There may not be obvious signs of bullying at the workplace but this does not mean it is not occurring.

Workplace bullying is best dealt with by taking steps to prevent it before it creates a risk to health and safety.

Identifying the potential for workplace bullying

Processes that may help identify workplace bullying or the potential for it to occur include:

- regular consultation with workers and where they exist health and safety representatives and health and safety committees, including discussions aimed at finding out if bullying is occurring or if there are factors likely to increase the risk of workplace bullying – for some businesses conducting an anonymous survey may be useful
- seeking feedback when workers leave the business
- seeking feedback from managers, supervisors or other internal and external parties
- monitoring incident reports, workers compensation claims, patterns of absenteeism, sick leave, staff turnover and records of grievances to establish regular patterns or sudden unexplained changes
- recognising changes in workplace relationships between workers, customers and managers.

Research indicates there are a number of factors which may increase the risk of workplace bullying occurring in the workplace, for example:

- **presence of work stressors** – high job demands, limited job control, organisational change, role conflict and ambiguity, job insecurity, an acceptance of unreasonable workplace behaviours or lack of behavioural standards, unreasonable expectations of clients or customers
- **leadership styles**
 - autocratic behaviour that is strict and directive and does not allow workers to be involved in decision making
 - behaviour where little or no guidance is provided to workers or responsibilities are inappropriately and informally delegated to subordinates
- **systems of work** – lack of resources, lack of training, poorly designed rostering, unreasonable performance measures or timeframes

- **work relationships** – poor communication, low levels of support or work group hostility
- **workforce characteristics** – groups of workers that are more at risk of being exposed to workplace bullying including:
 - casual workers
 - young workers
 - new workers
 - apprentices / trainees
 - injured workers and workers on return to work plans
 - piece workers
 - workers in a minority group because of ethnicity, religion, disability, gender or sexual preferences.

Controlling the risks

The risk of workplace bullying can be eliminated or minimised so far as is reasonably practicable by creating a positive work environment where everyone treats each other with respect. A combination of control measures aimed at both the organisational level and at individual behaviours should be considered.

Set the standard of workplace behaviour

A PCBU can set and enforce clear standards of behaviour through a code of conduct or a workplace policy that outlines what is and is not appropriate behaviour and what action will be taken to deal with unacceptable behaviour. It can apply to all behaviours that occur in connection with work, even if they occur outside normal working hours.

The advantage of this approach is that unreasonable behaviours can be addressed before they escalate into workplace bullying.

Implement a workplace bullying policy

A policy designed to prevent workplace bullying may be a stand-alone policy or incorporated into a broader code of conduct or work health and safety policy. Whatever form the policy takes; it must be developed in consultation with workers and should include:

- a statement that the organisation is committed to preventing workplace bullying as part of providing a safe and healthy work environment
- the standard of behaviour expected from workers and others in the workplace
- a statement, where relevant, that the policy includes communication through email, text messaging and social media
- how and where to report incidents of unreasonable behaviour
- the process for responding to reports
- the consequences for not complying with the policy
- the process for managing vexatious reports.

An example of a workplace bullying policy is on page 21, although it does not have to be a written document. Implementing a policy in a small business may simply involve the business owner advising workers and reminding them when necessary that bullying behaviour is not tolerated in the workplace, what to do if it does occur and what action will be taken.

To be effective, the policy should be easily accessible and consistently applied. It should be communicated and promoted through notice boards, the intranet, team meetings and by managers discussing the policy with their staff.

Design safe systems of work

- Clearly define jobs and seek regular feedback from workers about their role and responsibilities.
- Provide workers with the resources, information and training they need to carry out their tasks safely and effectively.
- Review and monitor workloads and staffing levels.
- Develop and maintain effective communication throughout workplace change including restructuring or downsizing.

Develop productive and respectful workplace relationships

- Promote positive leadership styles by providing training for managers and supervisors on:
 - communicating effectively and engaging workers in decision-making
 - providing constructive feedback both formally and informally
 - effectively managing workloads
 - people and performance management.
- Mentor and support new and poor performing managers and workers.
- Facilitate teamwork and co-operation.
- Ensure supervisors act in a timely manner on unreasonable behaviour they see or become aware of.

Good management practices and effective communication can help create a workplace environment that discourages bullying.

Dealing with external parties

Where there is a risk of workplace bullying by other people, for example clients, the following control measures may be considered:

- communicate the expected standard of behaviour through a code of conduct or in contracts and agreements
- empower workers to refuse or suspend service if other people fail to comply with the expected standard of behaviour
- provide support to workers who are exposed to unreasonable behaviour
- implement control measures to eliminate or minimise the risk of workplace violence.

Implement reporting and response procedures

If a worker considers they are being bullied they will be more likely to report it if they know there is a reporting process in place and that it will be followed as soon as a report is received.

Reporting can be encouraged by:

- making it clear that victimisation of those who make reports will not be tolerated
- ensuring consistent, effective and timely responses to reports
- being transparent about dealing with workplace bullying by regularly providing information on the number of reports made, how they were resolved and what actions were taken.

It is important for those who experience or witness workplace bullying to know who they can talk to in the business, that a report will be taken seriously and confidentiality will be maintained. Implementing effective response procedures will help respond to reports of bullying in a consistent and reasonable way. They should be used each time a report of bullying is made and be flexible enough to fit the different circumstances of each report. Procedures should be designed to suit the size and structure of the organisation.

A procedure should:

- be in plain English and if necessary available in other languages
- outline how issues will be dealt with when a report of workplace bullying is made or received including broad principles to ensure the process is objective, fair and transparent
- clearly state the roles of individuals such as managers and supervisors
- identify external avenues available to workers where allegations of workplace bullying have been unable to be resolved internally.

A procedure must be developed in consultation with workers and health and safety representatives (HSRs), if any.

Provide training and information

Workers including managers and supervisors should be aware of their roles in relation to preventing and responding to workplace bullying and have the appropriate skills to take action where necessary.

Training

Induction training for workers should include information on:

- the standards of behaviour expected in the workplace including the use of social media if relevant
- how workplace bullying should be reported and how such reports are managed
- where to go for more information and assistance.

Training for workers can be provided in various ways including through online courses, podcasts and face-to-face training. A training program should cover:

- awareness of the impact certain behaviours can have on others
- the work health and safety duties and responsibilities relating to workplace bullying
- measures used to prevent workplace bullying from occurring
- how individuals can respond to workplace bullying
- how to report workplace bullying
- how workplace bullying reports will be responded to including timeframes.

Managers and supervisors should also be trained in how to respond to workplace bullying reports and in skills that will help develop productive and respectful workplace relationships.

Training should be tailored to meet the needs of workers and suit the nature of the workplace and the workforce, for example levels of literacy.

Providing workers with information

Information about workplace bullying can be given to workers in a number of ways including:

- talking directly with workers by holding team meetings, tool box talks or speaking one-on-one with them at the beginning of the work day
- handing out company newsletters or pamphlets
- including information sheets in payslips
- displaying posters around the workplace
- through email messages or intranet announcements.

Monitoring and reviewing

Once control measures have been implemented they should be monitored and reviewed to ensure they are effective in managing the risk of workplace bullying. If the control measures do not work the situation should be analysed further to determine how to fix the problem.

A review must be carried out in consultation with workers and their health and safety representatives (if any). A review can be conducted at any time but it is recommended it is conducted:

- when workplace bullying has been substantiated
- at the request of a health and safety representative or a health and safety committee
- when new or additional information or research about workplace bullying becomes available
- according to a scheduled review date.

Information for a review can be obtained from the same sources used when identifying the potential for workplace bullying, for example:

- confidential surveys
- exit interviews
- records of sick leave.

Gathering evidence to answer the following questions may help in a review:

- Are supervisors and managers trained to recognise and deal with workplace bullying? Has the training been effective?
- Has awareness been raised amongst staff about workplace bullying?
- Do workers speak up about unreasonable behaviour?
- Has there been a change in workplace morale and behaviour over time?
- Are workplace bullying policies being consistently enforced?
- Are reports of workplace bullying being responded to quickly and effectively?

Results of reviews and suggested improvements should be reported to managers, board members and where applicable health and safety representatives and health and safety committees.

Responding to workplace bullying

Workplace bullying may be identified and reported by those subject to the behaviour or by witnesses. A person can raise or report workplace bullying verbally or in writing by:

- informing a supervisor, manager or business owner
- informing their health and safety representative or union representative
- using established reporting procedures.

A manager or supervisor may also identify a risk of workplace bullying through changes in the workplace, for example increased absences, changes in workers' performance or low staff morale.

How to respond to workplace bullying

Workplace bullying is best managed by responding as soon as possible after becoming aware there is a problem. Responses to workplace bullying will vary depending on the situation, the number of parties involved and the size and structure of the workplace.

Consider the following when responding to workplace bullying:

- **Is the behaviour bullying or not?**
The type of behaviour occurring may need to be determined to develop an appropriate response. For example, if the behaviour is discrimination or sexual harassment it will require a different response to workplace bullying.

- **Does the situation warrant measures to minimise the risk of ongoing harm?**
If necessary interim measures should be taken to minimise the risk to health or safety. This may involve temporarily reassigning tasks, separating the parties involved or granting leave.
- **Do I have a clear understanding of the issues?**
Seek additional information to ensure a clear understanding of the parties involved and the specific behaviour or behaviours thought to be unreasonable. This may be achieved by speaking to others who may have observed or participated in the behaviour.
- **Do I need additional information or assistance?**
People with specialist roles in the organisation or external specialists may be able to provide information, help identify the issues and develop potential responses to address the behaviour.
- **Can the matter be safely resolved between the parties or at a team level?**
In some situations it may be possible to use a no-blame conciliatory approach to help individuals reach an outcome that will ensure the unreasonable behaviour ceases. A proposed resolution should be discussed with the person who reported the behaviour to check they are comfortable with it.
- **Should the matter be progressed to an investigation?**
Depending on the severity or complexity, some matters may need to be investigated. Page 19 provides further guidance on the investigation process.

A person may choose to resolve issues by self-managing the situation. This usually involves telling the other person the unreasonable behaviour is not welcome and asking for it to stop. If an individual does not feel safe or confident with approaching the other person they can seek the assistance of a supervisor or manager, human resources officer, their health and safety representative or union representative.

Anyone asked to act on behalf of an individual should use a confidential and non-confrontational approach. Providing training to workers about workplace bullying may help workers understand how to deal with issues such as conflict, confidentiality and related issues.

The role of supervisors and line managers

Supervisors and line managers should intervene when they observe unreasonable behaviour in their work teams 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 actions taken. Supervisors should know how and when it is appropriate to escalate an issue.

The role of health and safety representatives

Health and safety representatives can raise issues on behalf of workers in their work group. They can also give advice to workers in their work group on how to approach an issue. The health and safety representative is not responsible for trying to resolve the matter.

Principles when responding to reports of workplace bullying

Effectively responding to issues when they are raised can stop the situation happening again and reinforce to workers that workplace bullying is treated seriously and consistently by the organisation. The following table sets out the principles that should be applied when handling reports of workplace bullying.

Table 2- Responding to workplace bullying

Response	Measures
Act promptly	Reports should be responded to quickly, reasonably and within established timelines. Relevant parties should be advised of how long it will likely take to respond to the report and should be kept informed of the progress to provide reassurance the report has not been forgotten or ignored.
Treat all matters seriously	All reports should be taken seriously and assessed on their merits and facts.
Maintain confidentiality	The confidentiality of all parties involved should be maintained. Details of the matter should only be known by those directly concerned.
Ensure procedural fairness	The person who is alleged to have perpetrated the bullying behaviour should be treated as innocent unless the allegations are proven to be true. Allegations must be put to the person they are made against and they must be given a chance to explain his or her version of events. The opportunity to have decisions reviewed should be explained to all parties.
Be neutral	Impartiality towards everyone involved is critical. This includes the way people are treated throughout the process. The person responding to the report should not have been directly involved and they should also avoid personal or professional bias.
Support all parties	Once a report has been made, the parties involved should be told what support is available, for example employee assistance programs, and allowed a support person to be present at interviews or meetings.
Do not victimise	It is important to ensure anyone who reports workplace bullying is not victimised for doing so. The person accused of workplace bullying and witnesses should also be protected from victimisation.
Communicate process and outcomes	All parties should be informed of the process, how long it will take and what they can expect will happen during and at the end of the process. Should the process be delayed for any reason, all parties should be made aware of the delay and advised when the process is expected to resume. Finally, reasons for actions that have been taken and in some circumstances not taken should be explained to the parties.

Response	Measures
Keep records	<p>The following should be recorded:</p> <ul style="list-style-type: none"> ■ the person who made the report ■ when the report was made ■ to whom the report was made ■ the details of the issue reported ■ action taken to respond to the issue ■ any further action required – what, when and by whom. <p>Records should also be made of conversations, meetings and interviews detailing who was present and the agreed outcomes.</p>

Balancing confidentiality and transparency

Both confidentiality and transparency are essential to maintain the integrity of the policies and procedures used to manage workplace bullying.

Confidentiality

Failure to maintain confidentiality can lead to workers mistrusting the reporting process. Confidentiality should be considered in what information, how and to whom it is communicated. To limit breaches of confidentiality, measures include:

- discussing sensitive or private information with third parties only if they need to know and with the permission of those involved
- secure storage, coding and access to files and documentation on the workplace bullying report
- conducting discussions in a private location
- choosing appropriate times or locations for printing, copying or disposing of materials.

It is important the parties involved in the complaint are instructed:

- to maintain confidentiality of the materials presented, discussed or submitted
- how to maintain confidentiality, for example who they can and cannot speak to about the matter.

Transparency for the parties involved

Transparency of the report handling process promotes accountability. It allows the parties involved to be fully informed about how the report is going to be handled. The parties should be made aware of:

- the steps and estimated timeframes for resolving or investigating the workplace bullying report
- the name and details of a contact person
- progress reports and an explanation for delays
- the outcome of actions taken and the reasons for decisions made
- the right of review if the parties are not satisfied with the outcome.

Transparency for the organisation

An organisation can show it is committed to managing the risk of workplace bullying by highlighting activities that have been or will be undertaken to resolve workplace bullying. Generic information on workplace bullying reports and how these were handled can be provided to workers or to external parties, for example through public reports.

Information that could be considered for disclosure may include:

- the number of reports received and the number of reports resolved
- time taken to complete investigations
- whether investigations were conducted internally or externally
- the general nature of the outcomes.

This helps to generate confidence that the organisation is serious about preventing bullying.

Actions after reports of workplace bullying are resolved

After a report of workplace bullying is resolved there should be a follow-up review to check the health and safety of the parties involved, to offer support and to find out whether actions taken to stop the workplace bullying have been effective. These may include:

- offering professional counselling
- providing mentoring and support from a senior manager
- providing training and relevant professional or skills development
- redressing inequality resulting from the bullying behaviour
- re-instating lost entitlements resulting from the bullying behaviour
- monitoring behaviours of the affected work group
- organising work in another area of the organisation.

Reviewing the systems of work

After addressing a specific workplace bullying issue, a PCBU should also examine the work situation to identify and address any underlying factors that may increase the risk of workplace bullying. For example, review the systems of work including workloads and staffing levels and the effectiveness of procedures and training.

Keeping records on reports of workplace bullying and actions taken can be useful in analysing trends to help prevent bullying from recurring in the future. Records should remain confidential.

Investigations

Workplace bullying allegations of a serious or complex nature should always be investigated. Serious bullying allegations may include those:

- covering a long period of time
- involving multiple workers
- where the alleged behaviours are in dispute
- where other processes have not been able to resolve the matter.

The aim of an investigation is to look into the circumstances of the matter and work out what has occurred.

Once it has been determined that an investigation will be undertaken, the PCBU should decide on the scope and process including:

- who will conduct the investigation
- details of the behaviour that will be investigated
- how the investigation will be conducted
- what the investigation aims to achieve
- what support needs to be provided to the parties involved
- how outcomes of the investigation will be communicated and to whom.

Who should conduct the investigation?

Investigations should always be carried out by an unbiased person who has experience and knowledge in dealing with workplace bullying matters.

If being led internally it is important to ensure all parties have confidence in the neutrality of the investigator and they are suitably qualified to lead the investigation. If this is not possible an external investigator is recommended. The investigator should be impartial, objective and focus on whether an allegation of workplace bullying is substantiated or not, or if there is insufficient information to decide either way.

Informing the parties of the investigation

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

- who is conducting the investigation
- conflicts of interest – these should be declared before the investigation proceeds
- their obligations and the obligations of the investigator regarding confidentiality
- their right to seek independent advice and representation
- the expected timeframes of the investigation
- how the issue will be investigated e.g. interviews with the parties and witnesses or viewing documentary evidence
- who will receive copies of statements and records of interviews (if obtained)

- who can be present at interviews
- what support mechanisms will be in place for each party, including any interim measures to ensure the health and safety of the parties during the investigation process.

Outcomes of an investigation

At the end of an investigation the investigator should submit an objective report to the PCBU who will then use the findings and recommendations of the investigation to make a decision. The findings should be communicated to the parties involved.

If an allegation is substantiated, actions should be taken consistent with relevant policies and procedures. The actions may be different in each situation and depend on the severity of the workplace bullying, the size and structure of the business. Such actions may include:

- gaining a commitment that the behaviour will not be repeated and monitoring this over time
- providing information to workers to raise the awareness of workplace bullying
- providing training or coaching e.g. leadership or communication skills
- providing counselling support
- reviewing the workplace bullying policy
- addressing organisational issues that may have contributed to the behaviour occurring
- requesting an apology
- providing a verbal or written warning
- transferring a worker or workers to another work area
- demotion, dismissal or other actions subject to workplace relations laws.

It is likely a combination of strategies will be appropriate to prevent bullying behaviour from re-occurring.

If an investigation finds a report of workplace bullying is not substantiated, assistance may still need to be provided to resolve outstanding issues. This may involve mediation, counselling or changing working arrangements. Mediation is a voluntary process where an impartial third party, preferably a trained mediator, assists the parties put their respective cases before each other. The role of a mediator is to help both parties understand each other's perspective and to find an agreement the parties are willing to abide by.

If the report is found to be vexatious or malicious, disciplinary action or counselling may be considered. Any action taken should be consistent with the organisation's policies on misconduct and disciplinary action.

Other actions

Pages 23 to 25 includes information on organisations who can assist in situations where reasonable attempts to resolve workplace bullying within the workplace have failed.

Example Workplace bullying policy

PCBU Name:

Our commitment

[PCBU name] is committed to providing a safe and healthy workplace free from bullying.

Workers are protected by this policy whether they feel bullied by a supervisor, another worker, client, contractor or member of the public.

[PCBU name] will treat reports of workplace bullying seriously. We will respond promptly, impartially and confidentially.

This policy will be made available to all workers including contractors. New workers will be given a copy of this policy at their induction. Managers and supervisors will remind workers of the policy from time to time.

Expected workplace behaviours

Under work health and safety laws workers and other people at our workplace must take reasonable care that they do not adversely affect the health and safety of others.

[PCBU name] expects people to:

- behave in a responsible and professional manner
- treat others in the workplace with courtesy and respect
- listen and respond appropriately to the views and concerns of others
- be fair and honest in their dealings with others.
- this policy applies to behaviours that occur:
 - in connection with work, even if it occurs outside normal working hours
 - during work activities, for example when dealing with clients
 - at work-related events, for example at conferences and work-related social functions
 - on social media where workers interact with colleagues or clients and their actions may affect them either directly or indirectly.

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.

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

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. Single incidents of unreasonable behaviour can also present a risk to health and safety and will not be tolerated.

What is not workplace bullying?

Reasonable management action taken by managers or supervisors to direct and control the way work is carried out is not considered to be workplace bullying if the action is taken in a reasonable and lawful way.

What can you do?

If you feel you are being bullied and are not comfortable dealing with the problem yourself, or your attempts to do so have not been successful, you should raise the issue either with your supervisor, health and safety representative or other manager within the workplace. If you are a member of the union, you may also raise any issues with your delegate.

If you witness unreasonable behaviour you should bring the matter to the attention of your manager as a matter of urgency.

How we will respond

If workplace bullying or unreasonable behaviour is reported or observed, we will take the following steps:

- the responsible supervisor or manager will speak to the parties involved as soon as possible, gather information and seek a resolution to satisfactorily address the issue for all parties
- if issues cannot be resolved or the unreasonable behaviour is considered to be of a serious nature, an impartial person will be appointed to investigate. Both sides will be able to state their case and relevant information will be collected and considered before a decision is made
- all complaints and reports will be treated in the strictest of confidence. Only those people directly involved in the complaint or in resolving it will have access to the information
- there will be no victimisation of the person making the report or helping to resolve it. Complaints made maliciously or in bad faith will result in disciplinary action.

Consequences of breaching this policy

Appropriate disciplinary action will be taken against a person who is found to have breached this policy. These measures will depend on the nature and circumstance of each breach and could include:

- a verbal or written apology
- one or more parties agreeing to participate in counselling or training
- a verbal or written reprimand
- transfer, demotion or dismissal of the person engaging in the bullying behaviour.

If bullying has not been substantiated

If the investigation finds bullying has not occurred or cannot be substantiated, [PCBU name] may still take appropriate action to address any workplace issues leading to the report.

Authorisation

Management signature:..... Date:

Further information

Work Health and Safety Regulators

Jurisdiction	Contact details
Commonwealth Comcare	Website: www.comcare.gov.au Email: general.enquiries@comcare.gov.au - Phone: 1300 366 979
South Australia SafeWork SA	Website: www.safework.sa.gov.au Email: help@safework.sa.gov.au - Phone: 1300 365 255
Australian Capital Territory WorkSafe ACT	Website: www.worksafe.act.gov.au Email: worksafe@act.gov.au - Phone: 02 6207 3000
Queensland Workplace Health and Safety Queensland	Website: www.worksafe.qld.gov.au Phone: 1300 362 128
New South Wales WorkCover NSW	Website: www.workcover.nsw.gov.au Email: contact@workcover.nsw.gov.au - Phone: 13 10 50
Victoria WorkSafe Victoria	Website: www.worksafe.vic.gov.au Email: info@worksafe.vic.gov.au - Phone: 1800 136 089 or 03 9641 1444
Northern Territory NT WorkSafe	Website: www.worksafe.nt.gov.au Email: ntworksafe@nt.gov.au - Phone: 1800 019 115
Western Australia WorkSafe WA	Website: www.commerce.wa.gov.au/WorkSafe Email: safety@commerce.wa.gov.au - Phone: 1300 307 877 or 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.

Contact the Fair Work Commission on 1300 799 675 or visit the Fairwork website www.fwc.gov.au

Fair Work Ombudsman

Fair Work Ombudsman provides a comprehensive information service to employees on industrial relations matters such as *Fair Work Act*, Awards and Certified Agreements. In relation to workplace harassment complaints, Fair work Ombudsman staff can provide specific advice on grievance procedures in awards and agreements.

Contact the Fair Work Ombudsman on 13 13 94 or visit the Fairwork website www.fairwork.gov.au

NT Anti-Discrimination Commission

The *NT Anti-Discrimination Act 1991* promotes fair treatment and equal opportunity by making discrimination and (e.g. on the basis of race, religion, sexuality or gender identity) and all sexual harassment against the law.

The Anti-Discrimination Commission NT (ADCNT) accepts and conciliates complaints of discrimination, and sexual harassment under the Act. Its staff can provide information on how to make a complaint. A complainant does not need to have first tried to resolve their complaint informally before contacting the ADCNT.

If a complaint cannot be resolved through conciliation between the parties, the complaint is further investigated and ultimately may proceed to a hearing. A hearing is conducted by the Anti-Discrimination Commissioner and is similar to a court hearing, but seeks to operate in a more informal and less intimidating way.

Contact: the Anti-Discrimination Commission on 1800 813 846 or visit the website www.adc.nt.gov.au.

Australian Apprenticeships NT

Australian Apprenticeships NT manages and processes Training Contracts, Government incentives and Apprentice and employer information relating to apprenticeships and traineeships in the Northern Territory.

In relation to complaints of workplace harassment from apprentices and trainees, Australian Apprenticeships staff may use a range of strategies to address the issue.

Contact: Australian Apprenticeships NT on 1300 137 130 or visit the website www.australianapprenticeshipsnt.com.au

Unions NT

Trade Unions provide information, advice and advocacy to members on all industrial matters. Union members can contact their respective union for information.

Contact: Unions NT on (08) 8941 0001 or visit the website www.unionsnt.com.au

NT Working Women's Centre

The NT Working Women's Centre (NTWWC) provides a comprehensive free and confidential telephone advisory service to women on all work related matters. NTWWC has information about workplace harassment and is able to offer advice on the possible courses of action. Information on advocacy and representation can also be obtained through the service. NTWWS offers workplace training programs and information sessions on workplace harassment.

Contact: NT Working Women's Service on 1800 817 055 or visit the website www.ntwwc.com.au

NT WorkSafe

Work Health and Safety

Toll-free 1800 019 115

Email ntworksafe@nt.gov.au

Fax 08 8999 5141

Workers Rehabilitation and Compensation

Toll-free 1800 250 713