

# WORKPLACE BULLYING

## LEARNING OUTCOME

Describe the requirements of the Work Health and Safety legislation and standards relating to workplace bullying.

## ASSESSMENT CRITERIA

- Describe the legislative requirements relating to workplace bullying.
- Understand the unacceptable behaviours that can cause bullying to occur.
- Understand what is not workplace bullying.
- Understand processes for preventing and responding to workplace bullying.

## REFERENCES

- Work Health and Safety Act 2011
- Fair Work Act 2009
- [Guide for Preventing and responding to workplace bullying 2016](#)
- [Dealing with workplace bullying – A workers guide 2016](#)

## WORKPLACE BULLYING

Workplace bullying is a risk to health and safety. 'Health' is defined in the WHS Act as both physical and psychological health. Failure to take steps to manage the risk of workplace bullying can result in a breach of Work Health and Safety (WHS) laws. Workplace bullying can occur wherever people work together and 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 harder it becomes to repair working relationships and the greater the risk is to health and safety.

### WHAT IS WORKPLACE BULLYING?

Workplace bullying can adversely affect the psychological and physical health of a person. Workplace bullying is a psychosocial hazard that has the potential to harm a person, and it also creates a psychological risk as there is a possibility that a person may be harmed if exposed to it. If effective control measures are put in place to address and resolve workplace issues early, a workplace can minimise the risk of workplace bullying and prevent it from becoming acceptable behaviour in the workplace.

**Workplace bullying** is 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 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
- aggressive and intimidating conduct
- belittling or humiliating comments
- victimization
- practical jokes or initiation
- unjustified criticism or complaints
- deliberately excluding someone from work-related 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, and
- changing work arrangements such as rosters and leave to deliberately inconvenience a particular worker or workers.

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

## WHAT IS NOT WORKPLACE BULLYING?

A single incident of unreasonable behaviour is not workplace bullying, however it may be repeated or escalate and so should not be ignored. Reasonable management action taken in a reasonable way A PCBU may take reasonable management action to effectively direct and control the way work is carried out. It is reasonable for managers and supervisors to allocate work and give feedback on a worker's performance. These actions are not workplace bullying if they are carried out in a lawful and reasonable way, taking the particular circumstances into account.

A manager exercising their legitimate authority at work may result in some discomfort for a worker. The question of whether management action is reasonable is determined by considering the actual management action rather than a worker's perception of it, and where management action involves a significant departure from established policies or procedures, whether the departure was reasonable in the circumstances.

Unlawful discrimination and sexual harassment

Unreasonable behaviour may involve unlawful discrimination or sexual harassment which, by itself, is not bullying.

## WHO HAS PRIMARY DUTY OF CARE?

| Who                                                                | Duties                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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| <b>Person conducting a business or undertaking</b><br>(section 19) | Has the primary duty to ensure, so far as is reasonably practicable, workers and other persons are not exposed to health and safety risks arising from the business or undertaking. This includes ensuring, so far as is reasonably practicable: <ul style="list-style-type: none"> <li>• provision and maintenance of a work environment without risks to health and safety</li> <li>• provision and maintenance of safe systems of work, and</li> <li>• monitoring the health of workers and the conditions at the workplace for the purpose of preventing illness or injury of workers arising from the conduct of the business or undertaking.</li> </ul> |
| <b>Officer</b><br>(section 27)                                     | Officers such as company directors, must exercise due diligence to ensure the business or undertaking complies with its work health and safety duties. This includes taking reasonable steps to ensure the business or undertaking has and uses appropriate resources and processes to manage the risks associated with workplace bullying.                                                                                                                                                                                                                                                                                                                   |
| <b>Worker</b><br>(section 28)                                      | Workers must take reasonable care for their own health and safety and must not adversely affect the health and safety of other persons. Workers must also comply with any reasonable instruction and cooperate with any reasonable policy or procedure.                                                                                                                                                                                                                                                                                                                                                                                                       |

## WORKPLACE CONFLICT

Differences of opinion and disagreements are generally not workplace bullying. People can have differences or disagreements in the workplace without engaging in repeated, unreasonable behaviour that creates a risk to health and safety. Some people may also take offence at action taken by management, but that does not mean that the management action in itself was unreasonable. However, in some cases conflict that is not managed may escalate to the point where it becomes workplace bullying.

## PREVENTING WORKPLACE BULLYING

There is a risk of workplace bullying wherever workers have contact with other people, including co-workers, supervisors, clients and other visitors to the workplace. 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.

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, for example holding exit interviews
- seeking regular 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, and
- recognising changes in workplace relationships between workers, customers and managers.

Research indicates that there are a number of factors which may increase the risk of workplace bullying occurring. The following characteristics could help alert to potential WHS risks in the workplace:

- presence of work stressors
  - high job demands
  - limited job control
  - organisational change, such as restructuring or significant technological change
  - role conflict and ambiguity
  - job insecurity
  - an acceptance of unreasonable workplace behaviours or lack of behavioural standards, and
  - 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, and

## RESPONDING TO WORKPLACE BULLYING

Workplace bullying is best managed by responding as soon as possible after suspecting or becoming aware there is a problem. Responses to reports of workplace bullying will vary depending on the situation, the number of parties involved and the size and structure of the workplace. In the first instance, attempts should be made to resolve the situation within the workplace, regardless of whether or not workplace bullying has occurred. Where internal processes are not effective, complainants may refer the complaint to external agencies.

## INVESTIGATIONS

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

- covering a long period of time
- involving multiple workers
- where the alleged behaviours are in dispute
- involving alleged bullying by senior managers, or
- 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 and likely timeframes
- what the investigation aims to achieve
- what support needs to be provided to the parties involved, and
- how outcomes of the investigation will be communicated.

## THE ROLE OF THE WHSQ IN BULLYING COMPLAINTS

Workplace Health and Safety Queensland (WHSQ) can only respond to complaints in certain situations that fall within the scope of the *Work Health and Safety Act 2011*, such as:

- The complaint must (on face value) fall within the definition of workplace bullying.
- The complaint must be in writing unless there are exceptional circumstances.
- The complainant must contact the Work Health and Safety Infoline on 1300 362 128 for an information package, which includes the address to send the complaint and a checklist which must be completed, signed and attached to the written complaint.
- Attempts should be made to resolve the situation within the workplace prior to contacting WHSQ. Information regarding the outcome of attempts to resolve the matter at the workplace should be included in the written complaint.

## WHAT HAPPENS NEXT?

- Where a complaint falls within the above scope and a risk of injury or illness from workplace bullying is determined likely to exist, an inspector may be assigned to the complaint.
- The purpose of the inspector's assessment is to determine if the duties under the *Work Health and Safety Act 2011* are being met in regard to managing the risk of workplace bullying. If the inspector determines from their assessment that systems at the workplace are inadequate, the inspector will select the most appropriate response/s ranging from advice through to issuing an improvement notice to secure compliance with the legislation.
- WHSQ does not provide legal advice, mediation between parties, counselling or victim support for workplace bullying matters. Compensation, unfair dismissal, reinstatement or other individual outcomes are not within the role of WHSQ.

## STUDENT ACTIVITY

| Situation                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Risk factors | Potential control measures |
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| <p>A large processing plant in a regional city employs about 40 people permanently and employs an additional 60 people during the “peak season”. The seasonal workers are comprised of young workers, workers with limited English, Labour hire and long term unemployed placed at the plant by Employment Services.</p> <p>The WHS Compliance Officer/Production Manager and a Supervisor on one particular shift are alleged to have engaged in the bullying behaviours at the workplace. According to the complainant, workers have been exposed to verbal abuse, physical threats and humiliation over several years. Their behaviour escalates during peak season.</p> <p>The complainant alleges the Supervisor does not allow the staff to speak to each other. Workers are discouraged from seeking assistance from each other. He is rude and dismissive to workers. He does not provide adequate directions, or the directions are inconsistent for tasks he wants completed. He uses intimidation tactics. He yells and swears at workers saying they are incompetent. Workers have to ask permission to leave the production line to go to the toilet. He stands and stares at workers for long periods of time when they become uncomfortable and make a mistake he yells abuse at them. If he makes an error he blames it on the workers.</p> <p>The WHS Compliance Officer/Production Manager stands behind workers with a stopwatch. He takes photos and videos of workers for no apparent reason. When casual workers stand up for themselves he tells them to go</p> |              |                            |

| Situation                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Risk factors | Potential control measures |
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| <p>to the Office and collect their pay and not to come back. He plays favourites especially during peak season. His favourite get the easy jobs, they are allowed extra breaks and are the first asked to do overtime.</p> <p>The WHS Compliance Officer/Production Manager and the Supervisor get great production output on their shifts and blame the wastage and staff turnover on the "type" of casual seasonal employees that are recruited for this work. Both are paid bonuses for productivity. Senior management are unaware of any workplace bullying occurring in the workplace. Induction for casual seasonal employees does not have any information about workplace bullying. There are only minimal procedures for dealing with grievances within the human resource system. The alleged perpetrators were also the contacts for grievance procedures.</p> |              |                            |

Working in your groups, use the table to identify the risk factors that may be contributing to workplace bullying in the scenario provided (including work stressors, systems of work, work relationships workforce characteristics, leadership styles). Determine and document suitable control measures that could be implemented to manage the risk in this situation.

**Additional notes:**

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