



# BULLYING

*A guide for  
employers and workers*



## **Please note**

This information is for guidance only and is not to be taken as an expression of the law. It should be read in conjunction with the *Workplace Health and Safety Act 1995*, the *Workplace Health and Safety Regulations 1998* and any other relevant legislation. Copies of the legislation can be purchased from Print Applied Technology: call (03) 6233 3289 or freecall 1800 030 940. It is also available on the Internet at [www.thelaw.tas.gov.au](http://www.thelaw.tas.gov.au)

This guide was produced by staff from WorkCover Tasmania and Workplace Standards Tasmania.

We welcome your feedback on this guide.

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## **Acknowledgements**

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## WHAT IS BULLYING?

Bullying is repeated, unreasonable behaviour directed towards a worker or group of workers. It creates a risk to personal and workplace health and safety.

Differences of opinion, conflicts and personality clashes can happen in the workplace and they are not bullying (see also *What isn't bullying?* on page 3). If the behaviour goes beyond a one-off disagreement, if it increases in intensity or becomes offensive or harmful to someone, it is bullying.

Bullying can be verbal, physical, written or electronic (such as emails and texting). It can include:

- /// insults and constant criticism that makes you feel humiliated or intimidated
- /// cruel and malicious rumours, gossip and innuendo
- /// deliberately and repeatedly being ignored, excluded or undermined
- /// behaviour or language that frightens or degrades you. This might include swearing, threats, yelling.

Bullying may be linked to work tasks and duties. For example, as an employer or manager, you are bullying a worker if you deliberately:

- /// give them work that is unreasonably above or below their ability
- /// give them meaningless work that is unrelated to their job
- /// give them inconvenient rosters, or change their hours on a whim or to inconvenience them
- /// deny them information or resources to do their job
- /// scrutinise their work excessively and unreasonably.

In some cases, bullying may be part of the workplace culture, continued (and wrongly accepted) over time as “the way things are done here”.

## What isn't bullying?

Reasonable management actions carried out in a fair and reasonable way are not bullying. For example, bullying is not:

- // setting standards and deadlines
- // allocating work to a worker
- // transferring a worker
- // deciding not to select a worker for promotion
- // informing a worker about unsatisfactory work performance or inappropriate behaviours
- // providing constructive feedback.

Even poor management practices don't necessarily constitute bullying. Differences of opinion or personality clashes, provided they don't interfere with work, aren't bullying either.

## **What's the difference between bullying and discrimination?**

Bullying is not necessarily discrimination. Discrimination is defined under the *Anti-Discrimination Act 1998*.

It's against the law for someone to discriminate against you because of your age, disability, family responsibilities, gender, sexual preference, industrial or political activity, race, or if you are pregnant or breastfeeding. 'Discriminating against you' could mean ridiculing, intimidating, insulting, victimising or humiliating you because of these personal attributes. You can be bullied with or without any of these personal attributes; or because you associate with someone who has (or who is thought to have) these attributes.

If you experience any of the above behaviours, you should contact the Office of the Anti-Discrimination Commissioner on 1300 305 062. For more information go to [www.antidiscrimination.tas.gov.au](http://www.antidiscrimination.tas.gov.au)

## **One-off incidents**

A single incident is not usually considered bullying. However, it has the potential to escalate into bullying, and is still a risk to workplace health and safety. It should not be ignored, and action can be taken under the *Workplace Health and Safety Act 1995*.

In many instances, a one-off incident is best dealt with as a form of assault, and the police should be called in. See *Should you involve the police?* on page 15.

## WHO IS AT RISK OF BEING BULLIED?

Very often, workers who are bullied are:

- // young or new workers or apprentices
- // injured workers or those on a return to work plan
- // workers (especially one in casual or insecure employment) who worry they'll lose their job if they complain.

## WHO COULD BE A BULLY?

A bully may be someone in a position of power: an employer, manager or supervisor. Maybe they think their management style is 'authoritarian' and this is the only way to manage their workers, when it is really bullying.

But a co-worker can also be a bully, perhaps acting that way to enhance their position or sense of power in the workplace.

These people may or may not know that they are bullying.

### **Are you a bully?**

Do you use overt physical intimidation or subtle gestures like eye rolling to belittle someone, especially in front of an audience?

Do you unfairly or without reason block a worker's promotion, refuse their requests for leave, reduce or change their shifts, take away their job responsibilities, block their opportunities for career or job advancement?

Do you get others in the workplace to side with you against a worker?

Do you spread rumours about someone's personal or professional life, either verbally or using texts and emails?

If you use any of these behaviours, you could be a bully.

## WHAT'S THE EFFECT OF BULLYING IN THE WORKPLACE?

It's not just the victim whose personal health and wellbeing is affected by bullying.

If you're an employer with bullying happening in your workplace, you may see:

- // increased absenteeism, lateness, lost time, staff turnover
- // poor teamwork or workplace relationships
- // declining respect for you or your managers because you allow bullying to happen
- // negative public perception of your organisation, which may affect your ability to attract workers
- // disciplinary or conduct problems.

These can lead to inefficient, disrupted or reduced productivity.

## WHAT'S THE LAW?

While the *Workplace Health and Safety Act 1995* does not specifically refer to bullying, the general responsibilities that employers and workers have under this law can be applied.

For example, employers must ensure that workers are safe at work and free from risks to their health and safety. This can mean that employers must not bully their workers, and take reasonable steps to ensure that it doesn't occur in the workplaces under their control. How they can do this is dealt with throughout this guide.

Workers also have a responsibility to take reasonable care for the health and safety of their co-workers, which means they can't bully others.



## WHAT MUST AN EMPLOYER DO?

You can use the same process of hazard management that you use to identify and manage physical hazards in your workplace to manage ones like bullying.

### SPOT THE HAZARD — ASSESS THE RISK

#### Is there bullying in your workplace? To what extent?

You can find out if bullying exists in your workplace and how widespread it is by:

- ▮ talking to your workers, your employees' safety representatives (ESRs) or OHS committee. However, be aware that a bullied worker may be reluctant to say anything — especially in a small workplace, or if *you* or their manager is the bully. An anonymous and confidential workplace survey may be useful
- ▮ looking at incident reports, staff surveys, and workers compensation claims. Examine absenteeism rates, requests for transfers to different areas, and resignations
- ▮ looking at management styles. Do you or your managers think you're being strong and directive, while really you're being unreasonable and threatening to your workers?
- ▮ looking for organisational change, tough deadlines and workloads, uncertainty about job security, or poor or inappropriate work systems. These factors may provide an environment that allows someone to take advantage of and bully others. For example, the pressure of meeting unreasonable deadlines may make a supervisor (or another worker) bully workers into meeting these difficult expectations
- ▮ seeing if there have been changes in people's behaviour and working relationships
- ▮ considering if you have any vulnerable workers, such as a young worker or anyone who may be considered 'different'.

## **FIX THE PROBLEM**

### **Use practical ways to manage bullying**

If negative leadership styles cause bullying, provide regular feedback, training and information so you can adopt a more inclusive and democratic approach to managing workers. Make sure you and your managers are accountable for positive leadership.

If there are workplace factors that allow bullying to flourish (such as organisational change or unreasonable schedules), consult with everyone in your workplace on ways to address these. Review and improve workloads, staffing levels, resource availability, rosters and working hours.

Develop and implement programs that support and protect vulnerable workers. This might include a buddy system for new workers, and contact officers to provide support and advice. Providing mentoring and counselling options may also be helpful.

Provide training for all workers in positive communication and feedback skills, in diversity and tolerance. These can encourage discussion and communication and may resolve issues before they escalate further.

Train managers how to support vulnerable workers and to deal with bullying behaviours.

You should also provide regular training and information about the effects of bullying on personal and workplace health and safety.

#### **Support a worker being bullied**

If a worker tells you they are being bullied, treat the matter seriously and confidentially. Support them with the help of their co-workers, managers, and ESR and/or union representative while you resolve this issue. Consider external independent counselling, too.

Encourage them to maintain their personal health, and see their doctor or a support service (see *What can a worker do?* on page 14).

## Implement a policy

Develop and implement a policy on bullying that should state:

- ▮ you will not tolerate bullying in your workplace, and you take its threat to personal and workplace health and safety seriously
- ▮ the ways you will prevent bullying from occurring in the first instance. See *Use practical ways to manage bullying* on page 8 as your starting point
- ▮ the procedures and disciplinary actions you will take if bullying occurs. See *What procedures and disciplinary actions should you introduce to deal with bullying?* on page 10.

More important than writing a policy is enforcing it, fairly and consistently. Workplace Standards, the unions or the courts will consider if or how your policy, procedures and disciplinary actions have been followed (for example, if they have been applied to some workers but not others).

You also need to make sure everyone in your workplace understands the policy, procedures and disciplinary actions. Cover them in your inductions for new workers; for all workers, conduct training and information sessions, or discuss them at regular staff meetings.

You may want to consider special training for managers or supervisors on how to implement your policy, procedures and disciplinary action.

A sample policy has been included on page 12 for you to use as a guide when preparing one that suits your workplace needs.

## **What procedures and disciplinary actions should you introduce to deal with bullying?**

At the same time that you develop your policy, make sure you create procedures that workers can use to report bullying and that you will use to investigate these reports.

Create a hierarchy of disciplinary actions (a set of escalating consequences any alleged bully will face for their unacceptable behaviour). Steps might include:

- // a formal warning; then
- // referral to counselling or training; then
- // transferring the bully to a work area away from the victim; then
- // suspension, and finally
- // dismissal.

Under extreme circumstances, it may be more appropriate to take the stronger measures immediately.

While an initial warning can be verbal, you should document high-level actions in writing (such as letters and meeting notes).

## **How should you deal with a claim of bullying?**

Just as you would for a physical hazard, take any report of bullying seriously and deal with it immediately.

Tell the alleged bully that you have received a complaint, and ask them to stop any inappropriate behaviour immediately. Remind them of your bullying policy and disciplinary actions. Be fair and non-confrontational.

If this reasonable approach does not resolve the issue, you may consider mediation or discussions using a neutral person (perhaps someone from outside your workplace). This needs to be agreed to by the victim and the alleged bully.

If this approach does not work or is unacceptable to the victim or the alleged bully, or if the initial report involves managers or vulnerable workers or covers a long period of time, you may need to start a more formal investigation.

## How should an investigation proceed?

Establish how you will talk to the victim, alleged bully and others in the workplace to gather information.

You may decide someone else should conduct the investigation (perhaps from outside your workplace) to ensure independence and impartiality.

Keep detailed and confidential records.

Again, be fair to both the victim and the alleged bully, and follow your policy and procedures consistently.

Support the victim with the help of their co-workers, managers, ESR and/or union representative, and independent counselling while you resolve the problem through your procedures and disciplinary actions.

If your investigation finds there was no bullying, you should explain your findings to the people involved. Continue to monitor your workplace to ensure there is no negative fallout, either because of the complaint or your dismissal of the complaint. If the reported behaviour was inappropriate (but not bullying), consider what you need to do to ensure it does not continue or happen again.

## EVALUATE RESULTS

See if your policy, procedures and disciplinary action are removing and managing bullying. Some of these solutions may have an immediate effect, but others may take more time.

Set a date to reconsider the issues and areas you looked at when identifying if there was bullying in your workplace. For example, compare incident reports and absenteeism rates, talk to workers and ESRs, and look at management styles and other organisational factors.

# BULLYING POLICY

.....  
(Your business name)

This policy shows:

- ✓ our commitment to health and safety in this workplace, and reducing the risks to the health and safety of all workers, contractors and visitors
  - ✓ our commitment to complying with the requirements of the *Workplace Health and Safety Act 1995* and the *Workplace Health and Safety Regulations 1998*
  - ✓ that bullying will not be tolerated in this workplace
  - ✓ how we will deal with bullying in the workplace.
- This policy applies to everyone at (*your business name*).

## **Definition of bullying**

Bullying is repeated, unreasonable behaviour directed towards a worker or group of workers. It creates a risk to personal and workplace health and safety.

## **Responsibilities**

Employers/managers must ensure that workers are safe at work and free from risks to their health and safety. This means that employers must not bully their workers, and must take reasonable steps to ensure that it doesn't occur in the workplaces under their control.

Workers also have a responsibility to take reasonable care for the health and safety of their co-workers, which means they can't bully others.

## **Managing bullying**

(*Your business name*) will identify all workplace factors that allow bullying to occur, and use the hazard management process to eliminate bullying.

(Your business name) will consult with workers, employees' safety representatives and/or the OHS committee on this issue.

*(Outline the specific actions you will take to address any factors in your workplace that could allow bullying to occur, such as unreasonable schedules or organisational change.)*

### **Reporting bullying**

*(Outline the procedures workers may use to report bullying, such as incident reporting or their ESR.)*

### **Investigating bullying**

*(Outline the procedures you will use to investigate reports of bullying. This may include using someone from outside the workplace to ensure independence and impartiality.)*

### **Disciplinary action**

If anyone is found to breach this policy, management will *(outline the specific actions you will take; for example, giving a formal warning, followed by referral to counselling or training, transferring the bully to a work area away from the victim, suspension, and finally, dismissal)*.

### **Information and support**

(Your business name) will provide regular training and information about the effects of bullying on personal and workplace health and safety, and on the components of this policy.

*(Include any support, whether internal or external, that you can provide workers experiencing bullying.)*

Policy authorised by:.....

Date:.....

Date to be reviewed:.....

## WHAT CAN A WORKER DO?

If you can, tell the person bullying you that their behaviour is unreasonable and inappropriate, and you want it to stop.

If you can, tell your employer or manager that you are being bullied and ask them to manage it correctly. Use your workplace reporting procedures; if there aren't any in place, back up any conversations you have with your employer in writing.

Talk to others in your workplace for support, especially your ESR or union representative. Talk to others outside your workplace for support, such as your family and friends, your family doctor, and a professional counsellor.

Keep a detailed diary: dates, witnesses, the person bullying you, and what happened or what was said.

Maintaining your personal health and wellbeing is important.

Exercise regularly, eat healthy food, reduce your smoking and drinking (including caffeine drinks) and get good sleep.

Remember to do the things you enjoy: listen to music, get out in the garden or go fishing, play with your kids or dog, talk with your family and friends. It may sound like obvious or flippant advice in the face of workplace bullying, but these actions you may take to look after yourself should not be underestimated.

If you don't feel your employer is doing enough to manage or resolve the bullying, or if your employer is bullying you, call Workplace Standards Tasmania.



## WHAT WILL WORKPLACE STANDARDS DO?

If you believe you have been bullied at work but the conduct doesn't fall within the jurisdiction of the police (see *Should you involve the police?* below) or the Anti-Discrimination Commissioner (see *What's the difference between workplace bullying and discrimination?* on page 4), then Workplace Standards Tasmania may investigate.

Workplace Standards' role is to see if your employer has failed to meet their responsibilities under the *Workplace Health and Safety Act 1995* to ensure you are safe at work.

If Workplace Standards finds a breach has occurred, it will decide on the most appropriate course of action, in line with its enforcement and prosecution policies. This may be prosecution; directing your employer to implement a policy, procedures and disciplinary actions to manage bullying; or other actions to prevent further harm occurring.

These courses of action have resulted in workplaces resolving bullying issues and improving their policies, procedures and disciplinary actions. This has generally occurred where there is robust evidence, including information from other workers. Where only two people are involved and no witnesses or other verification is possible, investigating is difficult and outcomes can be constrained. This is where keeping a detailed diary, for example (see *What can a worker do?* on page 14) may be helpful.

Workplace Standards has no role in mediating workplace disputes or awarding damages to someone who has been bullied.

### **Should you involve the police?**

Behaviour such as threats to harm someone, actual violence and damage to property may be criminal matters and should be referred to the police for investigation.





**1300 366 322**  
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