

## Workplace Bullying

An employee has a right to be in a safe workplace free from violence, harassment and bullying. An employer has a legal responsibility under Occupational Health and Safety and anti-discrimination law to provide a safe workplace. Employers have a duty of care for their employee's health and wellbeing whilst at work.

Bullying is defined as repeated, unreasonable behaviour by an individual or group that creates a risk to another worker's health and safety. Management action carried out in a reasonable manner will not constitute bullying (e.g. performance management or disciplinary action).

Workplace bullying can happen in any type of workplace, to volunteers, work experience students, interns, apprentices, casual and permanent employees.

Bullying may take the form of:

- Repeated hurtful remarks or attacks, or making fun of a worker's work or the worker as a person;
- Sexual harassment;
- Excluding or stopping a worker from working with people or taking part in activities that relate to their work;
- Playing mind games, ganging up on a worker, or other types of psychological harassment;
- Giving a worker pointless tasks that have nothing to do with their job;
- Giving a worker impossible jobs that can't be done in the given time or with the resources provided;
- Deliberately changing a worker's work hours or schedule to make it difficult for them;
- Deliberately holding back information a worker needs to get their work done properly;
- Pushing, shoving, tripping or grabbing in the workplace;
- Attacking or threatening with a weapon or any other type of object that can be turned into a weapon;
- Initiating or hazing.

Bullying may also be discrimination if it is because of a worker's age, sex, pregnancy, race, disability, sexual orientation, religion or certain other reasons.

A workplace should have a bullying policy and a process for making a complaint and resolving disputes.



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Warning signs of a bully	Warning signs of a victim
<ul style="list-style-type: none"> <li>• Controlling</li> <li>• Very ambitious</li> <li>• Overly confident</li> <li>• Strong-willed</li> <li>• Argumentative</li> <li>• Judgmental</li> <li>• Highly critical</li> <li>• Character assassination</li> <li>• Vengeful</li> </ul>	<ul style="list-style-type: none"> <li>• Less active or successful</li> <li>• Less confident and unhappy</li> <li>• Scared, stressed, anxious or depressed</li> <li>• Increased absences and voluntary exclusion</li> <li>• Exhibiting physical signs of stress such as headaches, backaches, sleep problems</li> </ul>

### Anti-Bullying Jurisdiction of the Fair Work Commission (FWC)

On 1 January 2014, the anti-bullying provisions contained in the Fair Work Amendment Act 2013 (Cth) commenced. These provisions allow a worker who is bullied at work to apply to the FWC for an order to stop the bullying.



The remedies that can be ordered by the FWC include orders requiring an individual or group to stop bullying behaviour, or requiring an employer to implement anti-bullying policies and training. However, orders for compensation or reinstatement are not available.

The Fair Work Commission, in their first Full Bench decision of the anti-bullying jurisdiction, established that alleged bullying conduct which occurred prior to 1 January 2014 can be considered by the FWC in an application for orders to stop bullying.

### How Can Employers Prevent Bullying?

Employers can:

- Review, and if necessary, update policies and procedures that are to be used for dealing with bullying complaints;
- Set rigorous standards for behaviour;
- Ensure that managers, staff and contractors are properly trained in relation to managing bullying issues and applicable policies and procedures.

If a bullying issue is raised or a claim is lodged in the FWC, an employer should investigate alleged conduct both prior to and from 1 January 2014.

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