



THE UNIVERSITY
of ADELAIDE

Overview for Managers/Supervisors

WORKPLACE BULLYING

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seek LIGHT

Quick re-cap on Bullying

Repeated and unreasonable behaviour directed towards a worker or a group of workers that creates a risk to health and safety

Repeated

Must be more than one occurrence.

Unreasonable behaviour

Behaviour that a reasonable person, having regard for the circumstances, would see as unreasonable.

Creates a risk to health and safety

Could reasonably result in injury or harm.

Workplace Bullying

Research has found that bullying is on the rise in Australian workplaces

- Prevalence rate has risen from 7% in 2011 to 9.6% in 2015.

Of the workers being bullied

- 12.2% were bullied daily
- 32.6% were bullied at least once a week
- 38.6% had been bullied for 1-6 months



Responsibilities & Regulator's

Australian workplace laws set up clear responsibilities for PCBUs and rights for workers to seek regulatory and judicial review.



SafeWork SA

Workplaces are responsible to ensure they have systems and procedures in place to prevent bullying and harassments and deal with bullying complaints.

State and Territory WHS regulators are empowered to investigate incidents or issues that are reported to them where PCBUs are not complying with their Duty of Care under the Act.



The Fair Work Commissions is empowered to issue orders preventing employers from bullying a worker.

[11] In *Amie Mac v Bank of Queensland Limited and Ors* [[\[2015\] FWC 774](#)] Vice President Hatcher at [99] indicated that some of the features which might be expected to be found in a course of repeated unreasonable behaviour constituting bullying at work were,

“...intimidation, coercion, threats, humiliation, shouting, sarcasm, victimisation, terrorising, singling-out, malicious pranks, physical abuse, verbal abuse, emotional abuse, belittling, bad faith, harassment, conspiracy to harm, ganging-up, isolation, freezing-out, ostracism, innuendo, rumour-mongering, disrespect, mobbing, mocking, victim-blaming and discrimination.”

[96] Similarly in *Mac v Bank of Queensland Limited; Locke; Thompson; Hester; Van Den Heuvel; Newman* [[\[2015\] FWC 774](#)] (*Mac*), Hatcher VP, referring to *Re SB* found at paragraph [94]:

“[94] It is clear that it is not necessary for an applicant to demonstrate that he or she has suffered an actual detriment to health or safety – that is, actual illness or injury – in order to demonstrate the necessary risk. However, the existence of such an illness or injury may be relied upon as a manifestation of the necessary risk, provided of course that the requisite causal link to the unreasonable behaviour at work has been established.”

Guidance from Regulators

Employers should ensure they have policies and procedures in place in order to provide

- *General controls for prevention of bullying*
 - Code of Conduct, Preventing and Responding to Bullying handbook chapter
- *Specific controls for preventing and responding to workplace bullying*
 - On-line Training (HR) & the FTCO Network
- *Reviews using consultation processes where requested*
 - General feedback (Your Voice surveys), HSW Handbook requirements for managers/supervisors & Heads of School/Branch.
- *Complaint handling processes that allow for investigation, informal and formal resolution.*
 - Staff Complaints procedures (HR)

Monitoring requirements

From the HSW Handbook

Chapter

3.35.6 Process: Monitoring and review

Person Responsible		Actions
3.35.6.1	Manager/ Supervisor	<ul style="list-style-type: none">□ Follow-up with the worker(s) following resolution of bullying and harassment concerns to check on their health and safety and offer/provide support. Monitor as required.
3.35.6.2	Head of School/Branch	<ul style="list-style-type: none">□ Monitor the workplace where concerns of bullying and harassment have been raised to ensure a safe working environment.□ Review the provision of information or other organisational factors where bullying and harassment has been identified to ensure the process is effective in managing the risk in consultation with workers and Health and Safety Representatives (where appointed).

Workers can choose how they raise concerns about bullying

Workers are encouraged to raise any issues of concern with the individual directly.

If they need support raising the issue with the individual they should approach their supervisor or next line manager if they cant approach their supervisor.

If they feel – for what ever reasons – they cannot raise the issues with line management they can raise them with the Associate Director HSW.

- Who will, using the resources of HR Advisors, ensure that support is offered to the individual and options to resolve their concerns are discussed (i.e. mediation or formal complaint)

If a Staff member is unsure about the pathway to raise an issue or is unsure about their issue of concern they can seek information from an FTCO.

When a manager is approached by a worker.

Managers should never ignore statements or emails where employees say they feel bullied.

Managers should assure the employee that the University takes ALL complaints seriously and that:

- If they are unsure about the pathways to raise their concerns, provide them the information or recommend they see an FTCO
- Or make a time to discuss this serious matter with their supervisor.

Most importantly you should contact your HR Advisor to discuss a response.

Reasonable Management action.

Behaviour will not be considered bullying if it is reasonable management action carried out in a reasonable manner.

- The behaviour must be management action
- it must be reasonable for the management action to be taken, and
- the management action must be carried out in a manner that is reasonable.

Management action

Inconsistency in the application of policy and entitlements is often labelled as bullying.

In these cases the Regulator would examine if the management action involved a significant departure from established policies or procedures and, if so, whether the departure was reasonable in the circumstances.

If you are at all unsure as to the reasonableness of the management action you are about to undertake.....Speak to your HR Advisor.

Where bullying complaints involve management action, case law from the FWC encourages employers to undertake an objective assessment of the action in the context of the circumstances and knowledge of those involved at the time, including:

- the circumstances that led to and created the need for the management action to be taken
- the circumstances while the management action was being taken, and
- the consequences that flowed from the management action.

This includes the emotional state and psychological health of the worker involved.

Summary for Managers

1. Ensure you are providing information to workers
 - a) During induction
 - b) Consider using FAQ's and On-line session provided by HSW
2. Never ignore or dismiss seemingly informal complaints of bullying in the workplace
 - a) Bullying is a serious issue and allegation and requires action by managers/supervisors
 - b) Contact your HR Advisor
3. If approached by a staff member for support in resolving concerns about bullying
 - a) Treat as a priority
 - b) Contact your HR Advisor



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