

# WORKPLACE BULLYING

*Please note that this is general information & may not be relevant to your particular matter. This should not be taken as legal advice.*



## What is workplace bullying?

Workplace bullying is repeated, unreasonable behaviour that creates a risk to health and safety.

It occurs when a person or group of people behave unreasonably towards a worker, or group of workers.

Workplace harassment can affect any person at any level of employment including employees, managers and supervisors.

Workplace harassment is a workplace health and safety risk. Employers have a responsibility to ensure that employees have access to a safe place of work and are not exposed to bullying.

## What are some examples of workplace bullying?

Bullying behaviour can be subtle and not easily observed by other people, or it can be obvious. It can include a wide variety of behaviours ranging from subtle intimidation to more aggressive tactics, including:

- holding “initiation ceremonies”
- abusing a person loudly, usually when others are present
- repeated threats of dismissal or other severe punishment for no reason
- constant ridicule and being put down
- regular teasing and being made brunt of practical jokes
- displaying written or illustrated material that degrades or offends an employee
- leaving offensive messages on email or the telephone
- sabotaging a person’s work, for example, by deliberately withholding or supplying incorrect information, hiding documents or equipment, not passing on messages and getting a person into trouble in other ways
- excluding and isolating a person from workplace activities and events
- persistent and unjustified criticisms, often about petty, irrelevant or insignificant matters



- giving someone work above or below their skill level
- humiliating a person through gestures, sarcasm, criticism and insults, often in front of customers, management or other workers
- spreading gossip or false, malicious rumours about a person with an intent to cause the person harm

Less commonly recognised harassment behaviour includes:

- withholding information or supplying incorrect information
- over-monitoring ('micro-management')
- refusing to delegate
- deliberately interfering with post, messages and other communication
- setting people up to fail—impossible deadlines; excessive workload
- blocking leave applications, training or promotion
- not listening to other points of view

Some management action may be considered as workplace bullying where it is used primarily to offend, intimidate, humiliate or threaten workers or to create an environment where workplace harassment is more likely to occur.



### **Physical Assault**

Workplace harassment may also include physical assault. Assault itself is a criminal act. Advice in this information sheet does not apply to situations where criminal acts of violence have occurred. You should contact the police if assault occurs at work or in a workplace situation, such as at a work function.

### **What is not workplace bullying?**

Workplace bullying is not:

- a single incident of harassing type behaviour
- reasonable management action taken in a reasonable way, this can include actions taken to transfer, demote, discipline or dismiss an employee

### **Discrimination**

Discrimination is unlawful if a person or a group is treated unfavourably because of a particular protected characteristic – including sex, family responsibilities, pregnancy, breastfeeding, age, race and impairment.

## Sexual harassment

Sexual harassment occurs where there is conduct that is:

1. Sexual in nature
2. Unwelcome
3. Done with the intention of offending, humiliating or intimidation (or in circumstances where a reasonable person would anticipate the target would be offended, humiliated or intimidated).



Behaviour is unwelcome where it is unwanted or uninvited by the person being harassed.

It does not matter what the harasser intended.

Sexual harassment can occur in person, over the phone, in writing and online. It can be physical or verbal, obvious or subtle, a one-off incident, or repeated behaviour. It has nothing to do with mutual attraction or friendship. If there is consent, it is not sexual harassment.

Please see our info sheets on these topics for further information.

## Effects of workplace bullying

Workplace bullying has detrimental effects on an organisation and on individuals.

Workplace bullying may cause the loss of trained and talented employees, loss of profits, reduced productivity and morale, an unsafe working environment and create legal risks and legal costs for an organisation.

Workplace bullying is very subjective, and therefore the impact on individuals may vary greatly. The most commonly reported effects are:

- stress and anxiety
- feelings of isolation at work
- loss of self-esteem
- physical symptoms of stress such as headaches, backaches, stomach cramps and sleep disorders
- depression
- headaches and migraines, tiredness, exhaustion, constant fatigue
- hypersensitivity, fragility, isolation, withdrawal
- skin problems, rashes and eczema
- frequent viral infections and other illness
- loss of financial security
- loss of, or damage to, personal relationships.



## Strategies to eliminate workplace bullying

Employers should act to prevent workplace bullying.

Prevention measures can include:

- providing staff with workplace bullying awareness and prevention training;
- maintaining a code of conduct or policy for employees and management to follow;
- maintaining a complaint handling system and inform all employees on how to make a complaint;
- having support systems available including options for resolving grievances and the appeals process;
- regularly reviewing workplace bullying policies, complaint handling process and training.

## Workplace bullying: what can you do?

An employee who is being bullied in the workplace has several options. These options can be discussed with a union delegate, supervisor/manager, other outside supporter or with Working Women Queensland.

Options include:

1. Taking no action (this may not change anything)
2. Speaking to the person who is doing the bullying about their behaviour, if you feel safe to do so
3. Asking a third party to talk to the person accused of bullying
4. Making an informal complaint and asking your supervisor or manager to assist in resolving the matter
5. Making a formal complaint using your organisation's policies and procedures
6. Making an external complaint to your union, Workplace Health and Safety Queensland or the Fair Work Commission

### Making a complaint

The first step is to check if your workplace has a grievance procedure. This may provide a guide to the steps to follow within your organisation.

A complaint-handling process should include steps to follow for reporting, investigating, resolving and appealing workplace harassment complaints. If you work for a larger organisation, there may be a human resources department that can assist you in locating the grievance procedure.



The complaint process should be fair, impartial, and be developed through consultation with workers and management. It should provide procedures for managing both informal and formal complaints.

Some workplace conflicts, including bullying, can be resolved effectively using an informal process through open discussion between the parties. This should be encouraged as the first step in complaints, unless otherwise requested by the person making the complaint or the nature of the bullying behaviour prevents this.

Formal complaint processes should include a formal reporting procedure, an investigation procedure, a complaint resolution procedure and an appeals process.

The formal complaint handling system should be based on the principles of natural justice, for example:

- The person alleged to have committed workplace bullying is presumed to be innocent until allegations are accepted as true;
- All allegations of workplace bullying should be investigated promptly;
- The person who has allegedly committed the workplace bullying should be informed of all allegations and given an opportunity to explain their version of events;
- Should the complaint be accepted as true, then remedial action must be taken.

## External Complaints

If the matter cannot be resolved internally, and employees are covered by an award or registered enterprise agreement, they may lodge a notice of industrial dispute or an application for an order to stop bullying with the Fair Work Commission but only after exhaustion of internal dispute or complaints processes.

A worker can apply to the Fair Work Commission for an order to stop bullying.

**You will need to complete a Form F72 – Application to stop bullying.**

This can be found on the FWC website. At this link:

<https://www.fwc.gov.au/form/apply-stop-workplace-bullying-form-f72>.

## Application Fee

The application must be accompanied by payment of the filing fee (or an application to waive the fee due to serious financial hardship). If the filing fee is not paid or a waiver request submitted, the Commission may cancel or discontinue the application.

If you cannot afford to pay the fee, you will need to complete Form 80 – Application for Waiver of Filing Fee. That can be found on the FWC website.

<https://www.fwc.gov.au/content/rules-form/waiver-application-fee>



## Commission Processes

Within two weeks of receiving the application, the Commission will provide a copy of the application and supporting documents to your employer and the people accused of bullying.

The employer and people accused of bullying will be requested to provide a response to your allegations.

The Fair Work Commission (FWC) will hold a conciliation conference between you, your employer and the people accused of bullying, with the aim of helping you all come to an agreement about the settlement of your bullying complaint.

If a settlement cannot be reached, your matter will be progressed to a conference and/or hearing with a Commissioner, who will determine your application and where appropriate issue orders.

The Fair Work Commission aim to finalise bullying matters within 16 weeks from receiving your application.

**NOTE:** You must remain employed by the business in order to pursue a bullying stop order application.

## Other information for employees

- Employees are required to comply with workplace policies and procedures on workplace harassment and should report incidents of bullying to their supervisor or employer.
- It is management's responsibility to ensure that employees are not exposed to bullying, to treat complaints seriously and to ensure employees who make complaints are not victimised.
- Keep a diary recording incidents in detail, this may also contain the contact details of people willing to support your claim, or who have witnessed the harassment and can be used to assist with proving your case. It may also provide valid evidence in a court of law or tribunal.



- Consider joining your union. Union members are provided with support and representation in workplace disputes.
- Seek support. Severe workplace bullying is a traumatic experience and should be taken seriously.
- Talking to a professional counsellor or trusted friend can help you manage your stress whilst you consider options to take.



- Avoid being alone with the bully. It is important to ensure your safety as much as possible.
- Seek advice. If you are a member of a union, contact them to help you make a complaint and advocate on your behalf.

Seeking advice is particularly important if you are considering making a complaint directly to your employer or to an authority such as Workplace Health and Safety (who will investigate if a psychological injury has occurred) or the Fair Work Commission, where you may be able to take other action such as a General Protections complaint.

### **Contact WorkCover if appropriate**

Where it can be established that a psychological injury has occurred due to workplace bullying, employees may be entitled to make a claim for Work Cover. For a claim to be successful you need to prove that the bullying at work was a significant contributing factor to the injury.

If you are thinking about making a Work Cover claim, then it is best to get advice.

### **Where can I get help?**

If you are a union member, call your union.

If you are not a union member, then please contact Working Women Queensland. We are a free, confidential and supportive service to help disadvantaged women seeking help with work-related matters.

Call us on 1800 621 458 or visit our website <https://brq.org.au/working-women-qld/>.

You can also submit an online enquiry on our website.

Please be aware that we may not be in a position to respond to your enquiry within 24 hours, but we will advise you of the waiting period when you first telephone or email us.



## Other Support Services

### Queensland Council of Unions

07 3010 2555

<https://www.qldunions.com/>

### Fair Work Ombudsman

13 13 94

<https://www.fairwork.gov.au>

### Fair Work Commission

1300 799 675

[www.fwc.gov.au](http://www.fwc.gov.au)

### Australian Human Rights Commission

1300 656 419

[www.humanrights.gov.au](http://www.humanrights.gov.au)

### Queensland Human Rights Commission

1300 130 670

<https://www.qhrc.qld.gov.au/>

### Workplace Health and Safety Queensland

1300 362 128

<https://www.worksafe.qld.gov.au/about/who-we-are/workplace-health-and-safety-queensland>

### Workcover Queensland

1300 362 128

<https://www.worksafe.qld.gov.au/about/who-we-are/workcover-queensland>

### Women's Legal Service Queensland

1800 957 957

<https://wlsq.org.au/>

### Caxton Legal Centre

07 3214 6333

<https://caxton.org.au/>