

Bullyology®

Bullying and Harassment Guidelines for Policy and Procedure (*Sample*)

Summary:

This document provides guidelines for prevention and management of workplace bullying and harassment as an example for policy and procedure. Organisations are encouraged to seek their own independent advice prior to developing or implementing such policy or procedure.

Purpose:

We are committed to providing a safe and equitable workplace for all workers, where everyone's contribution is valued and respected. As part of this commitment, behaviours such as workplace bullying, harassment, sexual harassment and discrimination will not be tolerated. The purpose of this document is to provide guidelines for the prevention and management of bullying.

Statement:

The purpose of this document is to:

- Define unacceptable workplace behaviours including bullying and harassment
- Provide information for workers around their rights, obligations and available options for raising concerns about unacceptable workplace behaviour
- Provide guidelines for the effective and timely management of complaints

Workers are expected to contribute to the achievement of a positive and productive workplace culture by carefully considering their own behaviour and its possible effects on others. Managers are responsible for fostering a work environment that is free from bullying, harassment and discrimination.

Managers must take all reasonable steps to identify, assess and eliminate or minimise the potential for workplace bullying. All complaints about bullying must be treated sensitively, seriously, fairly and acted on promptly. Managers are responsible for ensuring that identified risks related to a complaint are assessed and managed. Those involved in a complaint have both the right to confidentiality and to maintain privacy.

If an investigation is warranted, it must be managed in accordance with relevant policies and legislation. All involved parties must be made aware of the process and

expected timelines and kept up to date about progress. All stages of the process must be appropriately documented.

Definition of Bullying:

Bullying is defined by *Safe Work Australia* as:

“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*”. This includes repeated behaviour directed towards one individual and single incidents of behaviour involving separate individuals and can involve a range of behaviours over time.

Bullying can take many different forms. It can range from:

- Abusive or offensive language or comments
- Aggressive and intimidating behaviour
- Belittling or humiliating comments
- Practical jokes
- Unjustified criticism or complaints
- Spreading rumours or malicious gossip
- Conducting an investigation in a grossly unfair manner

Bullying behaviour can be by one or more person/s against any other person/s. This may include managers and co-workers at any level of an organisation.

Definition of Harassment:

Harassment is defined by *Safe Work Australia* as:

“Unwelcome behaviour that intimidates, offends or humiliates a person. It may target personal characteristics such as race, age, gender, disability, religion or sexuality. The key differentiation between bullying and harassment is that bullying is repeated, whilst harassment can be inferred from a single incident.”

Harassment can be non-sexual or sexual and may happen at all levels within an organisation. It creates a hostile work environment that interferes with an employee’s ability to perform their job.

There are numerous identified types of harassment, including:

Discriminatory – targeting a person based on religion, gender, sexual orientation, disability, age, pregnancy, race, etc.

Physical – involving assaults, physical attacks, direct threats to inflict harm, property destruction in order to intimidate, etc.

Verbal – insulting, belittling, yelling at, cursing at or verbally threatening a target, in public or private

Power Disparity-based – the perpetrator abuses their position of authority to threaten, intimidate, undermine, make unreasonable demands, assign tasks below an employee’s capabilities, etc.

Psychological – targeting a person’s emotional well-being by undermining their sense of self-worth, e.g. socially isolating them within the workplace, persistently opposing or dismissing their ideas or input, spreading rumours about them, discrediting their abilities, etc.

Online – any harassment that occurs over the Internet: spreading misinformation or encouraging denigration about a target on social media, sending them threatening texts or messages, etc.

Retaliation – retaliation harassment is designed to ‘get back’ at someone or to discourage them from behaving in a certain way again.

Personal – this is harassment that doesn’t meet any of the characteristics for discriminatory harassment, where the perpetrator has a personal ‘axe to grind’ against the target but their precise motivations aren’t clear.

Third Party – harassment committed by someone outside the organisation, e.g. a customer, supplier or vendor.

Sexual Harassment – this harassment is sexual in nature and includes unwelcome sexual or romantic behaviour. It can take many forms, including:

- Sending sexually suggestive or explicit text messages or emails; sharing pornographic photos
- Asking intrusive questions about someone’s personal life, especially their sexual history or orientation
- Displaying sexually offensive screen savers or posters
- Invading an employee’s personal space in a sexual way or touching them in any manner that makes them feel uncomfortable
- ‘Quid pro quo’ sexual harassment: e.g., suggesting to a work colleague that they might receive a promotion, get a job offer, avoid termination or demotion, etc. in exchange for sexual favours; this type of harassment is usually perpetrated by a manager or senior-level employee
- Making sexually suggestive gestures within the workplace

Rights and Responsibilities:

All levels of an organisation have rights and responsibilities with managing and displaying respectful behaviours including not engaging any behaviour that constitutes bullying and harassment. The most common points to consider include;

- Creating a working environment that is free from unacceptable workplace behaviour where workers are treated with dignity, courtesy and respect
- Implementing and attending training and being aware of strategies to ensure behaviour remains respectful
- Know their rights and responsibilities with respect to unacceptable workplace behaviours
- Identifying factors which may increase the risk of workplace bullying occurring and reducing these factors as far as reasonably practicable
- Providing effective complaint management procedures incorporating procedural fairness
- Encouraging the reporting of behaviour that breaches policies
- Treating all complaints in a sensitive, objective, confidential, procedurally correct and timely manner
- Taking appropriate action against anyone who victimises someone for making a complaint
- Promoting and enforcing appropriate standards of conduct at all times.

Examples of bullying behaviour can include:

- Abusive, insulting or offensive language or comments
- Aggressive or intimidating conduct
- Unjustified criticism or complaints
- Practical jokes or initiation practices involving abuse or humiliation
- Deliberately excluding someone from workplace activities including workplace social activities
- Withholding information and work activities that are 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
- Changing work arrangements such as rosters and leave to deliberately inconvenience particular worker/s
- Bullying may also be discrimination if it targets a person on the basis of their age, gender, pregnancy, race, disability, sexual orientation, religion or certain other protected attributes

Workplace conflict such as differences of opinion and disagreements are not generally considered to be workplace bullying, unless they are repeated, unreasonable behaviours that create a risk to health and safety and fit the definition of workplace bullying.

Additionally, examples of reasonable management action that does *not* constitute bullying may include:

- Providing appropriate feedback on a worker's performance
- Managing performance issues

- Issuing reasonable work directions
- Redeploying a worker due to structural changes and redundancy
- Where a workplace and/or policy process is conducted fairly and equitably
- Making justifiable decisions related to recruitment and selection and other development opportunities
- Ensuring that workplace policies and processes are implemented
- Managing misconduct and disciplinary actions
- Managing Work Health Safety in accordance with legislation and policy
- Setting realistic and achievable performance goals and deadlines

Prevention of bullying:

Prevention is the key to reducing workplace bullying and where management becomes aware of a work health and safety risk, they have a responsibility to intervene and take appropriate action.

Control measures should be implemented to manage any risks associated with bullying; this includes monitoring and reviewing such measures to ensure they remain effective. For example:

- Consulting with workers on health and safety matters on a regular basis
- Setting the expected behaviour through policy implementation and coaching
- Providing all workers access to the resources, information and training necessary to carry out their duties and responsibilities safely
- Ensuring all workers are aware of how to make a bullying complaint if necessary, allowing easy access to policy, procedures and related information
- Conducting regular anti-bullying training

Managing a bullying or harassment complaint:

All parties involved in a bullying complaint have rights and responsibilities with confidentiality and privacy. All information surrounding the complaint should be privacy protected. The person/s appointed to managing the complaint should manage what information is given to certain involved parties.

The bullying complaint can be managed as per the summary procedure below:

1. Conduct an initial assessment of the complaint to identify whether the complaint relates to an allegation of bullying, harassment or other employment matter: for example, grievance or performance issue or vexatious complaint.
2. Conduct a risk assessment to ensure the safety and well-being of all person/s involved in the complaint and whether an investigation should be undertaken. An investigation would generally be undertaken if there is substance surrounding the allegations made, if the allegations are of sufficient severity and/or if the allegations affect a person/s well-being and safety.
3. Implement any work health and safety processes.

4. Decide on appropriate action to address the allegation/s of bullying such as an investigation, grievance resolution (facilitation, mediation), performance management, training and/or other appropriate strategies.
5. Provide to the person/s subject to the complaint information on the allegations made against them by the complainant in writing, by way of a face-to-face meeting.
6. Where an investigation is required, appoint an appropriate investigator, either external or internal of the organisation.
7. Review findings of the investigation and complete a report outlining all information, including whether the allegations made were substantiated or unsubstantiated.
8. Determine any necessary action and recommendations including any disciplinary action.
9. Communicate and implement the decided outcome of the investigation process to all concerned parties.

Making a bullying or harassment complaint:

Where a worker feels they are (or have been) bullied or harassed, you should ensure sufficient information is made available to them so they can determine how best to respond and what options are available in pursuing their complaint.

Usually a complaint would be made to the relevant manager but if the complaint is against the manager, the complaint should be made to the next relevant manager and/or Human Resources representative.

A verbal complaint should be followed up in writing or notes taken down by the person managing the complaint on behalf of the complainant, ensuring the notes reflect the allegations and/or information supplied.

Offer the complainant any EAP or counselling services available; for example: Beyond Blue, Tel: 1300 22 4636 or LifeLine, Tel: 13 11 14.

A worker may advise that they are being subjected to bullying but do not wish to make a formal written complaint. This could be a case of the worker fearing repercussions from the alleged bully and/or fearing that making a complaint will cause them more stress. In these circumstances, outline the options available to resolve the matter as defined, including what an investigation process will involve.

If the allegation meets the definition of bullying and if the worker appears to be stressed, or there is a concern of work health and safety, you may be obligated to report the complaint on behalf of the complainant. If this is the case, you should advise the complainant of your reporting obligations prior to any discussion.

Anonymous complaints are not encouraged but if received, they need to be assessed to identify any adverse behaviour or risk to health and safety and acted upon accordingly.

All complaints must be treated promptly and confidentially. If there is an immediate risk to health and safety to any person/s involved, it may be considered in making

arrangements for leave to be taken or in changing reporting lines, positions or locations of a worker.

When a complaint is received, an initial assessment should be conducted to determine its severity. Complaints should be acted upon in a timely and objective manner and investigated as quickly as possible to reduce any significant impact to all parties involved.

Appropriate documentation relating to bullying complaints and investigations must be kept and appropriate privacy controls maintained.

Remedies to resolve a complaint:

A range of options exists to resolve complaints promptly and effectively, including:

- Disciplinary action and performance management
- Mediation between involved parties
- Redeploying person/s to other positions or locations
- Termination
- Counselling
- Coaching and mentoring
- Training
- Apology (if warranted and agreed upon)
- Addressing workplace and cultural issues through discussion and team meetings
- Change of reporting lines or teams

Resources:

Fair Work Commission: <https://www.fwc.gov.au/anti-bullying-benchbook/what-is-workplace-bullying>

Safe Work Australia: <https://www.safeworkaustralia.gov.au/bullying>

Bullyology: <https://bullyology.com/terms-and-conditions/>