

Bullying, Discrimination and Harassment Training

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Bullying

Bullying at work occurs when:

- a person or a group of people **repeatedly** behaves unreasonably towards a worker or a group of workers at work

AND

- the behaviour creates a **risk to health and safety**
 - **Unreasonable behaviour** means behaviour that a reasonable person, having considered the circumstances, would see as unreasonable, including behaviour that is victimising, humiliating, intimidating or threatening.



Bullying

However, in order for it to be bullying the behaviour **must** be repeated and unreasonable and **must** create a risk to health and safety.



Bullying

Bullying behaviour may involve, for example, any of the following types of behaviour:

- aggressive or intimidating conduct
- belittling or humiliating comments
- spreading malicious rumours
- teasing, practical jokes or 'initiation ceremonies'
- exclusion from work-related events
- unreasonable work expectations, including too much or too little work, or work below or beyond a worker's skill level
- displaying offensive material
- pressure to behave in an inappropriate manner.



Bullying

- Bullying ***is not*** “Reasonable Management Action carried out in a reasonable way”
- This means that formal warning processes, giving firm directions, and losing your temper do not count as bullying. Afterall, it is not against the law to get angry.



Bullying

Examples of reasonable management action:

- Setting reasonable performance goals and deadlines;
- Rostering and allocating working hours where the requirements are reasonable;
- Transferring a worker for operational reasons;
- Informing a worker about unsatisfactory work performance in an honest, fair and constructive way;
- Informing a worker about inappropriate behaviour in an objective and confidential way; or
- Taking disciplinary action, including suspension or terminating employment.



Bullying

How Can Workplace Bullying Occur?

Workplace Bullying can include conduct outside of the workplace if it is directly related to work and can occur through a number of methods including:

- Emails;
- Text messages;
- Facebook and other social media; and/or
- Face to Face.

Workplace Bullying can be committed by:

- Manager;
- Subordinate (someone working under you);
- Co-worker; or
- Or a combination of the above.



Bullying

- Bullying behaviours may be unconscious on the part of the “bully” and may need to be brought to their attention directly, i.e.
 - What you are doing is making me uncomfortable, please stop
 - There is no need to treat me like that, it isn’t necessary, please stop
- What you should not say,
 - Say that again and I’ll punch your lights out
 - You’re only saying that because your ugly and will die alone with only your cats to mourn you.



Reporting A Complaint

- The process for reporting any abuse, be it bullying, sexual harassment or discrimination is the same.
- As stated in the previous slide, it should be raised with the person causing the offence in the first instance. However this is not a rule, and in certain circumstances may not be followed, for example, what if the guilty party is threatening the employee if they complain? Or what if they are their direct boss?



Complaint Handling

- Every organisation should have a “Complaint Handling Policy”, or some process whereby such complaints can be raised for investigation;
- If a policy is implemented, it must be followed carefully;
- Investigations must be conducted by a person not directly involved with the matter or who has a personal relationship with a person directly involved.



Complaint Handling

- Every person associated with a complaint, be it the complainant, or alleged bully is entitled to natural justice (Procedural Fairness).



Natural Justice – Procedural Fairness

- Natural justice or procedural fairness comprises three main components: the opportunity to be heard; there must be no bias; and the decision must have some basis in fact or reasoning.
- Opportunity To Be Heard –
 - Complainant – Their complaint must be listened to and considered, as opposed to being dismissed out of hand
 - Alleged Bully – They must be given an opportunity to respond to the allegations against them



Natural Justice – Procedural Fairness

- No Bias –
 - Investigation process –
 - Investigation must be conducted by a person not associated with the complainant or alleged bully
 - Decision making process –
 - The decision maker who determines the outcomes for all concerned with the complaint must not be associated with the complainant or the alleged bully.
- Investigations should be conducted by people with experience in such matters.



Natural Justice – Procedural Fairness

- The Decision must be based on a demonstrated fact or reason on “Balance of Probabilities”.
- This means that the decision maker is convinced that the action more than likely did, or did not occur, and this view is reasonable in the circumstances.



Victimisation

- A person has alleged (or intends to make an allegation) about a contravention of the *Industrial Relations Act 2009, Fair Work Act 2009, or Work Health & Safety Act 2011*.
- Example:
- A worker complained to their human resource management department about bullying. As a result, the worker was subjected to taunts by co-workers and snide remarks related to the complaint. He was further penalised for making a complaint when he was excluded from meetings and events that he would normally attend.



Victimisation

Victimisation is where a person is treated less favourably because they either made a complaint regarding one of the matters discussed today, or launched a proceeding in a relevant government authority.



Victimisation

- **Victimisation is a separate action**
- A victimisation complaint may continue even if other proceedings do not.
- A victimisation complaint is a separate and distinct action from any other complaint made and is not affected by:
 - the Bullying complaint failing;
 - the complaint being withdrawn;
 - the person intending to be involved with a proceeding or supplying documents etc not going ahead with it.



Victimisation

- **Victimisation is also a breach of the *Fair Work Act 2009* or *Industrial Relations Act 2016* if the complaint relates to a workplace right specified in that Act.**





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