



# Workplace Bullying

## What is Workplace Bullying?

Workplace bullying exists in various forms. It can be instigated by, and affect, either gender and at any level of employment. Bullying involves behaviour that intimidates, degrades or humiliates an employee (sometimes in front of Parents or other Staff). It may include abuse of power, isolation, alienation of employees or poorly managed conflicts of opinion or personality. Inappropriate comments about personal appearance, work performance and verbal abuse are also common. Assault, both physical and threatened can also be a factor.

## Is it Unlawful?

Often workplace bullying can't be dealt with under existing legislation. However, where bullying involves acts such as sexual harassment or discrimination, a claim may be lodged under the Queensland Anti-Discrimination Act.

## Is it a Criminal Offence?

Physical assault is a criminal offence and should be reported to the Police immediately.

Female Liaison Officers are now available throughout the Police Department.

## How Can it Affect an Employee?

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

- stress;
- feelings of social isolation at work;
- anxiety;
- loss of self esteem;
- loss of financial security;
- loss or deterioration of personal relationships;
- physical symptoms of stress such as headaches, backaches, stomach cramps; and
- depression.

## Why Does “Workplace Bullying” Remain Largely Unreported?

There are many reasons why people tolerate bullying. People subjected to this behaviour may experience loss of self confidence and self esteem. This, together with repeated comments about poor work performance, can leave someone convinced it is actually their fault. New/Young employees are particularly vulnerable

Fear of dismissal may have an impact on the toleration of bullying and may contribute to feelings of helplessness. In the past, a person had the option of leaving a stressful environment with a reasonable expectation of gaining alternative employment. Due to what can be perceived as a diminished job market, this may no longer be seen as a viable option, causing feelings of being “trapped” in an untenable situation.

Cultural influences may also play a role in people tolerating inappropriate behaviour, with some women being brought up in an environment that perpetuates low expectations regarding women's role in society. This perceived powerlessness, together with lack of confidence and assertion skills, may prevent women from taking appropriate action to deal with bullying. Many people have been brought up to respect their elders and/or people in legitimate power positions, and may have a great deal of difficulty in confronting inappropriate behaviour.

## What are the Financial Cost of Bullying for an Organisation?

The financial costs of bullying for an Organisation may include:

- ❖ High absenteeism rate;
- ❖ Low morale resulting in loss of productivity;
- ❖ High staff turnover;
- ❖ Time and resources in advertising and interviewing for new employees;
- ❖ Retraining costs;
- ❖ Increases in Work Cover Premiums, either through stress claims, or accidents directly related to stress and anxiety levels;
- ❖ Possible criminal action being taken in the case of physical injury or threat of physical injury;
- ❖ Possible discrimination claims being lodged should bullying be proven to be related to a person's status e.g. age, marital status, pregnancy;
- ❖ Industrial disputes or incidents; or
- ❖ Under the Workplace Health and Safety Act, an employer has an obligation to protect employees from all acts of violence and may be held vicariously liable\* for the actions of employees, or failure to take appropriate action to resolve the situation.

\* Vicarious liability in the case of an employer means that the employer may be held responsible for the actions of employees in the workplace, where those actions may affect the health and/or wellbeing of others.

## What Can You Do? – A Checklist

There are a range of options that you could consider which may be appropriate for you. These include:

### **Check for grievance procedures in your Award.**

Industrial Awards and Workplace Agreements are legally binding documents that outline your work conditions and pay rates. Under the provisions of the Federal Workplace Relations Act 1996, and the Queensland Industrial Relations Act 1999, the appropriate Award and/or Agreement should be clearly displayed in the workplace, allowing access to information regarding grievance procedures which should be followed in an attempt to resolve the situation.

Employees should be aware of their rights and how to ensure those rights are respected. An employee has the right to union representation at all stages of the procedure and can take advantage of this service.

**Employees should join a union if not already a member.**

Due to the Casual and/or Permanent Part Time nature employment, employees are open to being disadvantaged in many areas including promotion, training, working conditions and participation in Workplace Bargaining. Being a member of a Union is like any other kind of insurance. It is too late to join "after the event". After all, they may be risking their livelihood for the sake of a few dollars a week.

**Take comprehensive notes regarding incidents of bullying.**

Bullying can be very difficult to define and address, and at times, almost impossible to prove to the satisfaction of your organisation.

It is very important to keep a diary of events, recording incidents in detail. This diary should also contain the names and addresses of people willing to support the claims. This can be used at a later date to assist with proving the case, and may be seen as valid evidence in a Court of Law or Tribunal.

**Whether the situation is covered by the Anti-Discrimination or Industrial Relations Legislation.**

Some forms of bullying are covered by the provisions of the Queensland Anti-Discrimination Act or the State and Federal Industrial Relations Acts. Where it can be established that a person is being treated differently because of an attribute (e.g. sex, race, age, religion etc) relief may be sought through these channels.

**Disputes Resolution Centres.**

Relief may be sought through Dispute Resolution Centres in your city, which provide an informal, non-legal service to people in conflict. This service is free, voluntary and confidential. In this process, the Alternative Dispute Resolution Branch will provide the services of a neutral third party to conciliate in an attempt to talk through and resolve any situation. As participation in this process is voluntary, Dispute Resolution Centres will contact both parties to gain agreement for mediation.

**The Qld Workplace Health and Safety Act 1995**

Under the Qld Workplace Health and Safety Act 1995, an employer has an obligation to supply a safe working environment, and Employers may be held vicariously liable for the actions of their employees, or failure to take appropriate action to resolve the situation. In certain circumstances verbal abuse, intimidation and humiliation may in fact be viewed as occupational violence. Contact the ACSEA for further information,

**WorkCover**

Where it can be established that a psychological injury has occurred due to workplace bullying, the employee may be entitled to make a claim under WorkCover. For a claim to be successful it needs to be proven that work was a significant contributing factor to the injury.

Due to the increase in stress related claims under the WorkCover legislation, there may be delays or difficulties with processing and acceptance of your claim.

Employees should approach their Union to assist with the preparation of these claims. If they are not a Union Member, they should go to the Department of Industrial Relations.

**The Employer should approach and confront the "bully" on behalf of the Employee.**

In some cases, a support person or employer approaching the aggressor has met with some success.

## **Undertaking Personal Development Courses**

Where it is unlikely that the bullying behaviour will cease, it may be an option to seek counselling or undertake personal development courses to modify your reactions to the situation. These can assist with:

- ❖ improving communication skills;
- ❖ conflict resolution;
- ❖ stress management;
- ❖ self confidence and self esteem.

## **Unlawful or Unfair Dismissal**

If bullying behaviour in the workplace results in the employee being dismissed or leaves no alternative that the employee resigns, they may have recourse under Industrial Relations Legislation.

In this instance, they can contact:

- their union (if they are a member); or
- the Industrial Relations Commission; or
- Wageline; or

All the above organisations will be able to provide information to the employee in regards to their rights to access unfair dismissal laws.

## **WORKPLACE BULLYING IS UNACCEPTABLE BEHAVIOUR**

It is important that employees who are subjected to workplace bullying is assured that is unacceptable behaviour and should not be tolerated.

As such it should be investigated and treated in the same way as any other complaint.

**Sexual Harassment** is any form of unwelcome attention of a sexual nature which is humiliating or offensive.

**Discrimination** occurs when someone is treated unfavourably because they belong to a particular group of people. Under the Queensland Anti-Discrimination Act, it is illegal to treat someone unfavourably due to:

- sex;
- marital status;
- pregnancy;
- parental status;
- breastfeeding;
- age;
- race;
- impairment;
- religion;
- political belief or activity;
- trade union activity;
- lawful sexual activity/sexual preference;
- association with a person having any of the above mentioned attributes.

**For a copy of the “Prevention of Workplace Harassment Advisory Standard 2004”  
contact the ACSEA**

**PLEASE CONSULT WITH THE ACSEA BEFORE YOU ACT**

**Call us before placing yourself at Risk  
Phone: (07) 3852 5177**

**This information has been provided by ACSEA as general guidance and should not be treated as advice.  
Please contact ACSEA for further advice.**