

Workplace Bullying Prevention and Response Procedure

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Workplace Bullying Prevention and Response Procedure

Purpose

This procedure supports the Workplace Bullying Prevention and Response Policy and describes how WorkSafe NZ will approach workplace bullying. It provides guidance for employees and managers on how to address workplace bullying in order to maintain a positive, healthy and safe working environment for all.

Scope

Workplace bullying is recognised as a workplace hazard, with health and safety implications for those who are affected.

This procedure offers guidance on preventing and responding to workplace bullying and covers all WorkSafe NZ employees.

Background

An employee's health can be negatively affected, both psychologically and physically, when subjected to workplace bullying.

Workplace bullying can negatively affect productivity and disrupt workplaces through:

- impaired performance
- increased absence
- low morale
- more mistakes and accidents
- loss of reputation
- resignations and difficulty recruiting
- poor service quality.

WorkSafe NZ has a duty under the Health and Safety in Employment Act 1992 to manage risks associated with exposure to hazards, including workplace bullying. WorkSafe NZ is committed to having exemplary practices and supporting the safety and wellbeing of our workforce.

Workers also have a duty to take care of their own health and safety and not adversely affect other people's health and safety.

Relevant Legislation

Health and Safety in Employment Act 1992

Definitions

What is bullying?

Workplace bullying is *repeated* and *unreasonable* behaviour directed towards a worker or a group of workers that creates a risk to health and safety.

Bullying behaviours

Bullying behaviours are commonly grouped into two main categories:

- *Direct* and personal - e.g. belittling remarks, threats of violence, verbal abuse etc.
- *Indirect* and task-related – e.g. withholding or concealing information, not giving enough training or resources to be able to complete tasks, constant criticism of work etc.

(Please refer to the WorkSafe NZ 'Preventing and Responding to Workplace Bullying Guidelines' for further information and examples)

What is not bullying?

There are a number of situations that, although they may feel unpleasant, are not examples of bullying. These can include, but are not limited to:

- a single incident of unreasonable behaviour
- workplace violence
- workplace conflict
- rational management action taken in a reasonable way
- occasional instances of forgetfulness, rudeness or tactlessness
- setting high performance standards because of quality or safety
- constructive feedback and legitimate advice or peer review
- warning or disciplining employees in line with the workplace's code of conduct

While not defined as bullying, a single incident of unreasonable behaviour or workplace violence may still be a serious breach of expected workplace behaviour standards and as such requires reporting, investigation and response.

Types of workplace bullies

- *The chronic bully* – conceptualises themselves as being superior and powerful and are possibly not capable of empathy.
- *The opportunistic bully* – generally self-centred, ambitious and prepared to win at any cost. They will try to control everything and everyone on their way to success.
- *The situational bully* – may take advantage of a workplace situation to display bullying behaviours. When the situation no longer gives opportunities for bullying, they stop.

Types of workplace bullying

- *Institutional Bullying* – when an organisation’s norms, culture, or practice allow behaviour that causes offence or undue stress to others, i.e. without concern for the consequences or wellbeing.
- *Downward Bullying* (from managers to workers) – a manager deliberately and repeatedly targets an employee. In an extreme case, this may reach the point where the employee feels isolated, powerless and worthless.
- *Upward Bullying* (from workers to supervisors or managers) – the most common form of an employee bullying a manager is withdrawal of cooperation or communication.
- *Sideways Bullying* (between workers) – among employees who work at the same or similar level. It may include:
 - ongoing unwelcome comments, gestures or conduct
 - physical, degrading or threatening behaviour
 - abuse of power
 - isolation
 - put-downs

Preventing Bullying

WorkSafe NZ emphasises its commitment to the prevention of workplace bullying, recognising that it is prevalent in many workplaces, and is a significant workplace hazard.

Why is bullying WorkSafe NZ’s business?

Under the HSE Act, employers have an obligation to identify and control hazards that could harm their staff. This includes hazards from undesirable behaviours.

Managers can use the bullying cost calculator at the following link to find out the costs of bullying:

<http://www.business.govt.nz/worksafe/tools-resources/bullying-prevention-tools/calculator>

The following table highlights factors that can open the door for workplace bullying, and factors that create a more positive environment in which bullies are less likely to emerge and evolve. In order for managers to prevent workplace bullying, they should be aware of the following:

Bullying can flourish when:	Bullying is less likely to flourish when:
a code of silence exists and bullying behaviour isn’t talked about, i.e. no-one dares to question the organisation’s norms	it’s discussed openly and information is provided for staff
undesirable workplace behaviour and practices are seen as ‘normal’	unacceptable behaviours are identified and alternative behaviours modelled
people who mention or report bullying are isolated and/or experience actual retaliation	people can report bullying objectively and feel safe from isolation and retaliation

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there are no consequences for bullying behaviour	there are disciplinary consequences when bullying is confirmed
there is no support for staff	staff feel supported by their peers, managers, and Human Resources
work pressures and deadlines are not factored into work programmes	work pressures and deadlines are factored into work programmes
people feel a continuing need to defend their own performance	people feel they are part of a self-supporting and self-correcting team
there are no checks or balances on manager's behaviour, and managers aren't supported	managers ask for, and receive, training and support
there is no model for expected management behaviour	effective management behaviours are clearly defined
managers fear a false charge of bullying	there are consequences for bad-faith complaints
people are targeted	behaviours are targeted
there are no formal or informal processes to deal with concerns or complaints	informal and formal processes exist and are used to resolve issues
negativity abounds	positivity abounds

Advice for Managers

When receiving a complaint about bullying, take it seriously and be impartial. You might like to consider advice from your manager or HR. Try an informal response first before taking more formal approaches.

Employers: Dealing with reports of bullying

Below are details of the actions managers can take to deal with allegations of workplace bullying. These principles are based in part on the principles of natural justice.

Treat all matters seriously	Take all complaints and reports seriously. Assess all reports on their merits and facts.
Act promptly	Deal with complaints and reports quickly, courteously, fairly, and within established timelines.
Ensure non-victimisation	Ensure that people who raise bullying issues are not victimised for doing so. All people involved should be protected from victimisation.
Support all parties	Following a complaint, ensure both parties are told what support is available (e.g. EAP or peer support systems). Act in good faith to both parties during any stage of a complaint. Treat all people involved with sensitivity, respect and courtesy. Ensure those involved know they can have a support person present at interviews or meetings (e.g. a health and safety rep, contact person, union delegate, or friend).
Be neutral	It is critical that the process is impartial. The person leading the investigation or resolution process must not have been directly involved in the incident and must avoid any personal or professional bias.
Communicate the process and outcomes	Ensure all parties are told what to expect during the process, how long it will take, the reasons for any delays and what will happen at the end. Give them clear reasons for any actions that are taken or not taken.
Maintain confidentiality	Ensure the process is confidential for all parties involved. Details should only be known to those directly concerned.
Keep good documentation	Ensure the process is documented, even if it is not a formal investigation. Keep a record of all meetings and interviews, detailing who was present and the agreed outcomes.

Responding to reports of bullying

When dealing with complaints or reports of bullying, managers must:

1. Establish the facts:
 - get clear descriptions of the behaviour and the incident, so they can explain it
 - listen and gather information in an unbiased, empathetic and respectful way
 - understand the issues and what is needed to resolve them
2. Decide whether the behaviour fits the definition of bullying.
3. Decide on an effective course of action, tailoring responses to the seriousness of the issue.
4. Work with the parties with the aim to agree to resolve the issues.
5. Stop any potential retaliation.
6. Re-check prevention measures.

If an employee takes an informal approach to dealing with bullying, it doesn't absolve the employer from their duty to deal with the undesirable behaviour.

Deciding how serious the issue is

Your judgement will be needed to interpret the seriousness of the specific situation you face. Use the tables below to help.

Least serious

- When the behaviour first occurs
- When there is a one-off wrong call or lapse
- When a line manager observes inappropriate behaviour

More serious

- When a problem re-surfaces
- When a person wishes to notify the potential for serious harm

Most serious

Allegations involving:

- senior staff or management
- a long period of time
- a series of workers reporting problems
- vulnerable workers or failure of other approaches

Response Options

There are a number of response options. Where possible, try using low-key and informal solutions. There are risks and benefits of approaching a bully informally.

The approach of...	has the risk of...	but might work well if...
direct confrontation with evidence about an incident or several incidents	generating defensive rationalisation and other destructive results	the person is approached at the right time and place, accepts the concerns raised, and changes their behaviour
'carefrontation' – confronting the person in a caring manner	the receiver not taking the feedback in the spirit it is given and reacting negatively	the person accepts that the feedback is given in the spirit of caring

presenting pooled data gained anonymously about an employee or manager	staff not giving feedback for fear of being identified	the employee or manager sees themselves through the other's eyes
the person targeted having a close colleague talk to the person	airing the problem without creating a way to change behaviour	the person approached accepts the concerns raised and changes their behaviour
the person targeted discussing the issue with a designated contact person	the alleged bully not receiving insight or changing their behaviour	a strategy is developed with the contact person to address the issue
telling a parallel story that highlights the behaviour of the person concerned	the person not making the connections between the story and their behaviour	the parallel story resonates with the person and they have the ability to change their behaviour

Formal investigation process

When people make a complaint about workplace bullying, it's important that they clearly understand what to expect. The investigation should happen as soon as possible after the complaint is received, and embrace the natural justice principles to ensure fairness. This means that factual aspects that will underpin eventual findings are put to the parties for comment after the re-interview process.

The investigation should be carried out by an independent (external from WorkSafe NZ), unbiased and experienced investigator. The investigator will need to know the rights of both the complainant and the alleged bully, and give clear advice about the possible outcomes. Employees need to be assured of the impartiality of the investigator.

Employee verbally advises the manager/supervisor

Before lodging a formal complaint, an employee may need to advise their supervisor or manager that they want to do that. If their manager or supervisor is the alleged bully, then they should go to the next senior manager or Human Resources staff.

Whoever receives the verbal notification is responsible for:

- taking reasonable steps to protect the complainant from reprisals
- ensuring confidentiality is maintained
- ensuring both the complainant and the alleged bully are supported
- organising an investigation process through Human Resources, if appropriate
- helping the complainant to submit the written complaint
- separating those involved in the complaint during the investigation

The employee or manager lodges the complaint

The complainant should format their complaint to include:

- a summary of the behaviour (specific allegations, dates, times, type of interaction, and names of any witnesses)
- the relationship of the person to them
- why the behaviour is unreasonable
- why the behaviour is repeated
- how it endangers their health
- how it makes them feel
- how it affects their work
- low-key solutions they have considered

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The template in the 'Recording Bullying Behaviour' section of this procedure should be used to record all key information.

The written complaint should initiate an independent investigation process. If mediation is recommended, both parties need to agree to attend.

The organisation responds

Once a formal complaint is made, an investigation will be initiated by the GM responsible for that team, HR and Legal. Separate meetings for each party will be arranged with an appropriate senior manager or Human Resources staff member. This will be done as soon as possible to explain the investigation process and their rights and responsibilities. They will explain:

- the expected timetable for investigating and resolving the complaint
- how the complaint will be investigated (e.g. interviews with the complainant, alleged bully/s, and any witnesses, viewing documentary evidence, etc.)
- who will receive copies of statements and records of the interview
- whether parties can refuse to participate
- what support will be available for each party, including the right to have a support person present
- what interim measure will be taken to ensure the safety and welfare of both parties during the investigation

Advice for Employees

Gather information

If you believe you are being bullied, document each instance and include:

- a summary of the behaviour (specific allegations, dates, times, type of interaction, and names of any witnesses)
- the relationship of the person to you
- why the behaviour is unreasonable
- why the behaviour is repeated
- how it endangers your health
- how it makes you feel
- how it affects your work
- low-key solutions you have considered

A detailed record in this format may:

- be valuable legal evidence
- reveal behaviour patterns
- clarify the issues and their effect on your work
- help you decide what to do

Look after yourself

You can approach an EAP counsellor directly for independent, confidential counselling where they can impartially validate your situation.

Don't ignore your stress levels. If you are experiencing anxiety, depression, or suicidal thoughts see your doctor immediately.

Low-key solutions and informal resolution:

- Talk to someone you trust – talking to a friend, relative, colleague, health and safety representative or union delegate can give you an objective viewpoint about whether you're actually being bullied, or just experiencing annoying behaviour. If colleagues have experienced the same behaviour, you can take joint action.
- Talk to your manager - if you believe you are being bullied then tell your manager (unless they are the bully).
- If you feel comfortable, talk to the person targeting you -
 - Focus on specific incidents.
 - Keep language neutral.
 - Try to see their viewpoint without excusing the behaviour.
 - Be mindful of possible reprisals.
 - Keep a record of the date, time, location, and details of the conversation.
 - Put your health and safety first, no matter how you decide to deal with the undesirable behaviour.
- If you do not feel comfortable talking to the person targeting you, you can choose to have a trusted colleague put the matters to the alleged bully or seek guidance from HR.
- Seek to solve the issue through an informal dispute resolution process that is acceptable to both parties e.g. mediation.

Formal Resolution:

If you decide to escalate your concerns (make a formal complaint), you can talk to:

- your manager
- Human Resources
- a union representative
- a health and safety representative
- an EAP counsellor
- the Citizens Advice Bureau
- your lawyer.

You can decide to escalate your concerns at any point during the process, i.e. during the informal stage. If you are unsure whether the behaviour is bullying, use the 'Am I being bullied?' flowchart at:

www.business.govt.nz/worksafe/tools-resources/bullying-prevention-tools/questionnaire/questionnaire

What to do when someone accuses you of being a bully

It can come as a shock if someone says you have been bullying them; however, it is important to be open to feedback and prepared to change your behaviour if necessary.

- Check if the behaviour/s you have been accused of meet the definition of bullying.

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- Take time to reflect on what you have been told and think about how you wish to respond.
- Seek support from someone you trust.
- Speak to the person who you may have offended if you think it is reasonable and safe to do so. They may also approach you directly for an informal resolution.
- Speak to a counsellor or doctor – look after yourself!

Recording Bullying Behaviour

As workplace bullying presents a risk to employee health and safety, it is important to keep a detailed record of the situation. Use the template below to record any bullying incidents. Keep hold of these records as they will be a valuable source of evidence.

Name: _____ Is supporting information attached? Yes / No

Summary of the behaviour: (details, times, dates, public or private interactions)
Relationship of person to me: (eg manager, colleague or customer)
It's unreasonable because:
It's repeated because:
It's endangered my health because:
How it's made me feel:
How it's affected my work:
Low-key solutions I've considered are:
The outcome of that consideration was: