# Guideline: Preventing and Addressing Bullying in the Workplace

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Government of South Australia

Office of the Commissioner for Public Sector Employment

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## ABOUT THIS GUIDELINE

### Who is covered by this guideline?

This Guideline applies to employment under Part 7 of the *Public Sector Act 2009* and contains material relevant to all employment in the South Australian public sector.

It has been developed to assist South Australian public sector employees and human resource professionals to prevent and address bullying within workplaces and teams. It aims to provide practical advice to reduce the risk of bullying occurring, address bullying complaints, restore and create positive team environments.

It is issued under section 14(d) of the *Public Sector Act 2009*, which empowers the Commissioner for Public Sector Employment to issue guidelines relating to public sector employment. This Guideline provides a best practice framework in accordance with the *Public Sector Act 2009* and the *Code of Ethics for the South Australian Public Sector*.

### Other resources

This Guideline also supports the aims of the *Safety, Wellbeing and Injury Management Strategy* (SWIM), the *Diversity, Equity and Inclusion Strategy*, the *Mentally Healthy Workplaces Framework* and the *Anti-racism Strategy*.

Information about harassment and discrimination is contained in the *Guideline: Preventing and Addressing Harassment and Discrimination in the Workplace*.

Information about managing misconduct is contained in the *Guideline: Management of Misconduct*.

### Legal framework

In Australia, all employers have a duty of care to provide a safe work environment for their employees and to manage risks in the workplace. While there is a range of legislation that deals with bullying (and other forms of inappropriate behaviour), the objective is always to prevent the behaviour and to provide a process to manage instances of such behaviour when they occur.

The South Australian government's values and professional conduct standards, as stated in the *Code of Ethics for the South Australian Public Sector* requires public sector employees to treat other persons, at all times, with respect and courtesy.

The following is a list of relevant South Australian legislation:

- *Disability Inclusion Act 2018* (SA)
- *Equal Opportunity Act 1984* (SA)
- *Fair Work Act 1994* (SA)
- *Public Sector Act 2009* (SA)
- *Public Sector (Honesty and Accountability Act) 1995* (SA)
- *Public Sector Regulations 2010* (SA)
- *Racial Vilification Act 1996* (SA)
- *Return to Work Act 2014* (SA)
- *Work Health and Safety Act 2012* (SA)
- *Work Health and Safety Regulations 2012 (SA)*

## KEY TERMS

| Term | Explanation |
|---|---|
| Agency | A public sector agency is defined in the PS Act. It includes administrative units (departments and attached offices) and other agencies or instrumentalities of the Crown |
| Code of Ethics | Code of Ethics for the South Australian public sector |
| CPSE | Commissioner for Public Sector Employment |
| HR | Human resources |
| Leader | The term leader covers line management positions and other senior positions within the organisation, such as executives or recognised authorities for a particular group |
| Manager | Includes all line management positions, for example team leader, supervisor |
| OCPSE | Office of the Commissioner for Public Sector Employment |
| Procedural fairness (natural justice) | Procedural fairness requires that:<br>• the decision-maker is impartial and free of actual or apparent bias (rule against bias)<br>• a person, whose interests are affected by a proposed decision, receives a fair hearing, including the opportunity to respond to any adverse material that could influence the decision (the hearing rule)<br>• findings are based on evidence that is relevant and logically capable of supporting the decision (the evidence rule) |
| Psychosocial hazards | Is a hazard that arise from, or relates to:<br>• the design or management of work<br>• a work environment<br>• plant at a workplace<br>• workplace interactions or behaviours, and<br>may cause psychological harm (whether or not it may also cause physical harm) |

| | |
|---|---|
| Public Sector Values and Behaviours Framework | South Australian Public Sector Values and Behaviours Framework |
| WHS | Work Health and Safety |

# Introduction

A strong public sector is vital to delivering the strategic and economic priorities of the South Australian Government. These priorities set clear expectations for what the public sector does and how we do it to ensure we meet community expectations and deliver services effectively and efficiently. Research clearly demonstrates that employees who are engaged and happy in their work produce better results and provide higher levels of service.

A positive workplace requires excellent leadership and management and a commitment from all employees to be inclusive and create an environment where everyone feels they belong.

It also requires agencies to address negative behaviours as quickly as they can before they escalate in severity. Bullying behaviour can be a major disruptor to workplace productivity and particularly damaging to employee engagement and wellbeing if not addressed early.

Ensuring so far as is reasonably practicable the prevention of inappropriate behaviour in the workplace, such as bullying, is an obligation under South Australian work health safety law. Bullying is not acceptable under the Code of Ethics.

Bullying behaviour can be prevented by creating positive and respectful workplaces. We therefore have an obligation to create and foster workplaces where employees feel engaged in their work and supported to do the best job possible. Human resources and work health and safety professionals help leaders create positive environments and increase their awareness of psychosocial hazards (workplace stressors) in their work area. All employees, regardless of level, should be held accountable to the same standards for their behaviour.

# Key principles to prevent and address bullying

These key principles summarise the overall approach to prevent and address bullying in the workplace.

**Bullying is preventable by managing psychosocial hazards**

Healthy workplaces have well designed and meaningful jobs and a positive workplace culture that reduces the chance of bullying, harassment and other poor behaviour. Agencies should focus on creating environments to reduce bullying.

**Addressing low level inappropriate behaviours**

There are usually early warning signs before behaviour escalates into bullying. Workplace incivility can quickly escalate to overt bullying. Workplaces that condone inappropriate behaviour without addressing them are accepting poor workplace behaviours. Setting, reiterating, demonstrating and holding people to account for appropriate standards of behaviour can prevent escalation to bullying.

**All inappropriate behaviour should be called out when it occurs**

It is everyone's responsibility to speak up and report inappropriate behaviour in the workplace whether they experience the behaviour directly, witness the behaviour or have it reported to them. Training should focus on giving people the skills to speak up and have difficult conversations to fulfill their obligations under the Code of Ethics.

**Processes to report bullying should be clear and supportive**

Employees should feel safe to raise concerns of bullying and feel that they will be taken seriously by management and the organisation. It should be simple to report bullying and the process should give employees confidence that the organisation will take appropriate action.

**Agencies should have documented processes that explain what happens after a bullying complaint, including options for early intervention**

Each agency should have a process in place to explain what steps will occur after a bullying complaint is made. This should include what options there are to resolve complaints and what support will be provided to all parties (including the person allegedly engaging in the behaviour).

Key principles to prevent and address bullying in the workplace continued.

**Records need to be kept of all bullying complaints**

Confidential records need to be kept of any complaints of alleged bullying to ensure that any patterns of behaviour are identified and managed effectively. While initial notes may be kept in notebooks (or an online equivalent), all suspected bullying complaints should be lodged as incidents using the restricted reporting option on the agency's WHS hazard, incident and injury reporting system.

**Following a bullying event, action should be taken to reduce the risk of bullying reoccurring**

Regardless of the outcome of a bullying complaint, the manager should work with HR and WHS to identify underlying psychosocial hazards that may have created an environment where bullying was perceived. All employees are responsible for reducing psychosocial hazards and creating positive work environments.

# PART ONE

# Appropriate behaviour at work

Appropriate behaviour in the workplace is respectful and inclusive, recognising that people may have different backgrounds, interests and personal values. It is behaviour that is free from harassment, bullying and discrimination, victimisation and vilification.

The importance and obligation of all employees behaving appropriately in the workplace is reinforced in the:

- *Code of Ethics*
- *Public Sector Values and Behaviours Framework*, which includes examples of the types of organisational practices and personal behaviours that will support the public sector values. It also provides examples of taboos (behaviour you don't want to see at work).

## INAPPROPRIATE BEHAVIOUR

Inappropriate behaviour is not respectful or inclusive. In some instances, laws have been created to set a minimum standard of behaviour. The main forms of inappropriate behaviour are explained below.

### Workplace bullying

Bullying behaviours may breach state and federal laws, in particular the South Australian *Work Health and Safety Act 2012*. Bullying is generally defined as *"repeated unreasonable behaviour directed toward an employee, or group of employees, that creates a risk to health and safety".*

As bullying is repeated unreasonable behaviour in the workplace, it is the focus of prevention in this guideline. However, action taken to prevent bullying can also reduce other inappropriate behaviour.

A detailed definition of bullying is provided in the section What is workplace bullying?

### Discrimination

Discrimination is treating someone unfavourably because of their background or personal characteristic that is protected by law.

Direct discrimination is behaviour that discriminates against another person on the basis of personal characteristics or attributes.

Indirect discrimination is when an unreasonable requirement, condition or practice that purports to treat everyone the same, ends up actually or potentially disadvantaging someone with a protected personal characteristic because of that characteristic.

Personal characteristics which relate to discrimination matters, are defined by the applicable federal and state laws, and can include:

- race, including colour, immigrant status, national or ethnic origin
- disability
- sexual orientation, gender identity or intersex status
- family responsibilities
- political opinion
- irrelevant medical record
- irrelevant criminal record

- age
- marital or relationship status
- sex or sexuality
- breastfeeding
- pregnancy
- trade union or employer association activity
- religious appearance or dress

### Harassment

Harassment is behaviour which is directed at a person because of a personal characteristic and that could reasonably result in a person feeling offended, humiliated or intimidated or places them in a hostile environment. Harassment does not need to be repeated and can be a single event.

Harassment is an example of treating people less favourably on the basis of particular protected attributes such as gender, sexual orientation, race, disability or age. Harassment can include behaviour such as:

- telling insulting jokes about particular racial groups
- sending explicit or sexually suggestive emails or text messages
- displaying racially offensive or pornographic posters or screen savers
- making derogatory comments or taunts about a person's disability
- asking intrusive questions about someone's personal life, including their sex life

Harassment can be physical, verbal or visual and can occur through any means of communication, including in person, in writing, by telephone (voice or text messaging), by fax, via the internet (email, instant messaging, social media, photos or videos to cause hurt or embarrassment). Harassment does not have to occur during working hours.

Harassment does not have to be directed towards a person and it may not intend to be hurtful. The behaviour can extend to treating another unfavourably because of an attribute of or a circumstance affecting a relative or associate of the other.

### Sexual harassment

Sexual harassment is a specific form of harassment. It is against the law in South Australia (see the *Equal Opportunity Act 1984* (SA)) and must be prevented due to the positive obligation imposed under Commonwealth law (see the *Sex Discrimination Act 1984* (Cth)).

Under the *Equal Opportunity Act 1984* (SA), sexual harassment is:

- an unwelcome sexual advance,
- an unwelcome request for sexual favours,
- other unwelcome conduct of a sexual nature, and
- it is reasonable to expect that the other person would be offended, intimidated or humiliated.

Sexual harassment can happen at an employee's usual workplace or in other places where they work, such as a client's home and during a work-related activity such as a work trip, conference or an event.

Examples of the types of behaviour that may be considered as sexual harassment include:

- unwelcome touching or kissing
- commenting on a person's appearance
- comments, jokes or name-calling
- leering or staring

- sexual pictures, objects, emails, text messages or literature
- direct or implied propositions, or requests for dates
- asking about a person's sexual history or sexual activities
- intrusive questions about a person's private life or body
- requests for sex
- unnecessary familiarity, such as deliberately brushing up against a person
- insults or taunts based on sex
- sexually explicit physical contact

Mutual attraction or friendship with consent is not sexual harassment.

Under the *Sex Discrimination Act 1984* (Cth), an employer or person conducting a business or undertaking (PCBU) (noting that a PCBU has the same meaning as under the *Work Health and Safety Act 2012* (SA)) now have a positive duty to take reasonable and proportionate measures to eliminate, as far as possible:

- unlawful discrimination on the ground of a person's sex in a work context;
- unlawful sexual harassment or harassment on the grounds of sex in connection with work;
- unlawful conduct creating a workplace environment that is hostile on the ground of sex;
- related acts of victimisation.

It is no longer the case that a person needs to make a complaint before action is taken. The new laws shift the focus from responding to harm after it happens, to preventing it before it occurs. This is because preventative action that addresses conduct at a systemic level is more effective at creating safe, respectful and inclusive workplaces.

The Australian Human Rights Commission has developed seven standards that outline what it expects organisations and businesses (including government departments and authorities) to do to satisfy the positive duty. The Australian Human Rights Commission website has excellent resources, including factsheets and Guides, on how to satisfy the positive duty.

From 12 December 2023, the Australian Human Rights Commission will have new powers with regard to investigation and compliance with the positive duty.

Agencies should seek legal advice where required in relation to the powers of the Australian Human Rights Commission.

For more information on sexual harassment, including the use of non-disclosure agreements and confidentiality clauses in sexual harassment cases, please see the *Guideline: Preventing and Addressing Harassment and Discrimination in the Workplace*.

### Workplace Violence and Aggression

Workplace violence and aggression occurs when a person is abused, threatened or assaulted at the place they are working. It includes aggression between employees and from other people including clients and customers. Instances of workplace violence and aggression may lead to police involvement and charges being laid against the perpetrator. In an emergency, call 000.

## Victimisation

Victimisation is subjecting or threatening to subject someone to something detrimental because they have asserted their rights under equal opportunity law, made a complaint, helped someone else to make a complaint, or refused to do something because it would be a form of discrimination, sexual harassment

or victimisation. It is unlawful for a person to take action against another, because the other person (or anyone else) has made, or intends to use a workplace right.

### Racial Vilification

Racial vilification is behaviour that incites hatred, serious contempt or severe ridicule of a person or group of persons, because of their race. A person's race includes their nationality, country of origin, colour or ethnic origin of the person or of another person with whom the person resides or associates. It is unlawful to vilify people because of their race by threatening to harm them or their property or urging others to do so.

# What is workplace bullying?

Public sector leaders have a duty of care to prevent bullying. It is important to understand what is and what is not considered bullying.

### BULLYING

An employee is bullied at work if an individual or group of individuals **repeatedly** behaves **unreasonably** towards the employee, or group of employees of which the employee is a member, and that behaviour creates a risk to health and safety. Bullying can occur outside of working hours where there is a connection to the workplace and can include technology facilitated behaviour (for example cyberbullying).

Bullying may occur where one or more of the following behaviours are repeated:

- yelling, screaming or offensive language
- coercion, threats or humiliation
- excluding or isolating employees
- psychological harassment or intimidation
- making negative comments about an employee (as opposed to constructive performance feedback)
- assigning meaningless or impossible tasks
- deliberately changing work rosters to inconvenience particular employees
- undermining work performance by deliberately withholding information vital for effective work performance
- constant unconstructive criticism and nit-picking
- teasing or malicious pranks

When workplace bullying involves behaviour that appears to be criminal (for example assault and unlawful threats), the incident becomes a Police matter and may be dealt with in the criminal jurisdiction.

Bullying behaviour can be obvious or subtle and can be carried out in different ways including verbal or physical abuse, through email, text messages, internet chat rooms, instant messaging, or other social media channels. Workplace bullying can continue outside of the workplace or outside business hours.

Workplace bullying can be directed at a single employee or group of employees and be carried out by one or more employees. It can occur:

- between employees
- from managers to employees
- from employees to managers

There are other avenues for reporting allegations relating to behaviours of corruption, misconduct and maladministration. These include to the Office for Public Integrity, the Independent Commission Against Corruption, and the South Australian Ombudsman.

## CYBERBULLYING

The Australian Human Rights Commission defines cyberbullying as 'bullying that is done through the use of technology. For example, using the Internet, a mobile phone or a camera to hurt or embarrass someone.'

Cyberbullying can be experienced by an individual or group of individuals in any of the following forms:

- mean or hurtful text messages via mobiles, social networking sites like Facebook, or through sites where people can ask / answer questions
- sending or sharing photos and videos to embarrass or hurt someone
- spreading rumours via emails, social networking sites or text messages
- efforts to try to stop communications with others
- setting up fake profiles pretending to be an individual or posting messages or status updates from someone else's accounts

Cyberbullying in the workplace can be as distressing as any other form of bullying.

## BEHAVIOUR THAT IS NOT BULLYING

Bullying does not include reasonable management action taken in a reasonable manner.

Examples of behaviour in the workplace that may not meet the definition of bullying include:

- Reasonable management action, direction or feedback carried out in a reasonable manner, including constructive feedback and counselling of work performance, lawful directions, performance management, disciplinary action and safe work practice instructions
- Differences of opinion and disagreements conducted respectfully.
- Genuine misunderstandings, where individuals may not have the skills or time to explain their actions (this is sometimes referred to as "accidental bullying").
- Behaviour that may be considered acceptable in most workplaces and to most people, but unintentionally upsets someone due to personal experiences or vulnerabilities.
- One-off inappropriate behaviour that is not targeted at a specific individual or group and does not form a pattern of behaviour. This behaviour should still be addressed by the manager.
- Ongoing inappropriate behaviour that is not currently impacting others, may still be inappropriate conduct and may lead to future situations where employees feel bullied. This behaviour should still be addressed by the manager.

# PART TWO

# Safe workplaces prevent bullying

The prevalence of workplace bullying can be a systemic problem created through poor workplace culture and poorly designed jobs that manifest in conflict. Building a positive workplace culture where respectful behaviour is 'natural' is a significant factor to create a safe work environment.

*"Workplace bullying is an organisational problem, not an interpersonal one" Dr Michelle Tuckey. Professor of Work and Organisational Psychology. University of South Australia 2019*[1]

## BULLYING CAN BE PREVENTABLE BY MANAGING PSYCHOSOCIAL HAZARDS

Workplaces where bullying is prevalent often report significant workplace stress and a poor workplace culture. In most cases, bullying doesn't just happen. Psychosocial hazards can cause communication and workplace civility to break down creating workplace environments where bullying can occur. Teams experiencing distress are likely to show signs of low morale such as arguments, gossiping, failing to greet each other, declining performance, and high turnover before bullying occurs. Individual employees may display signs of poor mental health such as low mood, withdrawing from workplace activities or seeming distracted.

Identifying and managing psychosocial hazards (workplace stressors) will help prevent bullying behaviour. All workplaces are required to identify and manage psychosocial hazards under the *Work Health and Safety Act 2012* (see Worksafe Australia – Model Code of Practice). Psychosocial hazards can be broken into two groups around job characteristics, design and management and harmful behaviours as outlined in Table 1.

[1] Workplace bullying: What does the evidence say? (comcare.gov.au)

**Table 1 – Psychosocial Hazards**

| Group | Psychosocial Hazards (workplace stressors) linked to bullying behaviour | Characteristics of positive and safe workplaces |
|---|---|---|
| Job characteristics design and management | • High job demands<br>• Low job demands<br>• Traumatic events or material<br>• Lack of role clarity or role conflict<br>• Remote or isolated work<br>• Poor physical environment<br>• Low job control (over how or when the work is completed)<br>• Poor support (not recognising individual needs and emotions)<br>• Inadequate reward and recognition | • Good job design and role clarity<br>• Achievable jobs<br>• Appropriate resources<br>• Healthy and safe work environments<br>• Opportunities for connection<br>• Psychological support to process traumatic events and material<br>• Meaningful work<br>• Career pathways and opportunities<br>• Job rotation options<br>• Clear standards of behaviour are set<br>• Frequent feedback on performance and poor performance is addressed<br>• Training and development are provided<br>• Behaviour is in line with standards and consistent and predictable<br>• Mental health is discussed<br>• Employees feel comfortable approaching manager<br>• Individual needs are supported wherever possible |
| Harmful Behaviours | • Conflict or poor workplace relationships and interactions<br>• Bullying<br>• Harassment (including sexual and racial harassment)<br>• Violence and aggression | • Orientation and induction into team<br>• Clear team norms that are openly discussed<br>• Speaking up respectfully is encouraged<br>• Everyone has an opportunity to know each other |
| Organisational Factors | • Poor organisational change management<br>• Insecure employment<br>• Lack of meaning and purpose | • Clear organisational structures and reporting lines<br>• Clear, transparent, and fair recruitment and promotion |

| | | |
|---|---|---|
| | | opportunities (particularly for short term roles)<br>• Supporting managers to address poor performance<br>• Career development and mobility options<br>• Early renewal of contracts whenever possible<br>• Emotional support for confrontational work (for example regular worksite EAP counsellor attendance for particular workgroups)<br>• Diversity and inclusion policy and programs<br>• Workplace flexibility policy and supportive practices |

## CREATE A POSITIVE AND SAFE WORKPLACE

All employees shape the culture within their work area. All leaders, including managers and supervisors, are responsible for ensuring a safe workplace and positive culture. Leaders can reduce the risk of bullying by reducing stressors in the workplace and using effective and supportive management strategies, as well as calling out and responding to actual instances of bullying or low-level inappropriate workplace behaviours.

Employee survey results can help to identify the psychosocial hazards listed in Table 1 and is an effective way to identify organisational factors that create environments where bullying can occur. All leaders and managers should continue to monitor the organisational factors.

### Strategies for leaders to create a positive and safe culture

Leaders and managers set the standard of appropriate and respectful behaviour across an organisation. An agency leader's role includes:

- Setting the tone for behaviour and ways of working in the agency
- Consistently leading and expecting high standards of behaviour
- Embedding safe working practices in all operational activities, including the management of psychosocial hazards
- Ensuring employee consultation informs safe work design and practices.

Organisational practices and priorities can cause workplace stress and bullying. When making decisions, leaders are required to consider the wellbeing and safety implications for employees as well as the business needs.

Managers should be able to approach their leaders to discuss the psychosocial hazards that filter down to their teams. If these factors are not addressed, they can erode employee engagement, increase stress and lower productivity.

### Strategies for managers to create a positive and safe culture

Teams that work well together experience less stress and bullying behaviour. Bullying can thrive in workplaces where poor behaviour is not addressed and where there are no consequences. The following strategies can be used to reduce stress and create a psychologically safe environment where employees feel safe to speak up and where the likelihood of bullying occurring is reduced.

**Table 2 - Actions for managers**

| | |
|---|---|
| Identify the workplace stressors | If signs of stress are showing, speak with the team to identify psychosocial hazards and see what can be done to reduce them.<br><br>Have a team meeting and/or one on one meetings and use data from recent surveys such as a pulse survey to help start the conversation. Listen closely to what the team members think makes their work or workplace difficult and what actions the team can take to support one another better and to reduce stress.<br><br>Where information from the team is not forthcoming, the manager should speak with HR and WHS jointly to identify an appropriate strategy to manage psychosocial hazards. This may involve the use of additional survey tools, or a session facilitated by someone outside the team.<br><br>Keep records of all actions taken to reduce psychosocial hazards. |
| Discuss appropriate conduct frequently and agree on what it is to raise awareness and encourage collaboration | Include safety and respectful behaviour as a standard agenda item in team meetings. Plan topics to discuss, such as:<br>• Code of Ethics and the Public Sector Values and Behaviours Framework<br>• Awareness of what good conduct looks like in the work area<br>• Learning around legislative requirements<br>• Find other ideas and resources on the OCPSE website, SafeWork SA, Lifeline or the agency EAP provider<br><br>Offer or require learning and awareness sessions to raise awareness of respectful behaviour and what is inappropriate/bullying type behaviour.<br><br>Develop a “Team Agreement” that includes team norms. These shared agreements reflect the subtle differences in teams and reduce the risk of small issues escalating into conflicts.<br><br>Reinforce that bullying or low-level inappropriate behaviours are not tolerated and remind employees they can speak to you about behaviour they see in the workplace. |
| Role model appropriate behaviour | All employees should model appropriate behaviour that creates harmony, professionalism and collaboration in the workplace.<br><br>This includes how they respond to employees who need help, how they share information and how they consult and listen to employees. |

| | |
|---|---|
| | Poor teamwork can arise from team members mimicking behaviours they see which they think may be acceptable and rewarded. It's important to recognise that even subtle behaviour, such as making a joke about another person, could create the impression that poor behaviour is tolerated. |
| Create opportunities to get to know other members of the team | People are more supportive of others they feel a connection with and are more likely to be constructive rather than criticise mistakes. Sharing information and finding commonalities increases the chance of making a personal connection with others and fostering trust and openness. Sometimes unfacilitated time is the best way to make this happen, such as encouraging team lunches and morning teas. When the group has many differences (e.g. age or background) it can be helpful to run a facilitated session to foster connections. |
| Share information to increase opportunities to support one another | Create opportunities to share work and skills through regular team meetings, team projects and buddy systems. Technological options such as email and team platforms can increase communication, and notice boards and communication books can also be effective. Importantly, there is no substitute for time spent communicating directly with others (in person or online as necessary). |
| Train the team to report and speak up when they see bullying behaviour | Let the team know that they should speak up when they see bullying behaviour at work, by naming the behaviour and offering support to the affected employee. It is important to train employees how to speak up when they see bullying behaviour and what mechanisms are available to report bullying in the agency (including the agency policy and procedure). This includes low level inappropriate behaviours. |
| Developing effective and supportive management skills | Effective managers set clear goals, help resolve problems, are consistent and do what they say they will. Supportive managers recognise the needs of individual employees and show compassion in their actions, while understanding their own emotional responses to situations. The best managers are effective and supportive but striking the right balance can be hard. Investing in management development training is an effective strategy to prevent bullying. |
| Deal with inappropriate behaviour early | When a manager sees behaviour that might be bullying, they should calmly call out the behaviour. If the behaviour is subtle, this may be a gentle reminder, for example 'it's not ok to say that in our team'.<br><br>If the bullying is overt and visible, then usually an immediate private meeting is needed to discuss the behaviour and to remind the employee of behaviours expected. Alternatively, seek HR advice for appropriate options to address the behaviour before discussing it with the employee. |

| | |
|---|---|
| | It is more difficult when a manager hears about poor behaviour 'second hand' or if the behaviour is covert and hidden. Depending on the severity of the behaviour, it would be appropriate to consider the following:<br>• Reiterating that bullying will not be tolerated and a reminder of appropriate behaviour to the individual(s) involved<br>• Speak with the alleged victim to check they are ok, if they need support and how they might like the matter handled. Ensure the employee knows that they can speak up if it happens again and how to report the behaviour. Refer them to the agency contact officer (if there is one) for support.<br>• Speak with the other person involved who has allegedly engaged in the behaviour. Check whether there is anything going on for them that may have led to the behaviour (for example psychosocial hazards or personal circumstances) and reiterate behavioural standards. Given this is an informal approach, the manager should not make any findings as to what occurred.<br>Performance improvement or misconduct processes should be commenced if initial conversations and interventions do not stop the bullying behaviour. Advice regarding performance improvement or misconduct processes may need to be sought from HR.<br>If a manager has taken informal action to deal with a matter, then they would generally not be involved with the same matter formally (for example, they would not put the allegations to the employee). |
| Support complainants | The manager should always speak with the person experiencing bullying behaviour and take appropriate steps to ensure their safety and wellbeing in the workplace. This can involve explaining the internal agency processes for addressing bullying, a referral to outside services such as the EAP, but importantly, making changes within the workplace to protect them from further harm. |
| Clear processes for dealing with complaints | Employees should feel psychologically safe to raise complaints of bullying and feel that they will be taken seriously by their manager and the organisation.<br>It should be simple to report bullying and there should be a written process employees have confidence in. An example flow chart and record template are in the ***Tools*** section of this guideline. |
| Managing after a bullying incident | Regardless of the outcome of a bullying complaint, seek support from agency HR and WHS functions to identify underlying psychosocial hazards that may have created an unsafe environment. Develop and implement an appropriate plan to address the stressors. |

# PART THREE

# Policy and procedures to address harassment and discrimination in the workplace

All agencies should have a written and well publicised policy that makes it clear that harassment and discrimination in the workplace is not tolerated. This may be a standalone document or may be included in other grievance and complaint processes. The table below contains key considerations for developing policies and procedures.

**Table 3 - Key Considerations for Policies and Procedures**

| Consideration | Explanation |
|---|---|
| Policy and procedures are clear and accessible | Policies and procedures should state that harassment and discrimination in the workplace is unacceptable. All employees should be educated on the content and know how to access the policy and procedure. Agencies should consider their induction processes for new employees and ongoing training opportunities for existing employees to ensure that everyone is aware of applicable policies and procedures. |
| Clear standards of behaviour | Respectful behaviour and inappropriate behaviour should be clearly defined, in line with the Code of Ethics. Employees witnessing inappropriate behaviour should be supported to speak up about it. Policies and procedures clearly define what respectful behaviour is, what is inappropriate and the possible consequences for engaging in inappropriate behaviour. |
| Available reporting options | Policies and procedures should include clearly defined reporting options. |
| Clear response and resolution options | Policies and procedures should explain the response and resolution options. A range of options should be offered to employees to resolve the complaint (further information is provided below). |
| Support is provided to all parties | Support is provided to all parties involved, including an agency's EAP, as well as other support and assistance services. The option to have a support person present should also be included. |
| Monitoring and reviewing | Policies and procedures should be regularly monitored and reviewed to ensure they are up to date and relevant. |

# Guides for responding to a bullying complaint

## A MANAGER'S GUIDE TO RESPONDING TO A BULLYING COMPLAINT

By responding to and resolving bullying complaints, managers play a key role in creating environments where employees feel psychologically safe. The necessary skills and knowledge can be developed with support from agency HR, organisational development and WHS, along with reference to the agency complaints procedure.

Suggested steps for managers to address a bullying complaint are:

### 1.Take the bullying complaint seriously and offer immediate support (this includes practical and emotional support)

It can take courage for an employee to tell you that they think they are being bullied. In responding, respect the employee's experience and take their concerns seriously. This may not be the moment to ask for all the details or question whether what they experienced was, in fact, bullying. Show concern about what has happened and ask the employee what support they need from you at this time. If both you and the employee can continue the conversation and discuss detailed events, then continue the conversation. If the employee is upset or if you need time to reflect or seek HR support, then make a follow-up time as soon as possible. Be clear about when you will speak to the employee again and about any action you plan to take in the meantime. Ensure you provide appropriate support to the employee and any other people involved in the interim.

### 2. Consider the support you need to resolve the complaint

Conflict resolution skills are essential for managers, but unless the bullying complaint appears to be low level inappropriate behaviour and you feel confident resolving the issue, it is worth seeking advice from HR before going further. Other practical and emotional support can be obtained from your organisation's EAP (e.g. the Manager Assist service).

### 3. Communicate the limits of confidentiality

Managers have a responsibility to act on misconduct and to minimise risks to their employees and therefore might not be able to keep the conversation confidential. However, every attempt should be made to protect the affected employee from further emotional harm. Providing the agency's complaint resolution process and explaining who you may need to discuss the details with and why, will help the employee understand that you are taking action to resolve the situation. If a report of bullying needs to be formally investigated, the employee's initial statement may need to be provided to the person allegedly engaging in the conduct and this should be explained to them.

### 4. Gather details and determine whether the behaviour described fits within the definition of bullying

Start by asking what happened. Listen to the employee with curiosity, ask open questions, and respond supportively, rather than reaching for solutions or deciding on an immediate course of action.
It is important to collect and document information, including a clear timeline and details of the

actual events and witnesses. There will likely be multiple events that have led to the employee raising their concerns and it is important to record the full details of each event. Keep an accurate record of your meeting by taking detailed notes. While being supportive, try to move the conversation from how the event made them feel to the details of what happened. An example template for recording details of an event(s) is provided in the Resources section.

Recognising the context in which the behaviour occurred can influence your path of action. Some common situations where misunderstandings may occur include:

- Stressful workplace situations
- Appropriate management action
- Failing to share information or include others because of incorrect assumptions about who needs access to the information

Finally, look for patterns of repetitive behaviour that might indicate bullying, rather than one-off inappropriate behaviour. Make sure you collect information on all events that have occurred to develop a clear picture. Example questions are in Table 4.

**Table 4 – Example questions for gathering information**

| Event | Context | Repetition |
|---|---|---|
| Can you tell me what happened? | Where did this occur?<br>Who else was around? How did they respond?<br>How did you feel? | When did this happen (dates and times if possible)? |
| Can you explain what the other person said (or did)? | Can you describe their tone of voice or body language?<br>What did you do next? | Has this happened before?<br>Has this happened since? |
| Can you describe the events leading up to and afterwards? | What was happening just beforehand?<br>What happened afterwards? | Are there any patterns emerging? |

### 5. Determine the action the employee wishes to take and implement a course of action

Once you have collected information on what happened, it is essential to understand what action the employee wants to take. Addressing bullying concerns early is the key to successful resolution. The longer a situation continues, the greater the impact to wellbeing, making it more likely that the employee will lodge a formal grievance and/or a workers compensation claim for work related stress.

Their reasons for speaking to you may be to:

- Raise concerns about behaviour in case the situation escalates or is repeated
- Seek guidance on how to manage the behaviour themselves, for example, guidance on how to have a conversation with the other person to ask them to stop
- Seek your intervention to resolve the issue by speaking to the person allegedly engaging in the behaviour

- Facilitate a conversation between the parties
- Arrange a mediation between the parties (with an internal or external mediator) (check your agency's mediation process)
- Lodge a formal complaint in accordance with the agency complaint and dispute resolution procedures or policies
- Lodge a formal complaint with an external agency
- For more information on options, refer to Analysis of complaint response options.

Employees may approach other suitable officers in the agency, such as their HR or WHS, or their 'one-up' manager. Managers should seek HR support at any stage if they are unsure how to proceed or need support. Employees may also approach their union.

Typically, the options to resolve a complaint are:

**(a) Self-Manage – Direct Conversation**

This is where the employee chooses, if they feel safe to do so, to raise the issue directly with the person who is behaving inappropriately. If the behaviour is not serious, bringing attention to the behaviour could resolve it. Explaining the behaviour, how it affects the employee and asking the person to stop the behaviour may be enough.

**(b) Facilitated Resolution**

This is where an employee may not feel comfortable approaching the other person directly (so a third party is used). A third party may be their manager or HR representative and possibly external mediation. Records need to be kept.

Note: There are circumstances where the manager or HR consider that self-management or informal resolution is not appropriate and a formal resolution/action is required, for example, where there is a significant power imbalance between the parties, or the conduct is sufficiently serious to warrant a disciplinary approach.

**(c) Formal Resolution**

The formal process should follow the agency formal complaints process. Substantiated behaviour that amounts to bullying, discrimination, harassment, victimisation or vilification may constitute misconduct or serious misconduct and could lead to disciplinary action.

**(d) External Formal Resolution**

Employees are encouraged to use the internal options. However, they have the right to seek advice from and/or lodge a complaint with external bodies such as a state or federal discrimination body (including the Equal Opportunity Commission (SA)). Instances of physical harassment or occupational violence may be referred to the Police.

**6. Communicate with other parties involved in the complaint and ensure support is provided (including both practical and emotional support).**

If the employee wants you to talk to the person allegedly engaging in the conduct on their behalf, ensure they are aware that you will need to speak to the other person and share the details of the complaint to

provide them an adequate opportunity to respond (in line with the principles of natural justice). It is important to remain neutral and gather information regarding what has occurred.

If the other person acknowledges that the concern may be true, direct them to cease the behaviours or actions in question and inform them of the consequences if the inappropriate behaviour does not cease, e.g. formal complaint and investigation and possible disciplinary action. They may offer an apology to the aggrieved employee.

Where the matter is considered serious enough, it may be necessary to escalate the matter. If the other person refutes the claim or does not respond satisfactorily to initial attempts to informally resolve the concerns, formal escalation may be necessary.

### 7. Seek assistance from WHS to look at psychosocial factors that may be contributing to work stress

Reporting the inappropriate behaviour in the WHS hazard, incident and injury reporting system should trigger an examination of the psychosocial hazards in the work area and corrective actions to reduce the risk of bullying reoccurring. If this does not automatically occur, managers should seek guidance from their WHS function and refer to Part 2 of this document, in particular Table 2 - Actions for Managers. It is the responsibility of the manager to ensure that psychosocial factors that create work stress and environments where bullying may occur are adequately addressed.

### 8. Document outcomes

You are required to keep a record of all discussions about bullying (or alleged bullying) behaviour.

Records can identify patterns of behaviour over time and may be needed if a formal complaint or investigation occurs. Records include emails about events and notes recording discussions and decisions. Most importantly records should be kept of any actions taken to stop bullying occurring.

Employees and managers should report all psychosocial hazards and incidents of bullying in the WHS incident reporting system using the restricted reporting mechanism.

Consistent reporting of hazards and incidents allows for the identification of trends in unmanaged hazards within work teams and across the organisation, as well as identification of poor behaviour across multiple worksites.

Other records may be kept by HR if a formal complaint is made or if the behaviour is considered misconduct (see *Management of Misconduct Guideline*).

Records should be kept of all actions taken to reduce workplace stress as evidence of effective WHS management practice.

## Important Considerations

### Consider the mental health of those involved

Approximately 20% of employees will be experiencing a mental illness at any time. It is possible that a person experiencing bullying or accused of bullying may be experiencing a mental illness. Managers should be aware of the symptoms of mental illness and be alert to these when working with all people.

People with a pre-existing mental illness may be particularly vulnerable to bullying behaviour. In addition, experiencing bullying or being accused of bullying can cause significant stress to an employee until the complaint is resolved.

While not an excuse for bullying behaviour, consider whether a mental illness may be impacting an employee's ability to regulate their emotions and behaviour in the workplace. Explore this possibility when speaking to an employee about any inappropriate behaviour in the workplace, including bullying. If an employee is not performing their duties satisfactorily, including inappropriate conduct or bullying

behaviour, and it appears that this may be caused by mental or physical incapacity, discuss this with your agency HR. For further guidance go to the CPSE Guideline *Power to Require Medical Examination*.

It is important to offer support to all parties involved either through the agency's EAP or other mental health services and to follow up to check that support is being received (either through formal or informal means). In some situations, it may be appropriate to consider a temporary change to work arrangements. If this is being considered, then discuss the options with your HR function.

### Performance management processes

Managers should feel confident to raise performance concerns with their employees. Managing performance in a reasonable way is not considered bullying. However sometimes employees believe they have been bullied and may make a complaint after a performance discussion, or when being managed for unsatisfactory performance.

As a manager, consider:

- Giving feedback as soon as you can, rather than condoning the behaviour for a period of time.
- Giving feedback in a constructive and supportive way that shows respect for the individual and demonstrates you are considering their best interests.
- Being clear about the performance and behaviour expected.
- Applying curiosity and seeking the employee's views on why they are struggling to meet expectations (for example lack of understanding, lack of training, other workplace factors, personal issues impacting their performance at work).
- Holding everyone to the same standards.
- Giving an opportunity for the person to improve their performance, including through training.
- Considering whether the person is capable of improving their performance or are their medical or personal issues that need to be considered or resolved first?
- Are these appropriate performance management and development issues?

For more information see the *Performance Management and Development Guideline* and the *Management of Unsatisfactory Performance Guideline.* The OCPSE's Online Education Modules on Performance Management is also a useful source of information for managers and employees.

## Responding to staff questions

Other staff may be curious to know what is going on. In some cases, they may also be witnesses to the alleged bullying and may be included in a formal investigation process.

If you are asked about a bullying complaint or hear gossip about the alleged bullying, it is important to reiterate that complaints are always taken seriously, and you will work to ensure a harmonious workplace. However, it is not appropriate to disclose details of sensitive, personal or confidential matters to individuals not directly involved in the matter.

## RESPONDING TO BULLYING FOR HR PROFESSIONALS

HR should support managers and employees to resolve bullying complaints as quickly as possible. The longer a complaint is left unresolved the more likely the employee is to lodge a formal grievance and/or a workers compensation claim for work related stress. Commencing a formal grievance procedure or a workers compensation claim frequently results in lower levels of employee satisfaction at work and can lead to prolonged absences from the workplace and reduced productivity.

### Supporting employees who report bullying to HR

Sometimes an employee may prefer to speak to a HR practitioner in their agency. Treat all complaints seriously and with empathy. If you do not have time to listen to the details of a complaint, let the employee know and arrange a follow up time as soon as possible. Remind the employee of alternative options where they can receive immediate support, such as the EAP.

While speaking to their direct manager is likely to resolve the complaint more quickly, there are often reasons why employees do not feel their managers can help. If the manager is directly involved in or the subject of the complaint, it is particularly important that HR provide advice on the options available to resolve the issue. A supportive conversation can give an employee the confidence to raise the issue with their manager or a more senior manager (when the immediate manager is the person allegedly engaging in the behaviour). Help employees consider the options available to them, outlining the steps and possible outcomes of each option.

### Support managers dealing with a bullying complaint

Managers may feel ill-equipped to manage complaints. In determining how much support is required, consider:

- Has the employee or manager collected enough information for you to consider if the behaviour may be bullying? Determine what the manager has done and what help they need from you.
- Does the manager have the skills to try to resolve the issue themselves? Do they have previous experience of managing a bullying complaint? If you have concerns about the manager's ability to resolve the issue or their ability to support their employees, consider alternative dispute resolution options, for example mediation.
- If the manager is directly involved in the complaint or may not be perceived as impartial, then consider if it is appropriate for another manager in the work area to be involved instead.
- Managers are likely to need support at the conclusion of a bullying complaint to identify the underlying aspects of the work environment that allowed the bullying to occur. HR (and Organisational Development, where available) can provide advice to managers on how to manage psychosocial hazards and improve workplace culture.

## ANALYSIS OF COMPLAINT RESPONSE OPTIONS

The various options to resolve bullying complaints are listed below. There is no one-size-fits-all approach to addressing bullying complaints. The option selected should consider the complainant's preferences and safety concerns, the nature and seriousness of the alleged bullying behaviour, the likelihood of resolution, the supports available and any other relevant factors.

In general, early intervention is more likely to restore workplace harmony without damaging productivity and the wellbeing of the people involved. The following table lists the pros and cons typically associated with complaint resolution processes.

**Table 5 – Complaint resolution options**

| Process | Advantages | Challenges |
|---|---|---|
| Direct conversation<br><br>Employee has direct conversation with the person allegedly engaging in the conduct | This is the best option to resolve the issue quickly if the bullying behaviour is identified early. | Employee needs the confidence and skills to have the conversation.<br><br>If unsuccessful the employee may become distressed.<br><br>Unlikely to be effective in extreme cases of bullying. |
| Response to observation<br><br>Manager speaks with the person allegedly engaging in the conduct | Drawing attention to the inappropriate behaviour and reminding them of the agency's expectations may quickly resolve the behaviour. | If there is ambiguity about the events, addressing the person allegedly engaging in the conduct directly may result in further conflict. |
| Facilitated conversation<br><br>Manager or HR facilitates a conversation between the employee and the person allegedly engaging in the conduct | If it is a case of miscommunication, then a facilitated conversation between both parties may help to create a shared understanding.<br><br>If facilitated by HR, it may provide a greater sense of impartiality and ensure procedural fairness. | The manager/HR may not have the skills to manage differences of opinion well.<br><br>The manager may be seen as an ally to one party.<br><br>The person allegedly engaging in the conduct may react negatively to the matter being escalated to HR and further conflict may arise. |
| Facilitated conversation<br><br>Mediation (internal or external) | If the bullying behaviour is caught early, mediation has a good chance of resolving the issue with no blame attributed to either employee.<br><br>Mediation can include how the employees will work together in the future. | In cases of power disparity (such as manager – employee relationships), it may be hard to participate equally in a mediation. |
| Formal complaint and investigation | Formal investigation processes apply, overseen by HR/Agency decision maker.<br><br>Will lead to a decision on whether the bullying can be proven. | Reduces the chance of an amicable outcome and the employees being able to work effectively with each other in the future.<br><br>Increases the risk of negative impacts on mental health. |
| External complaints | May identify faults in internal complaints resolution process and unsafe work practices. | Significantly reduces the chance of an amicable outcome and the employees being able to work effectively with each other in the future. |

| | | |
|---|---|---|
| | May result in clarity on whether bullying occurred. | Increases the risk of negative impacts on mental health. |

## WORKERS COMPENSATION CLAIMS

Where an employee experiences a psychiatric and/or physical injury because of exposure to workplace bullying, they may lodge a workers compensation claim under the *Return to Work Act 2014* (RTW Act). For a psychiatric injury, to be compensable under section 7 of the RTW Act, the injury must arise out of or in the course of employment, the employment must be the significant contributing cause of the injury, and the injury must not arise wholly or predominantly from any action or decision as designated under section 7(4) of the RTW Act. It may be appropriate to conduct an investigation in such cases. It is recommended that a claim under the RTW Act be referred to the Injury Management section of an agency. It is important to note that investigation and determining a claim under the RTW Act is distinct from management actions to resolve a bullying complaint.

## RESPONDING TO BULLYING FOR WHS PROFESSIONALS

WHS professionals focus on safe work practices and achieving these through risk management strategies.

This is an important role to define robust processes to identify, assess and manage psychosocial hazards. Agencies need a clear publicised process to identify, assess and manage psychosocial hazards at a team and an organisational level, including capturing data through WHS hazard and incident reporting. Refer to the Safe Work Australia Model Code of Practice: Managing psychosocial hazards at work for more information on minimising psychosocial risks.

Please refer to ***Part two: Safe workplaces prevent bullying*** of this guideline.

Table 6 below summarises some strategies for effectively managing the risk of psychosocial hazards.

**Table 6 – Suggested strategies to identify, assess and manage workplace stressors**

| | |
|---|---|
| 1 | The agency has a written procedure to identify, assess and manage psychosocial hazards (this can be stand alone or combined with the process for physical hazards). |
| 2 | The procedure outlines who can initiate the hazard identification process (e.g. WHS, Health and Safety Representatives, Managers). |
| 3 | The procedure explains which levels of the agency hazard identification occurs and how employees will be involved in the process, for example whole of organisation, divisional or team, depending on the complexity of the agency. |
| 4 | Preferred options for identifying psychosocial hazards are documented (for example employee surveys, focus groups) including the preferred methods for each area of the agency. |
| 5 | The identification of psychosocial hazards (hazard identification) occurs annually in all agencies or as problems are identified within teams. |

| | |
|---|---|
| 6 | Following identification of psychosocial hazards (hazard identification), consultation with affected employees occurs to determine which stressors create the most risk for the work area. |
| 7 | Employees are actively involved in generating options to manage psychosocial hazards in their work area. |
| 8 | The leadership of the agency in conjunction with WHS, HR and Organisational Development is involved in helping to determine whole of agency responses to psychosocial hazards. |
| 9 | All actions taken are documented and regularly reviewed for effectiveness. |

## SA GOVERNMENT WHS SAFETY INCIDENT REPORTING REQUIREMENTS

Employees should report all incidents of bullying using their agency's WHS safety reporting system without naming the person allegedly engaging in the conduct. It is important to report these incidents so that patterns of behaviour in areas of the workplace can be identified. Employees can use the restricted reporting option to limit who reads their report. This will be determined by the agency policy and in most agencies restricted reports can only be viewed by select people within their WHS team who will then contact the employee to discuss the report. ***The name of the person allegedly engaging in the conduct should not be reported in the system***.

## RECORD KEEPING

Records should be kept by employees, managers, HR and WHS professionals of all discussions and actions taken about bullying behaviour. Records can identify patterns of behaviour over time and may be needed if a formal complaint or investigation occurs. Records include emails about events and general notes taken to record discussions and decisions made. All records should be kept confidential. Most importantly records should be kept of actions taken to stop bullying occurring.

**Employees and managers should report all psychosocial hazards and incidents of bullying in the WHS incident reporting system using the restricted reporting mechanism.**

Consistent reporting of hazards and incidents allows for the identification of trends in unmanaged hazards within work teams and across the organisation, as well as identification of poor behaviour across multiple worksites.

Other records should be kept by HR if a formal complaint is made or if the behaviour is considered misconduct.

Records should be kept of all actions taken to reduce workplace stress as evidence of effective WHS management practice.

## INVESTIGATIONS

Once a formal report of bullying or harassment has been made, an investigation is usually required depending on the nature of the report or claim that has been lodged.

A WHS investigation may be undertaken to identify the cause(s) of any alleged bullying or harassment to determine what measures can be taken to prevent the behaviour from recurring. This investigation can consider the causes in the local environment and if the causes exist more broadly within the agency, in which case preventative actions may be required.

A HR investigation will identify if behaviour constituting misconduct occurred and what, if any, sanction may be imposed under the PS Act or other employment legislation.

Where a workers compensation claim is lodged (most often for psychological injury, medical expenses or lost time arising from an incapacity for work), an investigation is required to determine if the worker is entitled to compensation pursuant to the *Return to Work Act 2014*.

# Resources

- Guideline: Performance Management and Development
- Guideline: Management of Misconduct
- Guideline: Management of Unsatisfactory Performance
- Mentally Healthy Workplaces Framework and Toolkit | Office of the Commissioner for Public Sector Employment
- Australian Human Rights Commission Workplace bullying: Violence, Harassment and Bullying Fact sheet | Australian Human Rights Commission
- Bullying & Inappropriate behaviours | SafeWork SA
- Bullying | Safe Work Australia
- Equal Opportunity | Equal Opportunity (eoc.sa.gov.au)
- Diversity, Equity and Inclusion | Office of the Commissioner for Public Sector Employment
- Heads Up Workplace bullying (headsup.org.au)
- Tuckey, M (2019) Workplace Bullying – What does the evidence say? Workplace bullying: What does the evidence say? (comcare.gov.au)

## MENTAL HEALTH ASSISTANCE

### Urgent Support Numbers

- Emergency: Call 000 (Triple Zero)
- Mental Health Triage: Call 13 14 65 Mental Health Services | SA Health
- Lifeline: Call 13 11 14 www.lifeline.org.au
- Suicide Call Back Service: Call 1300 659 467 www.suicidecallbackservice.org.au
- Respect.gov.au – Violence against women. Let's stop it at the start Call 1800 RESPECT
- Mensline Call 1300 78 99 78

### Employee Assistance Programs

All agencies have an EAP. Agencies contract an organisation to provide professional counselling to their employees for a set number of sessions (usually between three to four sessions annually). These sessions are confidential and no identifying information is reported back to the agency. Contact details for an agency's EAP should be easily accessible to all staff, and usually posted on the agency intranet.

### Mental Treatment Plans

General Practitioners can refer people directly to a mental health professional (Psychologist, Social Worker or Occupational Therapist) for treatment using a Mental Health Treatment Plan under the Better Access initiative. This initiative gives Medicare rebates to help people access services and therefore reduces the costs of accessing professionals. Speaking to your GP about your mental health is a good place to start.

### Online Options

A range of e-mental health options are now available to access mental health support online. The e-Mental Health in Practice Project provides access to free training and support from a wide range of mental health organisations. Accessing support online provides anonymity and convenience that may suit some people.

# Tools

## WORKPLACE BULLYING FLOWCHART

**Receive a report from an employee who feels bullied.**

- Treat the report seriously. Listen respectfully, without bias, and offer support.
- Ask them what support they need from you.
- Talk about confidentiality requirements and that you may need to formalise the matter because of the risks to health and safety in the workplace.
- Keep a diary record of all conservations and meetings in relation to the matter.

**Is this behaviour likely to be bullying because it is repeated, unreasonable and a risk to health or safety?**

### YES

- Explain options for responding to bullying – provide the agency bullying policy or CPSE guideline and time to consider what option they want to follow (may need a follow up meeting).
- Check their wellbeing, including whether temporary working arrangements are needed.
- Support them to lodge a WHS incident report or offer to lodge one on their behalf. The report does not need to mention names.

### NO

Is it other inappropriate behaviour such as harassment (including sexual harassment) or misconduct?

Alternatively, the behaviour may be:

- Appropriate management action
- Miscommunication
- Poor team behaviour

Discuss with HR to determine appropriate response.

### OPTIONS

**Confirm the option the employee wants to follow.** Sometimes an employee just wants to flag a concern but take no further action. In this case, ensure you have documented the conservation and kept a record of it appropriately.

**External escalation**

- Office for Public Integrity
- Safework SA
- Equal Opportunity SA

**Principles for dealing with bullying matters**

- Treat all matters seriously
- Act promptly
- Protect parties from victimisation
- Support all parties
- Be neutral
- Communicate the process and outcome
- Maintain confidentiality
- Document everything
- Report in WHS system

**Resolve through direct conversation**

- Employee to raise issue directly with person behaving inappropriately if safe to do so.
- Referral for counselling or coaching assertiveness.

Alternatively, if appropriate the manager can speak directly to the alleged bully about the behaviour.

**Escalate complaint (HR to be involved)**

**Facilitated resolution**

Internal: Facilitated conversation (by HR and/or manager).

External: Facilitated by mediator.

**Formal complaint process**

Employee lodges a formal complaint through the Agency complaints process, or an investigation (misconduct or WHS) is initiated by the Agency.

Matter is investigated in line with natural justice principles and procedural fairness.

HR will oversee the investigation process.

## CHECKLIST FOR MANAGERS TO PREVENT AND RESPOND TO WORKPLACE BULLYING

Regardless of what action an employee chooses to take following a bullying complaint, the manager has a responsibility to consider what psychosocial hazards may have led to an environment where perceived workplace bullying could occur and has a responsibility to provide a safe working environment. Identifying psychosocial hazards should be a priority following any complaint and advice can be sought from the WHS professionals within your agency.

**Table 7 – Checklist to identify psychosocial hazards and build a positive culture**

| | |
|---|---|
| Psychosocial hazards and prevalence of inappropriate behaviour | • Have I assessed my work team for stressors?<br>• Have I considered employee survey results and created an action plan to continuously encourage a positive workplace?<br>• Do I need help to improve my work team culture and if so, discussed strategies with HR or WHS or my manager? |
| Setting the organisation standard | • Have I discussed the Code of Ethics and Public Sector Values Framework with my team?<br>• Do I include respectful behaviour and safety as a regular agenda item for team meetings?<br>• Do I demonstrate appropriate and respectful behaviour? |
| I know how to respond to inappropriate behaviour | • I understand the agency procedure, where to find it and other resources or undertaken awareness training<br>• I know to reach out to my agency HR or WHS for help<br>• I know how to address inappropriate behaviour in my team<br>• I think about how I set the behavioural tone for the team<br>• I know how to offer support to someone who says they have been bullied |
| Establish what this means for my team | • Has my team discussed how we work together and agreed on standards of behaviour?<br>• Does everyone understand each other's roles and are there opportunities to get to know each other?<br>• Do my team know how to respond when they see poor behaviour? |
| Reporting processes are understood | • Do I understand my agency's procedure for dealing with bullying or inappropriate behaviour?<br>• Do my team know this procedure? |

## TEMPLATE: INITIAL RECORD OF ALLEGED INAPPROPRIATE BEHAVIOUR

| | |
|---|---|
| Reporting employee name | |
| Position title | |
| Date of reporting | |
| Person assisting | |

| | | |
|---|---|---|
| **Describe what has happened?** | | |
| **Date:** | **Time:** | **Location:** |
| **Who was present?** | | |
| **What was said (or done) and by who?** | | |
| **What was the impact of this behaviour/actions? How did this behaviour make you feel?** | | |
| **How has this behaviour affected your work?** | | |
| **What actions have you taken and, if so, what happened?** | | |

| **Looking at the brief explanations of inappropriate behaviour below, how would you describe the type of behaviour?** |
|---|
| **Are you aware of the responses to inappropriate behaviour?**<br>(Discuss options as per the relevant agency policy/CPSE guideline and provide a copy) |
| **At this stage, what action would you like to take?**<br>☐ Reporting of the incident(s) via the WHS restricted system is recommended. This information will help us make the work environment safer.<br>☐ Seek initial support from a peer support officer (or similar role in your agency)<br>☐ Directly talk to the employee whose behaviour is impacting you<br>☐ Request facilitated conversation (e.g. with your manager or HR present)<br>☐ Make a formal complaint |
| **For the employee: Your wellbeing is important. Your agency has an EAP provider who can offer support. You can also seek assistance via your general practitioner or union. There also various phone and online counselling services. Some are listed in the CPSE Bullying for Employees FAQ** |

| Inappropriate behaviours are: | |
|---|---|
| Bullying | Repeated unreasonable behaviour that creates a risk to health and safety in the workplace. |
| Discrimination | Treating someone unfavourably because of a personal characteristic or attribute that is protected by law (for example racial discrimination). |
| Harassment | Behaviour which is directed at a person because of a personal characteristic and that could reasonably result in a person feeling offended, humiliated or intimidated or places them in a hostile environment. It can be a single event. |
| Sexual harassment | Unwelcome sexual advance or request for sexual favours, to another person in circumstances where a reasonable person would anticipate the other person would be offended, humiliated or intimidated. |
| Victimisation | Subjecting or threatening to subject someone to something detrimental because they have asserted their rights, e.g. made a complaint. |
| Racial Vilification | Behaviour that incites hatred, serious contempt or severe ridicule of a person or group of persons because of their race. |

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