Australian Capital Territory

Work Health and Safety (Preventing and Responding to Bullying) Code of Practice 2012 (No 1)

Notifiable instrument NI2012–219

made under the

***Work Health and Safety Act 2011*, section 274 (Approved Codes of Practice)**

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1 Name of instrument

This instrument is the Work Health and Safety (Preventing and Responding to Bullying) Code of Practice 2012 *(No 1)*.*

2 Commencement

This instrument commences on the day of notification.

3 Code of Practice Approval

Under section 274 of the *Work Health and Safety Act 2011* (the Act), and being satisfied that this code of practice was developed in accordance with the process described in s.274(2) of the Act, I approve the ACT Work Health and Safety (Preventing and Responding to Bullying) Code of Practice 2012.

4 Revocation

This instrument revokes notifiable instrument NI2011-761.

Dr Chris Bourke
Minister for Industrial Relations
22 April 2012

*Name amended under Legislation Act, s 60

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Preventing and responding to bullying at work

working across borders

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ACT WorkSafety Commissioner

Disclaimer

This Guide provides general information about the obligations of persons conducting a business or undertaking and/or persons in control of premises and workers under the *Work Health and Safety Act 2011*. The Guide gives some suggestions for complying with these obligations. However, this Guide is not intended to represent a comprehensive statement of the law as it applies to particular problems or to individuals or as a substitute for legal advice. Full details of legal obligations and responsibilities are set out in the *Work Health and Safety Act 2011* referred to in this Guide. If you refer to the legislation you should take care to ensure that you use the most up-to-date version, available from www.legislation.act.gov.au. You should seek legal advice if you need assistance on the application of the law to your situation.

Acknowldgement

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Introduction

Bullying can happen in any workplace and is best dealt with by taking steps to prevent it long before it becomes a risk to health and safety. The risk of bullying is minimised in workplaces where everyone treats their workmates with dignity and respect. The measures described in this guide will help persons conducting a business or undertaking and/or persons in control of premises to develop systems that will prevent bullying, respond to reports of bullying and effectively meet their legal duties under work health and safety (WHS) laws.

This publication provides advice that is generally applicable to any workplace in Victoria, NSW and the ACT. It contains general information for persons conducting a business or undertaking and/or persons in control of premises and workers (including volunteers) in any job or industry.

Being bullied or working in a climate of bullying can lead to psychological and/or physical injury and can also contribute to other injuries. Workers affected by bullying may be more likely to make mistakes causing injuries, and may because of increased muscular tension be more likely to develop injuries such as occupational overuse syndrome and low back pain.

Bullying can also damage organisations. It can lead to loss of productivity, high staff turnover, increased absenteeism, reduced performance, low morale, disruption to work when complex complaints are being investigated, and may end in costly workers' compensation claims or legal action.

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Part 1

1. WHS laws and preventing bullying at work

WHS laws are designed to ensure the health and safety of everyone at the workplace. Persons conducting a business or undertaking and/or persons in control of premises have a duty to provide so far as is reasonably practicable a working environment that is safe and without risks to the health of workers. WHS laws require persons conducting a business or undertaking and/or persons in control of premises to consult with their workers. Workers have a duty to take reasonable care for their own health and safety and the health and safety of others in the workplace. Workers also have a duty to cooperate with actions a persons conducting a business or undertaking and/or a person in control of premises takes to comply with WHS laws.

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2. What is bullying?

Behaviour such as threats to harm someone, violence and damage to property can be criminal matters that should be referred to the police.

Responses at the workplace should be appropriate to the seriousness of what has occurred.

Bullying is repeated unreasonable behaviour directed towards a worker or group of workers that creates a risk to health and safety. Bullying can occur wherever people work together. Under certain conditions, most people are capable of bullying. Whether it is intended or not, bullying is a WHS hazard.

A broad range of behaviours can be bullying, and these behaviours can be direct or indirect. Examples of direct forms of bullying include:

- verbal abuse
- putting someone down
- spreading rumours or innuendo about someone
- interfering with someone's personal property or work equipment.

Single incidents

A single incident of unreasonable behaviour may have the potential to escalate into bullying and therefore should not be ignored. Single incidents can still create a risk to health and safety. The measures set out in section 4 can be used to address single incidents.

Case study – direct bullying

Repeated unreasonable behaviour

Brian, a project officer, was subjected to bullying by Mark, a co-worker, over a number of months. The behaviour Brian was subjected to included:

- Mark consistently telling him his work was not up to scratch (Mark had no role supervising Brian and they were employed in different work areas)
- offensive verbal abuse
- threats to get him sacked
- telling him that he and his family would end up in the gutter
- making insulting comments about his relationship with his wife in front of others.

Risk to health and safety

The behaviour Brian was subjected to humiliated and intimidated him. He became severely stressed and anxious and was unable to continue working for the organisation due to the bullying.

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2. What is bullying?

Examples of indirect bullying include:

- unjustified criticism or complaints
- deliberately excluding someone from workplace activities
- deliberately denying access to information or other resources
- withholding information that is vital for effective work performance
- setting tasks that are unreasonably above or below a worker's ability
- deliberately changing work arrangements, such as rosters and leave, to inconvenience a particular worker or workers
- setting timelines that are very difficult to achieve
- excessive scrutiny at work.

Case study – indirect bullying

Rae worked for four years as a casual shop assistant in a supermarket with 30 workers. For the last six months, Sue had been her new shift supervisor. Sue changed the time of the staff meetings to 8.30am, which Rae couldn't attend because she had to drop her kids off at school. Sue told Rae she didn't have the time to update her on what happened at team meetings, so Rae would only find out about the introduction of new products or changes to work procedures by trial and error. Rae used to mentor and train new workers on the job, but she found other workers were given that role. Newer casual workers were given set shifts, while Rae had to ring Sue every week to find out if and when she would be working.

Repeated unreasonable behaviour

Rae felt humiliated and distressed by the treatment she received and ended up leaving the company once she found another job.

Risk to health and safety

Bullying can be carried out verbally, physically or in writing, eg via email, internet chat rooms, instant messaging and mobile phone technologies such as text messaging. Bullying can be directed in a range of ways in a workplace – downwards (from supervisors or managers to workers), sideways (between workers or co-workers) and upwards (from workers to supervisors or managers). Bullying can be directed at a single worker or at more than one worker. It can be carried out by one or more workers.

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2. What is bullying?

Case study – bullying by more than one worker

Julia was a team leader working at a company undergoing restructuring. The change process had taken over eight months to complete. During that time, Julia felt she was put under unreasonable pressure by a number of staff who were more senior than her. The behaviour she was subjected to included:

Repeated unreasonable behaviour

- having her and her team's performance requirements repeatedly changed by different managers at very short notice
- being told that reports she had submitted were not up to scratch. When Julia asked how she could improve the documents her direct manager rolled his eyes and said 'don't bother, I'll fix it'
- being belittled by a colleague who said in front of a number of senior managers 'do you have any idea how to do your job?'
- being told at a meeting to 'stop asking questions – just get on with it!'
- not being included in regular meetings to which she was previously invited
- having the CEO look out the window and ignore her when she spoke to him during meetings
- finding out that she was no longer being invited to work social functions.

Risk to health and safety

Julia felt distressed, had trouble sleeping and felt nauseous before starting work. She left the company once she found a suitable job.

2.1 What isn't bullying?

Reasonable management actions carried out in a fair way are not bullying. For example:

- setting performance goals, standards and deadlines
- allocating work to a worker
- rostering and allocating working hours
- deciding not to select a worker for promotion
- informing a worker about unsatisfactory work performance
- informing a worker about inappropriate behaviour
- implementing organisational changes
- performance management processes
- constructive feedback
- downsizing.
- transferring a worker

Case study - reasonable management action

Mira works in the purchasing department of a large organisation. She has been there for six months and works with six other staff. The department is busy and the work required is routine and shared evenly among the seven workers.

On a regular basis, Mira falls behind schedule with her tasks. To help develop her admin skills and improve her work performance, the purchasing manager asked Mira to attend a two-day training course. Mira feels humiliated and singled out, even though her manager assures her that her job is not under threat.

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3. Risk management of bullying

Risk management of bullying involves a staged prevention approach:

1. Identifying bullying risks.
2. Assessing the likelihood of those risks causing injury or illness.
3. Implementing risk control measures to eliminate the risk/s (or where that's not reasonably practicable, reducing the risk so far as is reasonably practicable).
4. Reviewing and improving the effectiveness of risk control measures over time.

3.1 Consultation

Consultation is an essential part of the risk management approach to the prevention of bullying at work. A person conducting a business or undertaking must consult with (so far as is reasonably practicable) health and safety representatives and health and safety committees and workers.

WHS laws establish key times when consultation on WHS issues must occur. Consultations must occur when a person conducting a business or undertaking:

- identifies or assesses bullying risks
- makes decisions about measures to control bullying risks
- makes decisions about developing and implementing procedures for resolving bullying complaints
- makes decisions about providing information and training on bullying prevention
- reviews the existing policy and/or procedures on bullying prevention
- sees signs of bullying affecting the health and safety of workers
- proposes changes to the way that work is performed.

In all of the situations above, it will be reasonably practicable for a person conducting a business or undertaking to consult health and safety representatives, health and safety committees and workers.

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3. Risk management of bullying

3.2 Identify bullying risk factors

This guide categorises the risk factors that can contribute to bullying as: organisational change; negative leadership styles; lack of appropriate work systems; poor workplace relationships; and workforce characteristics. Bullying can arise from a number of interrelated risk factors.

Work environment – risk factors

Organisational change

- significant technological change
- restructuring/ downsizing
- change in work method/s
- outsourcing
- change in supervisor/manager.

Negative leadership styles

Autocratic leadership characterised by:

- styles that are strict and directive; workers not involved in decision making; not allowing flexibility.

Laissez-faire leadership characterised by:

- inadequate or absent supervision; responsibilities inappropriately and informally delegated to subordinates; little or no guidance provided to subordinates.

Lack of appropriate work systems

- lack of resources
- lack of training
- lack of role definition
- uncertainty about job roles and way work should be done
- poorly designed rostering
- unreasonable performance measures or timeframes
- lack of support systems.

Poor workplace relationships

- criticism and other negative interactions
- negative relationships between supervisors and workers
- interpersonal conflict
- workers excluded.

Workforce characteristics

Vulnerable workers, including:

- young workers
- new workers
- apprentices
- injured workers and workers on return to work plans
- piece workers
- workers in a minority because of: ethnicity, religion, disability, political views, gender or sexual preference.

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How to identify risk

The risk indicator in Appendix B and/or the employer checklist in Appendix C will assist organisations identify whether there are work environment bullying risk factors present at their workplace. The indicator should be used in consultation with health and safety representatives and workers. The first column of the indicator is the identification section.

Other information that can be used to assist in identifying bullying work environment risk factors includes:

- hazard reports
- issues raised by health and safety representatives
- issues raised by workplace health and safety committees
- examining workplace/organisational data (such as sick leave, transfer requests)
- results from worker opinion surveys
- issues raised by workers
- workers' compensation claims.

3.3 Assessing bullying risk factors

Risk assessment should be conducted when work environment risk factors have been identified. Risk assessment should assess whether the workplace has enough measures in place to eliminate or reduce risk. When assessing bullying risks, it is important to recognise that factors can be interrelated and therefore should not be considered in isolation.

How to assess risk

The risk indicator in Appendix B will assist organisations assess whether factors in their work environment create a risk of bullying. The indicator should be used in consultation with health and safety representatives and workers. Where the factors fall into the area of higher risk, move on to risk control. Address areas of highest risk first, then move on to addressing other areas revealed in the risk assessment.

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3.4 Controlling bullying risk factors

The best way to control bullying risks is to eliminate the factors that can cause it at the source. If that's not reasonably practicable, use measures that reduce the risk.

How to control risk

The risk indicator in Appendix B will assist organisations control the factors in their work environment that create a risk of bullying. The indicator should be used in consultation with health and safety representatives and workers. When selecting which risk control measures to implement, make sure the most effective measures are used. Measures may need to be implemented organisation-wide, as well as in a specific work area.

Work environment – risk controls

Controls to address **organisational change** include:

- plan all change
- consult with workers affected as early as possible
- develop and maintain effective communication throughout the change
- seek and act on feedback throughout the change
- review and evaluate change processes.

Controls to address **negative leadership styles** include:

- management accountability for positive leadership style
- management supervision, support and training
- leadership coaching, including providing constructive feedback, communication skills; democratic/participative leadership
- mentoring and supporting new and poor performing managers
- provision of regular feedback on management performance (including feedback from workers under supervision) and feedback acted on
- implement and review performance improvement/ development plans
- provide regular leadership skills training and update training (eg once a year)
- include leadership questions (eg conduct and performance of leaders) in exit interviews and worker opinion surveys.

Controls to address **lack of appropriate work systems** include:

- develop and implement standard operating procedures
- review and monitor work loads and staffing levels
- review resource availability
- redesign and clearly define jobs
- reduce excessive working hours
- seek regular feedback from staff over concerns about roles and responsibilities.

Controls to address **poor workplace relationships** include:

- develop and implement a conflict management process
- provide training (eg diversity and tolerance, addressing conflict in the workplace, interpersonal communication and interaction)
- ensure supervisors act on inappropriate behaviour.

Controls to address **workforce characteristics** include:

- develop and implement systems to support and protect vulnerable staff
- train workers (eg in diversity and tolerance and communication skills)
- train line managers to support workers at higher risk
- implement a contact officer system to provide support and advice
- implement a 'buddy' system for new workers
- monitor workplace relationships.

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3. Risk management of bullying

A person conducting a business or undertaking must consult with health and safety representatives and workers on policy development, implementation and review.

3.5 Workplace policy

It is advisable to develop and implement a policy on bullying prevention for your workplace. A workplace policy sets out standards of behaviour and makes a clear statement that inappropriate behaviour will not be tolerated. A workplace policy supports other risk control measures.

There are a range of options for workplace policies:

- develop a specific workplace policy on bullying
- include it within an existing WHS policy
- include it in a policy that covers workplace behaviour.

Aspects to cover in a workplace policy include:

- a statement that the organisation is committed to preventing bullying
- the standards of appropriate behaviour
- encourage reporting
- a definition of bullying (with examples of bullying behaviour)
- the consequences for not complying with the policy.

Ensure workers are informed, instructed or trained in workplace policies and procedures.

Workplace procedures

Procedures should outline how reports of bullying will be dealt with, and should set out broad principles to ensure the process is objective, fair and transparent. Where no reporting procedure exists or the existing system is not appropriate, WorkSafe recommends that a person conducting a business or undertaking and/or a person in control of premises develop a specific procedure to address bullying in consultation with health and safety representatives and workers (see section 4 for further information).

Procedures should be developed to suit the size and structure of an organisation.The procedure should be flexible enough to accommodate the informal and formal ways of dealing with bullying. Any procedure should ensure confidentiality and fair treatment of those involved. A reporting procedure can be developed and implemented in a number of ways (see section 4).

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3.6 Training

Bullying has been linked to situations of role conflict and uncertainty. Persons conducting a business or undertaking and/or persons in control of premises should make sure that workers understand their role and have the appropriate skills to do their job. This includes making sure that workers who supervise others have appropriate skills and, if necessary, giving them training to acquire the skills before starting supervisory duties.

Topics to cover include:

- workplace policy and procedures
- how to deal with bullying
- how the organisation deals with bullying
- how to report bullying
- how to comply with the policy
- risk assessment
- measures used in the workplace to prevent bullying.

Workers who have a designated role in handling reports of bullying need specific training to assist them carry out this task.

Training may need to be tailored to meet the special needs of particular worker groups. 'Special needs' may relate to work experience, gender, disability, ethnicity and/or literacy.

Induction

Persons conducting a business or undertaking and/or persons in control of premises should ensure that information about workplace bullying, including any relevant policies and procedures, is included in worker inductions.

3.7 Monitoring and review

To best prevent bullying at work, risk control measures must be regularly monitored, evaluated and/or reviewed. For example, the following should be checked:

- Have control measures been implemented as planned?
- Are they working?
- Are there any new problems?

Monitoring and review should be conducted in consultation with health and safety representatives and workers.

A review can be conducted at any time, but is recommended:

- when new or additional information about bullying becomes available to a person conducting a business or undertaking and/or a person in control of premises
- when a situation of bullying has been substantiated
- at the request of a health and safety representative or WHS committee
- according to a scheduled review date.

Results of reviews should be reported to health and safety committees, health and safety representatives, senior leadership and the board of management.

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Part 2

4. Responding to bullying

4.1 Encourage reporting

Encouraging reporting assists persons conducting a business or undertaking and/or persons in control of premises to:

- understand the size of the problem
- take action to address the issues being reported
- assess whether bullying prevention measures are working
- intervene as early as possible
- provide prompt assistance and support to workers.

Reporting can be encouraged by:

- leadership (supervisors and managers) promoting reporting
- consistent and effective responses to reports
- regularly providing information (eg quarterly) to health and safety committees on numbers of reports made, how they were resolved and what control measures were put in place to address underlying risk factors
- making this information available to health and safety representatives and workers.

4.2 Workplace procedures

To ensure a consistent approach to resolving bullying at work, it is recommended that organisations have an agreed workplace procedure (see section 3.5). The agreed procedure must be developed in consultation with health and safety representatives and workers.

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4. Responding to bullying

4.3 Principles

To appropriately deal with reports of bullying at work, a number of principles should guide the person conducting a business or undertaking and/or person in control of premises' response. The principles are outlined below and should be built into any agreed workplace procedure.

Treat all matters seriously	Take all complaints seriously. Assess all reports on their merits and facts.
Act promptly	Reports should be dealt with quickly, courteously, fairly and within established timelines. All relevant parties should be advised of how long it will take to deal with the report and should be kept informed of the progress. If additional time is required to address the issues, all relevant parties should be kept informed and advised of the additional time required and the reasons for the delay.
Non-victimisation	It is important to ensure that anyone who raises an issue of bullying is not victimised for doing so. The person/s a complaint is made against and any witnesses should also be protected from victimisation.
Support for all parties	Once a complaint has been made, the workers involved should be told what support is available (eg worker assistance programs and peer support systems). The person the allegations have been made against should also be advised of the available support. Treat all workers involved with sensitivity, respect and courtesy. All workers involved should be allowed to have a support person present at interviews or meetings (eg health and safety representative, union representative or friend).
Neutrality	Impartiality towards everyone involved is critical. This includes the way that people are treated in any process. The person in charge of an investigation or resolution process should never have been directly involved in the incident they are investigating or attempting to address. They should also avoid any personal or professional bias.
Communication (of process and outcomes)	All parties need to be informed of the process, how long it will take and what they can expect will happen during the process and at the end. Provide all parties with clear reasons for any actions that have been taken and in some circumstances not taken.
Confidentiality	The process should ensure complainant confidentiality and also ensure confidentiality for other parties involved. Details of the matter should only be known by those directly concerned.
Documentation	Documentation is important to any formal investigation. Even if the matter is not formally investigated, a record should be made of all meetings and interviews detailing who was present and the agreed outcomes.

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4. Responding to bullying

Natural justice

The principles of natural justice should be followed in all formal investigations. These principles are designed to protect all parties.

- The person who is alleged to have committed the bullying should be treated as innocent unless the allegations are proved to be true.
- Allegations should be investigated promptly.
- All allegations need to be put to the person they are made against.
- The person the allegations are made against must be given a chance to explain his or her version of events.
- If the complaint is upheld, any disciplinary action that is to be taken needs to be commensurate with the seriousness of the matter.
- Right of appeal is explained.
- Mitigating factors should be taken into account when assessing if disciplinary action is necessary.

4.4 Ways to address bullying

There are three approaches that will help you address a complaint of bullying. They can be used in combination or on their own, depending on the situation. They can also be used as a step-by-step approach to resolution. The approach should reflect the seriousness of the situation. It is important that the worker who reported the situation agrees with the proposed approach or combination of approaches that will be used.

The direct approach

This involves a clear and polite request for the behaviour to stop. This request can
be made by the person affected, their supervisor or manager, or another relevant person. Anyone requested to act on behalf of the person affected should adopt
a confidential non-confrontational approach with a view to resolving the issue. This approach can assist:

- when unreasonable behaviour first occurs
- when a line manager directly observes inappropriate behaviour.

Note: If a supervisor or manager is involved in using the direct approach, they should document their actions (eg make a diary note).

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4. Responding to bullying

Mediation/discussion involving an independent third party

A neutral and independent person assists resolution through a discussion of the issues. The independence of the person chairing the session needs to be recognised by all parties involved. All parties to the discussion should agree to this approach being used. The discussion should focus on agreeing the actions that will be taken to resolve the problem. This approach can be used:

- where the direct approach has not resolved the issue
- where an investigation has recommended it.

Investigation

Where a serious allegation has been made, an investigation should be the first step taken. Investigations should focus on establishing whether or not a report of bullying is substantiated or there is not enough information to decide either way. The principles of natural justice and the principles for addressing bullying should be followed throughout the investigation process.

An investigation should be undertaken for:

- allegations involving senior staff/management
- allegations covering a long period of time
- allegations involving threats
- allegations involving multiple workers
- allegations involving vulnerable workers
- informal approaches that have failed.

Investigations should always be conducted by an impartial and suitably qualified person. They should:

- be experienced
- be unbiased.

Planning an investigation should always include:

- deciding who will conduct the investigation (establish the independence of the investigator)
- setting out what might be achieved by undertaking an investigation
- setting out the investigation process
- communicating potential outcomes (including consequences) of an investigation to those involved.

At the end of an investigation, recommendations should be made about the measures that should be undertaken to finalise the matter. In some circumstances, an investigation may find that a report of bullying is not substantiated and no further action can be taken. Where bullying is substantiated, strategies to assist complaint resolution should be assessed.

Outcomes of investigations should be communicated to relevant parties in a fair and consistent way that avoids bias. Communicate:

- investigation findings
- actions recommended
- information on how to seek review of decisions.

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4. Responding to bullying

4.5 Acting on outcomes

The options for addressing a complaint of bullying will vary on a case-by-case basis according to seriousness and other circumstances. Some strategies for addressing bullying are outlined below. The strategies can be combined.

Strategies for resolution

- Gain commitment to cease the behaviour.
- Run an awareness update.
- Provide training (eg communication skills, diversity awareness, interpersonal skills).
- Workgroup training.
- Organisation-wide training.
- Providing coaching, counselling support and/or mentoring.
- Review the workplace policy with all workers and managers.
- Mediation (only where both parties agree to mediation and to the mediator).
- Structured program to reintegrate a person into the workplace.
- Move the perpetrator away from the affected person.
- Implement disciplinary action.
- Require an apology.

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4.6 Reviewing the work environment

After addressing a specific bullying issue, a person conducting a business or undertaking and/or person in control of premises should also examine the work situation to identify and address any underlying work environment risk factors present at the workplace. Sections 3.2 to 3.5 provide information on the risk factors to look for and measures that can be used to address them. The risk indicator in Appendix B can be used to identify and address any underlying work environment risk factors. Monitoring and review (see section 3.6) can also be undertaken to check whether new or additional risk control measures need to be implemented.

Case study – responding to bullying

After moving to a new work area, George, a first year apprentice, spoke to his new supervisor, Michael, about the treatment he'd received from some of the workers in his last work area. George said he'd been called a 'dickhead', was continually ignored and not told about team meetings until after they had occurred. His work tools and some of his clothing were damaged when he was away from the work area. George told the new supervisor because he was worried about another first year apprentice who was moving into that work area. George said he did not want to make a formal report.

Michael told George he understood that he didn't want to report it formally, but Michael as a supervisor had to take some action because an WHS issue was brought to his attention. Michael sought advice from the WHS manager and they settled on a number of actions that included:

- reviewing and discussing the workplace policy and procedure on bullying at a team meeting for that work group
- monitoring the relationships within the work group to see how the new apprentice was being treated
- when verbal abuse of the apprentice was directly observed, action was taken. The worker who acted inappropriately was counselled and disciplined, and training was provided for the work group
- the WHS manager moving forward the annual review of the workplace procedure because he was concerned workers didn't trust the process. At the review with the WHS committee, a number of changes were made to the procedure
- the WHS manager and the WHS committee conducting an organisation-wide bullying risk assessment that examined work environment risk factors and implemented risk controls as required.

Michael spoke to George and told him what was going to happen before any of the actions were undertaken.

Note: The case study above reinforces that bullying is an OHS hazard. Organisations should be proactive and not wait for a formal complaint before implementing a risk management approach.

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Appendices

Appendix A – What to do if bullying happens to you

Appendix B – Bullying risk indicator

Appendix C – Employer checklist

Appendix D – Other laws

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Appendix A –
What to do if bullying happens to you

Photocopy for easy use

What you can do

Below are a number of actions you may wish to take if you feel that you are experiencing bullying at work. The action/s you choose will depend upon the nature of the bullying and your workplace.

- If you can, tell the person the behaviour is unreasonable/inappropriate, that you are offended and want it to stop.
- Get advice from your health and safety representative.
- Keep a record of events that includes the names of people involved (eg witnesses). Make sure the records focus on the facts of the situation (what happened, including dates and times, and, if possible, copies of any documents).
- Use the workplace or WHS procedure to report the situation.
- Seek professional counselling and/or advice.
- Talk to people you trust at your workplace (a supervisor, manager, health and safety representative, union representativeor someone from human resources).

How can WorkSafe/WorkCover help me?

Workers experiencing bullying at work (or who have left a job because of bullying) can contact the WorkSafe Victoria Advisory Service (phone 1800 136 089), WorkCover NSW Assistance Service (phone 13 10 50) or WorkSafe ACT (phone 6207 3000). Other people (eg health and safety representatives, union representatives, relatives) can contact the advisory services for a worker experiencing bullying.

The advisory services can provide information on:

- bullying and how to prevent it
- how to raise the issue of bullying in the workplace
- how to initiate a workplace intervention by a WorkSafe or WorkCover inspector (where appropriate).

What an inspector can do

The action/s taken by an inspector during a workplace intervention will depend upon the nature of the bullying and the workplace. These actions can include:

- attending the workplace to make enquiries, including reviewing relevant documentation
- talking to/interviewing complainants and witnesses
- talking to/interviewing the employer/management representative
- examining what measures are in place at a workplace to prevent bullying
- providing advice on how to comply with WHS laws
- requiring remedial action to be taken where there are breaches of WHS laws
- recommending a comprehensive investigation to determine whether a breach of WHS laws has occurred and whether it may warrant prosecution (or alternative punitive action).

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Appendix B – Bullying risk indicator

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Work environment risk identification	Risk assessment	Risk control measures
Organisational change • change in supervisor/manager • significant technological change • restructuring • downsizing • change in work method/s • outsourcing	Lower risk: Long-term stability, predictability, continuity, certainty Higher risk: High levels of unplanned and reactive change; change that creates confusion, ambiguity, uncertainty	• plan all change • consult with workers affected as early as possible • develop and maintain effective communication throughout the change • seek and act on feedback throughout the change • review and evaluate change processes
Negative leadership styles **Autocratic** Characterised by styles that are strict and directive, workers not being involved in decision making, not allowing flexibility	**Democratic** Collaborative, consultative, treats staff fairly, interpersonal interactions supportive and positive, accessible and communicates effectively **Autocratic** Task emphasis, lack of involvement of workers with decision making, strict, directive, lacks trust, poor delegation, tight control, poor interpersonal skills	• management accountability for positive leadership style • management supervision, support and training • leadership coaching, including providing constructive feedback, communication skills, democratic/participative leadership • mentor and support new and poor performing managers • regular feedback provided on management performance (including feedback from workers under supervision), feedback acted on • implement and review performance improvement/development plans • provide regular leadership skills update training (eg yearly) • include leadership questions (eg conduct and performance) in exit interviews and worker opinion surveys
Laissez-faire Characterised by inadequate or absent supervision, responsibilities inappropriately and informally delegated to subordinates, little or no guidance provided to subordinates	**Democratic** Collaborative, consultative, treats staff fairly, interpersonal interactions supportive and positive, accessible and communicates effectively **Laissez-faire** Lack of direction, lack of supervision, absence of role clarity, lack of responsibility, lack of support/systems/ procedures	

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Appendix B – Bullying risk indicator (cont)

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Work environment risk identification	Risk assessment (Lower risk → Higher risk)	Risk control measures
Lack of appropriate work systems • lack of resources • lack of experience • lack of role definition • uncertainty about job roles and way work should be done • poorly designed rostering • unreasonable performance measures or timeframes • lack of support systems	Clearly defined roles and responsibilities, clear work requirements, clear lines of authority, well organised, realistic workloads and job demands → High levels of uncertainty around roles and responsibility, lack of clarity around expectations, poor communication channels, excessive/ unrealistic work demands Poorly trained staff	• develop and implement standard operating procedures • review and monitor work loads and staffing levels • review resource availability • redesign and clearly define jobs • reduce excessive working hours • seek regular feedback from staff over concerns about roles and responsibilities
Poor workplace relationships • critical and negative interactions • negative relationships between supervisors and subordinates • interpersonal conflict • workers excluded	Open communication, clarity regarding standards of behaviour required, inclusion management, resolution process for managing interpersonal conflicts → Unmanaged and unresolved conflicts and disputes, high levels of interpersonal conflict and disputation tolerated	• develop and implement a conflict management process • provide training (eg diversity and tolerance, addressing conflict in the workplace, interpersonal communication and interaction) • ensure supervisors act on inappropriate behaviour
Workforce characteristics Vulnerable workers/staff, including: • young workers • new workers • apprentices • injured workers and workers on return to work plans • workers who are in a minority due to cultural and religious difference • piece workers • workers in a minority because of ethnicity, disability, political views, gender or sexual preference	Systems to support and monitor the integration of workers Accepting of differences and diversity Appropriate supervision → Inappropriate behaviour towards vulnerable staff tolerated/ignored Lack of appropriate communication processes to report discrimination, abuse and improper conduct Lack of trust/confidence in management's willingness to resolve problems	• develop and implement systems to support and protect vulnerable staff • train workers (eg valuing workplace diversity and tolerance) • train line managers to deal with workers at higher risk • implement a contact officer system to provide support and advice • implement a 'buddy' system for new workers • monitor workplace relationships

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Appendix C – Employer* checklist

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All employers* should carry out a regular check of the workplace in consultation with health and safety representatives and workers to identify if there are signs that bullying is happening or could happen (risk identification), and take steps to deal with any problem areas (risk control).

This checklist and the suggested control measures are not exhaustive. You may need to consider other factors that are unique to your workplace.

Organisational change	YES	NO	Comments
Has there been recent significant organisational change or is change pending?	☐	☐	If YES to any of the above, implement risk control measures (page 9), such as: • consult with workers about proposed changes and provide them with an opportunity to influence proposals • provide workers with information to help them understand the proposed or actual changes, and the impact of the changes • consult with workers about any support or retraining needed as a result of the changes • seek and act on feedback during change process • review and evaluate change processes
Has a takeover occurred or is it pending?	☐	☐	
Has there been a major internal restructure or is it pending?	☐	☐	
Has technological change occurred or is it pending?	☐	☐	
Has there been a change in management or is it pending?	☐	☐	
Are there any other changes that might lead to high job instability and uncertainty about ongoing employment?	☐	☐	

Negative leadership styles	YES	NO	Comments
Does the workplace have authoritarian management styles?	☐	☐	If YES to any of the above, implement risk control measures (page 9), such as: • provide managers and supervisors with leadership training • provide managers and supervisors with communication skills training • use mentoring and coaching to improve leaders' interpersonal skills • train managers and supervisors to adopt participative management styles as part of a culture that emphasises open communication, support and mutual respect
Does the workplace have laissez-faire management styles?	☐	☐	
Do managers and supervisors lack appropriate leadership training?	☐	☐	
Do managers and supervisors have poor interpersonal skills?	☐	☐	

*Note: in this checklist the term 'employer' covers the definition of a person conducting a business or undertaking and/or person in control of premises in the ACT Work Safety Act 2008.

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Appendix C – Employer checklist (cont)

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Work systems	YES	NO	Comments
Are there staff shortages?	☐	☐	If YES to any of the above, implement risk control measures (page 9), such as: • consult workers on possible job redesign • consult workers about improving work patterns, including increasing their control over the pace of work, rest breaks, etc • improve the availability of flexible working arrangements • assess whether demands on workers are achievable within the agreed hours of work • provide clear job descriptions that outline roles and responsibilities
Is the work rate intense?	☐	☐	
Is there uncertainty about job requirements and role definition?	☐	☐	
Is there uncertainty about the way that work should be done?	☐	☐	
Are there unreasonable performance measures or timeframes?	☐	☐	

Workplace relationships	YES	NO	Comments
Are workplace relationships poor?	☐	☐	If YES to any of the above, implement risk control measures (page 9), such as: • provide training in communication and conflict resolution skills • treat all workers with fairness and consistency • communicate openly at all levels and involving workers in decision-making processes that affect their work • provide appropriate rewards and recognition • use performance indicators that measure positive people management and relationship skills, not just financial goals • promote the existing workplace policy and procedure or consult with workers to implement them immediately
Is there inadequate or no consultation?	☐	☐	
Is communication poor?	☐	☐	
Is the work environment competitive?	☐	☐	
Are workers withdrawn/isolated/excluded from others?	☐	☐	
Is there deterioration in relationships between work colleagues, customers or management?	☐	☐	

Workforce characteristics	YES	NO	Comments
Are there any at-risk workers or groups in the workplace (see page 7)?	☐	☐	If YES to any of the above, implement risk control measures (page 9), such as: • at induction, provide information to all workers, including casual and labour hire workers, about workplace policies and procedures on bullying prevention • promote the principles of dignity and respect, and take action to combat discrimination • introduce a buddy system for young and new workers • provide cultural awareness training
Are there workers in uncertain employment, such as casuals, contractors and labour hire workers?	☐	☐	
Are there reports of damage to belongings or equipment?	☐	☐	
Are there young workers, such as apprentices and trainees?	☐	☐	

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Appendix D – Other laws

Bullying at work can fall within the scope of various state and federal laws. Obligations under such laws are additional to any obligations under OHS law.

Anti-discrimination laws

State and federal anti-discrimination laws prohibit behaviour that amounts to discrimination or harassment. Some forms of bullying at work may breach these laws. For further information on anti-discrimination laws, contact:

- Victorian Equal Opportunity and Human Rights Commission **03 9281 7100** or **1800 134 142**
- NSW Anti-discrimination Board **02 9268 5544** or **1800 670 812**
- Human Rights and Equal Opportunity Commission (Federal) **1300 656 419**
- ACT Human Rights Commission **02 6205 2222**

Criminal law

Physical assault and sexual assault are criminal matters and should be referred to the police. Other forms of bullying can be offences under criminal law (eg threats to harm someone and damage to property). Phone your local police station to report criminal forms of bullying.

Industrial laws

Employment conditions, grievances, disciplinary action and termination of employment are covered by industrial laws. For further information on industrial laws and bullying, persons conducting a business or undertaking and/or persons in control of premises should contact:

- their industry association
- Business Victoria **13 22 15**
- Work Choices Information Line **1300 363 264**
- Fair Work Australia **02 6209 2400**

Workers should contact:

- their union
- Job Watch **03 9662 1933** or **1800 331 617**
- Business Victoria **13 22 15**
- NSW Office of Industrial Relations **13 16 28** or **1800 803 868**
- Workplace Ombudsman (Federal) **1300 363 264**
- NSW Ombudsman **02 9286 1000** or **1800 451 524**
- Work Choices Information Line **1300 363 264**
- Fair Work Australia **02 6209 2400**
- ACT Ombudsman **1300 362 072**.

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Young workers

Young workers can contact:

- The Commission for Children and Young People **02 9286 7276 www.kids.nsw.gov.au**
- Kids Helpline **1800 551 800**
- National Children's and Youth Law Centre **02 9385 9588**
- Legal Aid Hotline for Under 18s **1800 101 810**
- Job Watch **03 9662 1933** or **1800 331 617**
- Youth Law **03 9611 2414**
- UnionsACT **02 6247 7844**
- Youth Coalition of the ACT **02 6247 3540**.

All NSW workers under the age of 18 have special protections in the workplace, including access to unfair dismissal provisions. More information can be found at NSW Department of Industrial Relations **13 16 28 www.youngpeopleatwork.nsw.gov.au**.

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References

State OHS legislation and related documents

NSW

Work Health and Safety Act 2011 (NSW)

Victoria

Occupational Health and Safety Act 2004 (VIC)

Occupational Health and Safety Regulations 2007

Controlling OHS hazards and risks – a handbook for workplaces, WorkSafe Victoria (2007)

Consultation on heath and safety – a handbook for workplaces, WorkSafe Victoria (2007)

ACT

Work Health and Safety Act (2011)

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WorkSafe Victoria

Advisory Service

222 Exhibition Street
Melbourne 3000

Phone - - - - - - - - 03 9641 1444
Toll-free - - - - - - - 1800 136 089
Email - - - info@worksafe.vic.gov.au

Head Office

222 Exhibition Street
Melbourne 3000

Phone - - - - - - - - 03 9641 1555
Toll-free - - - - - - - 1800 136 089
Website - - - - worksafe.vic.gov.au

Local Offices

Ballarat - - - - - - - 03 5338 4444
Bendigo - - - - - - - 03 5443 8866
Dandenong - - - - - - 03 8792 9000
Geelong - - - - - - - 03 5226 1200
Melbourne
(628 Bourke Street) - - 03 9941 0558
Mildura - - - - - - - 03 5021 4001
Mulgrave - - - - - - - 03 9565 9444
Preston - - - - - - - 03 9485 4555
Shepparton - - - - - 03 5831 8260
Traralgon - - - - - - 03 5174 8900
Wangaratta - - - - - 03 5721 8588
Warrnambool - - - - - 03 5564 3200

WorkCover NSW

92–100 Donnison St
Gosford NSW 2250

Locked Bag 2906
Lisarow NSW 2252

WorkCover Assistance Service 13 10 50
Website - - - - workcover.nsw.gov.au

District Offices

Albury - - - - - - - - 02 6042 4600
Ballina - - - - - - - - 02 6620 6900
Bega - - - - - - - - - 02 6491 6600
Coffs Harbour - - - - - 02 6659 1700
Dubbo - - - - - - - - 02 6841 7900
Goulburn - - - - - - - 02 4824 1500
Griffith - - - - - - - - 02 6962 8900
Maitland - - - - - - - 02 4931 6800
Narrabri - - - - - - - 02 6792 8720
Newcastle - - - - - - 02 4921 2900
Nowra - - - - - - - - 02 4428 6700
Orange - - - - - - - - 02 6392 7600
Port Macquarie - - - - - 02 6588 7000
Tamworth - - - - - - - 02 6767 2500
Tweed Heads - - - - - - 07 5506 1400
Wagga Wagga - - - - - 02 6933 6500
Wollongong - - - - - - 02 4222 7333

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Phone - - - - - - - - 02 6207 3000
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