



# Bullying Guide

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# Bullying guide

There are many steps you can take to create a positive working environment, but top of that list is ensuring it is a space free of bullying.

Beyond creating unpleasant conditions, bullying poses serious risks to workers' health and safety. And it has WHS, termination, anti-discrimination and, if serious enough, criminal law implications.



# What is workplace bullying?

Workplace bullying is repeated, unreasonable behaviour by a person or group of people towards one or more workers that creates a risk to their health and safety. The risk can be psychological, physical or both.

The key terms here are 'repeated' and 'unreasonable'. Understanding what they mean in the context of workplace bullying is essential.

Repeated behaviour refers to the persistent nature of the conduct, but it is not limited to any one type of behaviour. If a worker is subjected to a range of unreasonable behaviour over time, this is still repeated behaviour.

The standard for unreasonable behaviour is behaviour that a reasonable person, having considered the circumstances, would see as unreasonable, including behaviour that is victimising, humiliating, intimidating, or threatening.



**Bullying in the workplace can come from co-workers, supervisors, or managers, and includes, but is not limited to:**

- behaving aggressively towards others
- offensive language, yelling, screaming, verbal abuse, rudeness
- ridicule, insults, belittling opinions, patronising titles
- teasing or playing practical jokes
- pressuring someone to behave inappropriately
- excluding someone from work-related events, and
- unreasonable work demands.



## What isn't bullying?

While workplace bullying can encompass a wide range of unreasonable behaviour, not everything will fall under that banner.

Discrimination and sexual harassment are distinct offences and do not need to fall into the realm of bullying to be unlawful, and single or isolated instances of unreasonable behaviour don't constitute bullying.

Reasonable management action – genuine and reasonable disciplinary procedures, genuine and reasonable performance management such as constructively delivered feedback or counselling and directing and controlling how work is done – is not bullying.

There are times when a worker may find a manager exercising their legitimate authority at work uncomfortable. However, considering the actual management action rather than a worker's perception of it is key to determining whether management action is reasonable.

Workplace bullying will generally not include differences of opinion and disagreements. People can have differences or disagreements in the workplace without engaging in repeated, unreasonable behaviour that creates a risk to health and safety. However, conflict that is not managed can, in some cases, escalate into workplace bullying.

# What is the law?

The anti-bullying laws in the Fair Work Act 2009 (Cth) give the Fair Work Commission (FWC) the power to deal with allegations of bullying and the authority to make orders to stop and prevent the bullying behaviour.

These laws apply to most businesses, with only a small number of exceptions such as sole traders or partnerships and state government departments. If the national anti-bullying laws do not cover your business, state or territory laws may still apply.

Under these anti-bullying laws, a worker may make an application to the FWC to make an order for the bullying to stop. The FWC cannot make an order for the payment of money under these powers.

Work health and safety laws in each State also require employers to take all reasonably practicable steps to eliminate, or where elimination is not possible to minimise as far as a reasonably practicable, risks to health and safety. This would include risks to mental health, such as bullying in the workplace.

## How to prevent bullying

Employers have a responsibility to create a safe environment for workers, so it's important to take all reasonable steps to prevent bullying before it becomes a risk to the health and safety of others in the workplace.

**This is best achieved through a risk management process, which should include:**

- identification of bullying risk factors
- assessment of the likelihood of bullying occurring from the risk factors identified and their potential impact on the workers or workplace
- eliminating the risks, as far as reasonably practicable, or controlling, or minimising them as far as reasonably practicable, and
- reviewing the effectiveness of the control methods put in place and the process generally.

# How to respond to bullying claims

If a worker believes someone is bullying them, the first step is to try and resolve the situation in the workplace.

Action should be taken quickly to determine whether the behaviour is bullying or not, as the type of behaviour will inform the response.

If the behaviour is unreasonable, repeated and creates a risk to health and safety, then it should be treated as bullying.

Where bullying is established, steps will need to be taken to prevent this kind of conduct re-occurring, which might include disciplinary action, informal mediation, re-training and in some cases dismissal of employees.



**If internal processes are unable to resolve the issue, a worker can raise the issue with an external party such as the Fair Work Commission.**

The work doesn't stop after a report of workplace bullying is resolved. There should also be a follow-up review to check on the effectiveness of the actions taken to stop workplace bullying and to help and support all parties.

As part of this ongoing work, bullying policies need to be implemented and management must be upskilled to deal with complex new claims.



## What you need and where you'll find it

So, now that we're clear on what bullying is, let's make sure you have the tools and resources to deal with it.

My Business Workplace is user friendly guided HR software that empowers small business owners with the confidence that they are doing the people stuff right. You'll find these policies and documents to help respond to bullying issues in the workplace.

## Workplace bullying policy

This policy will help you eliminate or minimise bullying in the workplace and meet your legal obligations under the Work Health and Safety Legislation and the Fair Work Act. The policy clarifies that workplace bullying will not be tolerated and sets out the definitions, standards, and consequences of bullying in the workplace.



# Workplace bullying assessment checklist

This checklist helps to clarify if there are bullying risk factors in a workplace and if control methods are in place to prevent bullying.

A workplace that tolerates bullying is not only unpleasant – it also poses serious risks to workers' health and safety. And this could end up costing your business big-time.

Bullying can also impact productivity, staff turnover, absenteeism, and morale. So how do you deal with it?



**Follow our quick checklist to help you ensure you've got all bases covered when dealing with workplace bullying.**

- Try to resolve in the workplace
- Is the behaviour unreasonable and repeated?
- Minimise health and safety risks
- Can the matter be resolved between the parties?
- Ensuring investigation (internally or externally) where necessary

# Anti-discrimination and EEO policy

This policy helps employers meet their legal obligations under state and federal EEO laws, including those covering bullying and harassment.

# Notice of bullying discrimination or harassment complaint

This document notifies an employee of a complaint of discrimination, harassment or bullying against them, and gives them an opportunity to respond.



# Discover more

HR can be tricky to navigate – but we've got your back.

**Get your HR stuff sorted with My Business Workplace.**

We offer step-by-step checklists and templated documents for hiring new starters, paying correctly, managing your team, and separating when the time is right.

Easily create and assign contracts, keep up to date with award changes, remunerate employees correctly, and use our easy-to-follow guides and checklists to manage resignation, termination, misconduct, and redundancy. No matter the problem or whenever it strikes. Get the unfun done and get on with business.

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