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Preventing and Responding to Workplace Bullying: Best Practices Guidelines

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Preventing and responding to workplace bullying

FEBRUARY 2014



This best practice guideline gives options and examples of how to prevent and respond to workplace bullying.

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BULLYING KEY POINTS

Bullying is a workplace hazard

Bullying affects personal health

**Bullying affects business
productivity**

**Bullying behaviours are specific
and have a range of solutions**

**Bullying is prevalent in
New Zealand's workplaces and
needs to be addressed**

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01/

WHAT IS WORKPLACE BULLYING?

In this section:

**BULLYING IS A WORKPLACE
HAZARD**

BULLYING IS BAD FOR BUSINESS

DEFINITION OF BULLYING

**HOW CAN WORKPLACE
BULLYING OCCUR?**

BULLYING BEHAVIOURS

TYPES OF WORKPLACE BULLIES

TYPES OF WORKPLACE BULLYING

**EFFECTS OF BULLYING
ON A PERSON**

**EFFECTS OF BULLYING
ON A WORKPLACE**

WHAT BULLYING ISN'T

OTHER UNDESIRABLE BEHAVIOUR

**RESOLVING DISPUTES -
MBIE SERVICES**

**RESOLVING ISSUES THROUGH
WORKSAFE NZ**

LEGISLATION AND BULLYING

**NEW ZEALAND RESEARCH
INTO BULLYING**

Bullying is a significant workplace hazard that affects employee health and business productivity. Employers have a duty to control all workplace hazards, including bullying and other undesirable behaviour.

1.1 BULLYING IS A WORKPLACE HAZARD

Workplace bullying is a significant hazard in New Zealand¹.

It affects people physically and mentally, resulting in increased stress levels, decreased emotional wellbeing, reduced coping strategies and lower work performance.

Employers who don't deal with it risk breaching the:

- > Employment Relations Act 2000 (ERA)
- > Health and Safety in Employment Act 1992 (HSE Act)
- > Human Rights Act 1993 (HRA)
- > Harassment Act 1997 (HA).

1.2 BULLYING IS BAD FOR BUSINESS

Its effects can reduce productivity and disrupt workplaces through:

- > impaired performance
- > increased absence
- > low morale
- > more mistakes and accidents
- > loss of company reputation
- > resignations and difficulty recruiting
- > poor customer service and/or product quality.

Factors associated with workplace bullying include a lack of organisational strategies for managing psychosocial hazards including:

- > ineffective leadership
- > low levels of resourcing
- > poor work organisation
- > poor Human Resources practices.

This guideline was developed by WorkSafe New Zealand (WorkSafe NZ) and the Ministry of Business, Innovation and Employment (MBIE) to assist workplaces, employers and employees to address the issue of workplace bullying. It also aims to reduce the risk for employers and employees of failing to comply with the duties of the HSE Act and other relevant legislation.

This guidance shows how to:

- > identify, assess and manage behaviours that cause distress to an individual or group (whether intended or not)
- > stop the unreasonable behaviour and re-establish healthy work relationships.

Six stakeholder focus groups facilitated by MBIE reinforced the need to include advice on how to develop positive and healthy workplaces. The guideline also includes several tools to help employees and employers improve their workplace culture and develop positive environments where bullying behaviour can't thrive.

¹ Bentley, T., Catley, B., Cooper-Thomas, H., Gardner, D., O'Driscoll, M., & Trenberth, L. (2009). *Understanding stress and bullying in New Zealand workplaces*. Auckland, New Zealand: Massey University.

The guideline is supported by a suite of online tools. For more information, refer to the Preventing and responding to bullying page at www.worksafe.govt.nz.

1.3 DEFINITION OF BULLYING

While some bullying might be easy to identify (eg personal attacks and put downs), other forms of bullying are not (eg attempts to undermine credibility, performance or confidence). Bullying can be difficult to define and there are multiple definitions that have been used. For the purpose of this guidance, WorkSafe NZ and MBIE have adopted the Safe Work Australia definition of workplace bullying, which is outlined below.

Bullying defined

Workplace bullying is repeated and unreasonable behaviour directed towards a worker or a group of workers that creates a risk to health and safety.²

- > Repeated behaviour is persistent and can involve a range of actions over time.
- > Unreasonable behaviour means actions that a reasonable person in the same circumstances would see as unreasonable. It includes victimising, humiliating, intimidating or threatening a person.

A single incident of unreasonable behaviour is not considered workplace bullying, but it could escalate and should not be ignored.

Harassment and discrimination, which can be part of bullying, have their own legal remedies that are explained in the section on 'Other undesirable behaviour'.

1.4 HOW CAN WORKPLACE BULLYING OCCUR?

Workplace bullying can be carried out in a variety of ways including through email, text messaging, internet chat rooms or other social media channels. In some cases workplace bullying may occur outside normal working hours.

Workplace bullying can be directed at a single worker or group of workers and be carried out by one or more workers. It can also be directed at or perpetrated by other people such as clients, patients, students, customers and members of the public.

1.5 BULLYING BEHAVIOURS

Table 1³ puts common bullying behaviours in two main categories – attacks that are direct and personal, or indirect and task-related.

When using this table to decide if what you are experiencing or witnessing is bullying, ask yourself if the behaviour is unreasonable, repeated and health endangering. To be classified as bullying it usually needs all three aspects (see 'Bullying defined' opposite).

² Safe Work Australia. (2011). *Draft model code of practice: Workplace bullying*. Canberra, Australia: Author.

³ Health and Safety Executive. (2003). *Research report: Bullying at work: A review of the literature*. London, England: Author.

Table 1: Bullying behaviours – personal and task related

Personal attacks (direct)	Task-related attacks (indirect)
Belittling remarks – undermining integrity – lies being told – sense of judgement questioned – opinions marginalised	Giving unachievable tasks – impossible deadlines – unmanageable workloads – overloading – ‘setting up to fail’
Ignoring – excluding – silent treatment – isolating	Meaningless tasks – unpleasant jobs – belittling a person’s ability – undermining
Attacking a person’s beliefs, attitude, lifestyle or appearance – gender references – accusations of being mentally disturbed	Withholding or concealing information – information goes missing – failing to return calls or pass on messages
Ridiculing – insulting – teasing – jokes – ‘funny surprises’ – sarcasm	Undervaluing contribution – no credit where it’s due – taking credit for work that’s not their own
Shouted or yelled at	Constant criticism of work
Threats of violence	Underwork – working below competence – removing responsibility – demotion
Insulting comments about private life	Unreasonable or inappropriate monitoring
Physical attacks	Offensive sanctions – eg denying leave
Public humiliation	Excluding – isolating – ignoring views
Persistent and/or public criticism	Changing goalposts or targets
Using obscene or offensive language, gestures, material	Not giving enough training or resources
Ganging up – colleagues/clients encouraged to criticise you or spy on you – witch hunt – dirty tricks campaign – singled out	Reducing opportunities for expression – interrupting when speaking
Intimidation – acting in a condescending manner	Sabotage
Intruding on privacy, eg spying, stalking, harassed by calls when on leave or at weekends	Supplying incorrect or unclear information
Unwanted sexual approaches, offers, or physical contact	Making hints or threats about job security
Verbal abuse	No support from manager
Inaccurate accusation	Scapegoating
Suggestive glances, gestures, or dirty looks	Denial of opportunity
Tampering with personal effects – theft – destruction of property	Judging wrongly
Encouraged to feel guilty	Forced or unjustified disciplinary hearings
	Lack of role clarity
	Not trusting

1.6 TYPES OF WORKPLACE BULLIES

1.6.1 THE CHRONIC BULLY

Learned childhood behaviour or a personality disorder could potentially create this type of workplace bully. They are by far the most hazardous. Peter Randall⁴ believes chronic bullies do not process social information accurately and make unrealistic judgements about other people's intentions. They conceptualise themselves as being superior and powerful and are possibly not capable of empathy.

1.6.2 THE OPPORTUNISTIC BULLY

Generally the opportunistic bully is self-centred, ambitious and prepared to win at any cost, which means controlling everything and everyone on their way to success. They seek to maximise contacts, situations and exposures to get ahead and will bully anyone they perceive as a threat. While they can exhibit similar behaviour to the chronic bully, they tend to be driven more from their own personal ambition.

With strong management that expressly rejects bad behaviour towards others, they can be contained and their energy redirected.

1.6.3 THE SITUATIONAL BULLY

A person may take advantage of a workplace situation and display bullying behaviours. Workplaces that are going through organisational change, work to deadlines, have weak or dictator-style leadership and/or poorly defined hierarchies may be more at risk of situational bullying.

The situational bully is likely to join the pack and become involved in 'mobbing' one or more individuals lower down the hierarchy. They will often use a chronic bully's power-base to elevate themselves to a position of importance. When the situation no longer gives opportunities for bullying, they stop.⁵

1.7 TYPES OF WORKPLACE BULLYING

Bullying happens at all levels and isn't limited to managers targeting staff. It can exist between colleagues, and staff can also engage collectively in bullying their manager, or clients and customers. Organisational downsizing, and economic and job uncertainty can cause stress that can bring out undesirable interpersonal communication styles. Several types of bullying have been identified.

1.7.1 INSTITUTIONAL BULLYING

Institutional bullying or corporate bullying is when an organisation's norms, culture or practice allow:

- > behaviour which causes offence or undue stress to others without concern for the consequences or their wellbeing
- > work structures, practices, policies or requirements which unreasonably burden staff without concern for their wellbeing. Work structures may lack a reasoned, justifiable or evidence-based rationale.

Institutional bullying can happen in any size workplace. It may not be conscious but its consequences are often ignored or downplayed. It often happens during constrained economic times when jobs are scarce and employees have limited choices.

⁴ Randall, P. (2001). *Bullying in adulthood*. East Sussex, England: Brunner-Routledge.

⁵ Field, T. (1996). *Bully in sight*. Oxford, England: Success Unlimited.

An organisation's norms may amount to unfair practices such as impossible targets, unmanageable case loads or unrealistic deadlines. Lack of oversight and arbitrary decisions made without consultation can have a major impact on employees' lives.

Examples of institutional bullying:

- > A new employee had to manage 100 clients per week with five minutes per client. The organisation's standards allowed 20 minutes per week per client, with some needing little attention. But staff shortages caused an unreasonable workload which the manager simply deemed unavoidable.
- > After the earthquakes in Christchurch, local banks were still expected to meet targets. The sales target was applied nationally without regard to local skills, staffing levels, market saturation or wider socio-economic factors. This was eased after six months.
- > A factory box-unpacking rate per hour was applied without regard to the physical differences in capability between employees, the size and weight of the boxes or the shelf position of the unboxed items.
- > Employees were pressured to work late into the evening as it became part of the culture. Anyone who did not work late was seen as not being a team player. In one instance a new Human Resources manager tried to address this workplace culture and was made 'redundant' three hours later.

1.7.2 BULLYING FROM MANAGERS

A manager deliberately and repeatedly targets an employee. In the most extreme progression of events, this may come to the point where the employee feels isolated, powerless and worthless. When the employee eventually resigns, the manager finds another employee to target. This is often the most visible and well-defined type of bullying.

Serial bullying is when this pattern is repeated and a manager picks on one person after another, leading to a string of resignations.

1.7.3 BULLYING OF MANAGERS

The most common form of employees bullying managers is the withdrawal of cooperation or communication. It's estimated that 15 per cent of all bullying falls into this category and is often a response to institutional bullying.

Individual employees can also behave in a bullying manner to managers.

1.7.4 BULLYING BY COLLEAGUES

This is among colleagues who work at the same or similar level and includes ongoing:

- > unwelcome comments, gestures or conduct
- > physical, degrading or threatening behaviour
- > abuse of power
- > isolation, discrimination
- > put downs.

1.7.5 BULLYING BY CLIENTS

In this situation employees are bullied by those they serve. Often the client is claiming their perceived right (eg to better service) in an abusive, or sometimes physically violent way. Examples include teachers bullied by pupils and their parents, nurses bullied by patients and their relatives, social workers bullied by their clients, and shop staff bullied by customers.

Employers need to adequately protect employees from clients' undesirable behaviour, as they also have to protect clients from similar behaviour from their employees.

1.8 EFFECTS OF BULLYING ON A PERSON

Workplace bullying has been associated with threats to personal identity and can affect a person's quality of life outside of work. It has varied and substantial negative effects including:

- > low self-esteem, negative emotions and depression⁶
- > anxiety, stress, fatigue and burnout
- > feelings of reduced personal control and helplessness⁷
- > post-traumatic stress disorder
- > deterioration in health
- > increased likelihood of drug and alcohol abuse as a coping mechanism
- > possible serious physical, emotional and mental health issues or suicide attempts.⁸

The effects of bullying can be long-term.

Those who had experienced bullying within the last five years but were not currently experiencing it still reported worse health than those who had never been bullied.⁹

Some workers suffer a 'double whammy effect' of being targeted and also witnessing bullying.¹⁰ This can result in a hostile work environment and greater levels of stress leading to vicious cycles of aggressive and counter-productive behaviours.

1.8.1 STRESS AND BULLYING

Stress can be a reaction to bullying. When a person is affected by stress at work there may be the perception that they can't cope with the work demands. This can lead to bullying. Workplace stress can also be a factor that contributes to workers acting in a bullying manner.

Some types of work may legitimately cause employees to experience stress. This is where work involves activities that are emotionally challenging, draining, unpleasant, require intense, prolonged concentration, or have very high consequences for error. Examples include Intensive Care Nursing, Air Traffic Control, Fire Brigade and Police.

The HSE Act states that if harm is foreseeable, employers must take all reasonable steps to control the associated hazards through elimination, isolation and minimisation.

See 'Healthy work: Managing stress and fatigue in the workplace' for more on hazard control at www.worksafe.govt.nz.

⁶ Bentley, T., Catley, B., Cooper-Thomas, H., Gardner, D., O'Driscoll, M., & Trenberth, L. (2009). *Understanding stress and bullying in New Zealand workplaces*. Auckland, New Zealand: Massey University.

⁷ Foster, B., Mackie, B., & Barnett, N. (2004). Bullying in the health sector: A study of bullying of nursing students. *New Zealand Journal of Employment Relations*, 29, 67-83.

⁸ Bentley, T., Catley, B., Cooper-Thomas, H., Gardner, D., O'Driscoll, M., & Trenberth, L. (2009). *Understanding stress and bullying in New Zealand workplaces*. Auckland, New Zealand: Massey University.

⁹ Bentley, T. A., Catley, B., Gardner, D., O'Driscoll, M., Trenberth, L., & Cooper-Thomas, H. (2009). Perspectives on bullying in the New Zealand health and hospitality sectors. *The Journal of Occupational Health and Safety - Australia and New Zealand*, 25, 363-373.

¹⁰ Cooper-Thomas, H. D., Catley, B. E., Bentley, T. A., Gardner, D. H., O'Driscoll, M. P., & Trenberth, L. (2011). *Is there a double whammy from being an observer and a target of workplace bullying?* Paper presented at the Symposium conducted at the 9th Industrial and Organisational Psychology Conference, Brisbane, Australia.

1.9 EFFECTS OF BULLYING ON A WORKPLACE

Bullying also negatively impacts on workplaces. Coercion or bullying from managers can:

- > decrease employee health and wellbeing, motivation, performance and commitment
- > cause staff to attend work while sick, or take more sick leave to distance themselves
- > lead to increased resignations¹¹
- > lead to poor customer service and product quality
- > diminish company reputation (the bad employer view) and create difficulty with recruiting.¹²

Negative health effects have also been found in people who have witnessed bullying but haven't been personally targeted. As well as reporting more symptoms of anxiety than those not exposed to bullying, witnesses reported lower support from managers.¹³ Those being bullied and those witnessing it can be affected in similar ways when events occur, as well as later in life.¹⁴

1.10 WHAT BULLYING ISN'T

Bullying isn't any of these:

- > one-off or occasional instances of forgetfulness, rudeness or tactlessness
- > setting high performance standards because of quality or safety

- > constructive feedback and legitimate advice or peer review
- > a manager requiring reasonable verbal or written work instructions to be carried out
- > warning or disciplining employees in line with the workplace's code of conduct
- > a single incident of unreasonable behaviour (but it could escalate).

1.10.1 REASONABLE MANAGEMENT ACTIONS

Reasonable management actions directed at an employee can't be construed as bullying as long as they're delivered in a reasonable way.

1.10.2 WORKPLACE CONFLICT

Inevitably, personal differences will arise at work. Conflict can be beneficial if it promotes new ideas and solutions, but it can escalate into bullying, harassment or violence.

Workplace conflict generally occurs over:

- > data (people disagree about information)
- > interests (people compete for scarce resources)
- > values (people emphasise different values in a situation)
- > structural (disagreements about how to do the work)
- > relationships (personality clashes or personal problems affecting relationships at work).

It is useful to be aware of what your main sources of conflict are in the workplace and have some processes in place to deal with this.

¹¹ Einarsen, S., Hoel, H., Zapf, D., & Cooper, C. L. (2011). *Bullying and harassment in the workplace: Developments in theory, research and practice*. Boca Raton, FL: CRC Press.

¹² Einarsen, S., Hoel, H., Zapf, D., & Cooper, C. L. (2011). *Bullying and harassment in the workplace: developments in theory, research and practice*. Boca Raton, FL: CRC Press.

¹³ Hansen, A. M., Høgh, A., Persson, R., Karlson, B., Garde, A. H., Ørbæk, P., (2006). Bullying at work, health outcomes, and physiological stress response. *Journal of Psychosomatic Research*, 60(1), 63-72.

¹⁴ Janson, G. R., Hazler, R. J. (2004). Trauma reactions of bystanders and victims to repetitive abuse experiences. *Violence and Victims*, 19(2), 239-255.

1.11 OTHER UNDESIRABLE BEHAVIOUR

This guidance focuses on bullying behaviour where the following elements of undesirable behaviour are not present. These behaviours aren't defined as bullying but may be addressed through one or more of the following legislation: the HSE Act, the ERA, the HRA, the Harassment Act or Criminal Law.

1.11.1 DISCRIMINATION

Discrimination is behaviour that excludes or restricts a person or group from opportunities that are available to others. The behaviour primarily is seen as unfair, along with the potential to cause harm, humiliation, offence or intimidation. The ERA and the HRA offer protection from discrimination. Remedies for those affected are available either through the Employment Relations Authority (under the ERA), or through the Human Rights Commission (under the HRA). The Commission's Director of Human Rights Proceedings can bring action at the Human Rights Review Tribunal.

1.11.2 HARASSMENT

Under the Harassment Act 1997 (HA), harassment takes place when someone directs one or more specified acts at another person (including watching, loitering, following, accosting, interfering with another person's property or acting in ways that causes the person to fear for their safety) at least twice in a 12-month period. Harassment has the potential to cause humiliation, offence or intimidation. It's usually repeated behaviour but even one instance may cause reasonable concern.

The HA considers certain serious types of harassment as criminal offences, and allows the person being harassed to obtain trespass orders or restraining orders against the offender. It puts in place sanctions for breaches.

1.11.3 VIOLENCE

Acts of violence towards a person can be verbal (verbal abuse, threats, shouting, swearing) or physical (stalking, throwing objects, hitting, damage to property). Workplace violence is illegal, can be referred to the police, and charges can be laid under criminal law.

1.12 RESOLVING DISPUTES - MBIE SERVICES

If the undesirable behaviour is not defined as bullying, it still needs resolution.

MBIE's mediation service can help parties resolve a dispute. The mediation service is available to assist as soon as an issue arises, and may arrange to facilitate a meeting in the workplace, with the agreement of both parties. If mediation is unsuccessful, the Employment Relations Authority can resolve disputes over employer decisions, or treatment that employees find unfair or unreasonable. These include:

- > payment of wages
- > personal grievances for unjustified disadvantage
- > personal grievances for unjustified dismissal
- > being asked to do work likely to cause serious harm which, under section 28A of the HSE Act, employees have the right to refuse. An unreasonable management decision may be an instruction to undertake unsafe work.

1.13 RESOLVING ISSUES THROUGH WORKSAFE NZ

Contact WorkSafe NZ by calling freephone 0800 030 040 and report a bullying allegation. Your report will be given to the health and safety response team who will be in contact with you as to how WorkSafe NZ is likely to proceed.

1.14 LEGISLATION AND BULLYING

1.14.1 THE EMPLOYMENT RELATIONS ACT 2000 (ERA)

The ERA outlines penalties for certain breaches of duty of good faith within an employment relationship. An employer has a duty not to conduct business in a way calculated or likely to destroy or seriously damage the relationship of trust, confidence and good faith between employer and employee.

If an employer fails to adequately deal with complaints of workplace bullying, it leaves the workplace open to allegations that it has breached the ERA.

If the employee has resigned as a result of the employer's failure, they may be able to raise a personal grievance for unjustified dismissal or constructive dismissal. If they haven't resigned, they may still be able to claim unjustified disadvantage under the ERA, as well as breach of contract.

In terms of harassment, the ERA only provides protection from sexual and racial harassment, which is also covered by the HRA. This gives grounds for a personal grievance under the ERA, or a claim under the HRA. For more information, refer to sections 108 and 109 of the ERA.

1.14.2 THE HEALTH AND SAFETY IN EMPLOYMENT ACT 1992 (HSE ACT)

The HSE Act broadly reflects an employer's common law obligation to provide a safe workplace. Under section 6 an employer must take all practicable steps to ensure the safety of employees at work and ensure they're not exposed to certain hazards. This includes protection from both physical and psychological harm. A 2002 amendment to the definition of 'hazard' in section 2 of the HSE Act highlighted employers' potential liability for workplace bullying by clarifying a hazard as: a situation where a person's behaviour may be an actual or potential cause or source of harm to the person or another person.

Other duty holders may also have responsibilities under the HSE Act towards managing hazards. If duty holders are not clear on their responsibilities, independent legal advice should be sought and/or advice from MBIE and/or WorkSafe NZ.

1.14.3 THE HUMAN RIGHTS ACT 1993 (HRA)

The HRA makes it illegal to discriminate on the grounds of race, sex or other differences such as colour, nationality or ethnic origin, marital status, religious or ethical belief, sexual orientation, disability, family status, employment status or political opinions.

For more information about legislative requirements, including Regulations, see 'Legislation New Zealand', www.legislation.govt.nz.

1.15 NEW ZEALAND RESEARCH INTO BULLYING

Workplace bullying studies in New Zealand were conducted within tourism,¹⁵ hospitality,¹⁶ health,¹⁷ ¹⁸ ¹⁹ public service²⁰ ²¹ ²² and social services sectors.²³ According to these studies, bullying is relatively widespread in certain ‘hotspots’ in health, education, hospitality and the public service.²⁴ One study reported 90 per cent of nursing students surveyed experienced bullying during clinical placements.²⁵ A survey of public sector employees in the Public Service Association found 43 per cent reported being targeted by bullying behaviours.²⁶ In another survey of the public service, almost a third of respondents

reported being bullied in the previous six months, with 6.2 per cent experiencing bullying frequently.²⁷ Another found that 17.8 per cent of workers across four main service industries reported being bullied in the last six months.²⁸ New Zealand research has also reported the ‘ripple effect of bullying’ in the workplace.²⁹

Other research shows New Zealand has greater rates of reported workplace bullying when compared with international prevalence levels.³⁰

One study showed the worst forms of bullying were intimidation, belittling remarks, being ignored and excluded, and being set up to fail.³¹

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- ¹⁵ Bentley, T. A., Catley, B., Cooper-Thomas, H., Gardner, D., O’Driscoll, M. P., Dale, A., & Trenberth, L. (2012). Perceptions of workplace bullying in the New Zealand travel industry: Prevalence and management strategies. *Tourism Management*, 33, 351–360.
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- ¹⁷ Foster, B., Mackie, B., & Barnett, N. (2004). Bullying in the health sector: A study of bullying of nursing students. *New Zealand Journal of Employment Relations*, 29, 67–83.
- ¹⁸ Scott, J., Blanshard, C., & Child, S. (2008). Workplace bullying of junior doctors: A cross-sectional questionnaire survey. *The New Zealand Medical Journal*, 121, 10–14.
- ¹⁹ Huntington, A., Bidewell, J., Gilmour, J., Chang, E., Daly, M. J., Wilson, H., Lambert, C. (2008). The relationship between workplace stress, coping strategies and health status in New Zealand nurses. *Journal of Occupational Health and Safety – Australia and New Zealand*, 24, 131–141.
- ²⁰ Proctor-Thomson, S., Donnelly, N., & Plimmer, G. (2011). *Constructing workplace democracy: Women’s voice in New Zealand public services*. Wellington, New Zealand: Victoria University of Wellington and the Public Service Association.
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- ²² Bentley, T., Catley, B., Cooper-Thomas, H., Gardner, D., O’Driscoll, M., & Trenberth, L. (2009). *Understanding stress and bullying in New Zealand workplaces*. Auckland, New Zealand: Massey University.
- ²³ van Heugten, K. (2010). Bullying of social workers: Outcomes of a grounded study into impacts and interventions. *British Journal of Social Work*, 40, 638–655.
- ²⁴ Bentley, T., Catley, B., Cooper-Thomas, H., Gardner, D., O’Driscoll, M., & Trenberth, L. (2009). *Understanding stress and bullying in New Zealand workplaces*. Auckland, New Zealand: Massey University.
- ²⁵ Foster, B., Mackie, B., & Barnett, N. (2004). Bullying in the health sector: A study of bullying of nursing students. *New Zealand Journal of Employment Relations*, 29, 67–83.
- ²⁶ Proctor-Thomson, S., Donnelly, N., & Plimmer, G. (2011). *Constructing workplace democracy: Women’s voice in New Zealand public services*. Wellington, New Zealand: Victoria University of Wellington and the Public Service Association.
- ²⁷ Plimmer, G., Wilson, J., Bryson, J., Blumenfeld, S., Donnelly, N., & Ryan, B. (2013). *Workplace dynamics in New Zealand public services: A survey report prepared for the Public Service Association (PSA)*. Wellington, New Zealand: The Industrial Relations Centre (IRC) and the School of Management Victoria University of Wellington.
- ²⁸ O’Driscoll, M. P., Cooper-Thomas, H., Bentley, T.A., Catley, B., Gardner, D., & Trenberth, L. (2011). Workplace bullying in New Zealand: A survey of employee perceptions and attitudes. *Asia Pacific Journal of Human Resources*, 49, 390–408.
- ²⁹ Cooper-Thomas, H. D., Catley, B. E., Bentley, T., Gardner, D., O’Driscoll, M. P., & Trenberth, L. (2011). *Is there a double whammy from being an observer and a target of workplace bullying?* Paper presented to the 9th Industrial and Organisational Psychology Conference, Brisbane, Australia, 23–26 June.
- ³⁰ Thirlwall, A., & Haar, J. M. (2010). Bullying in New Zealand: Comparing NAQ findings to European and USA studies. *New Zealand Journal of Human Resource Management*, 10, 99–115.
- ³¹ Foster, B., Mackie, B., & Barnett, N. (2004). Bullying in the health sector: A study of bullying of nursing students. *New Zealand Journal of Employment Relations*, 29, 67–83.

02/

ADVICE TO EMPLOYEES

In this section:

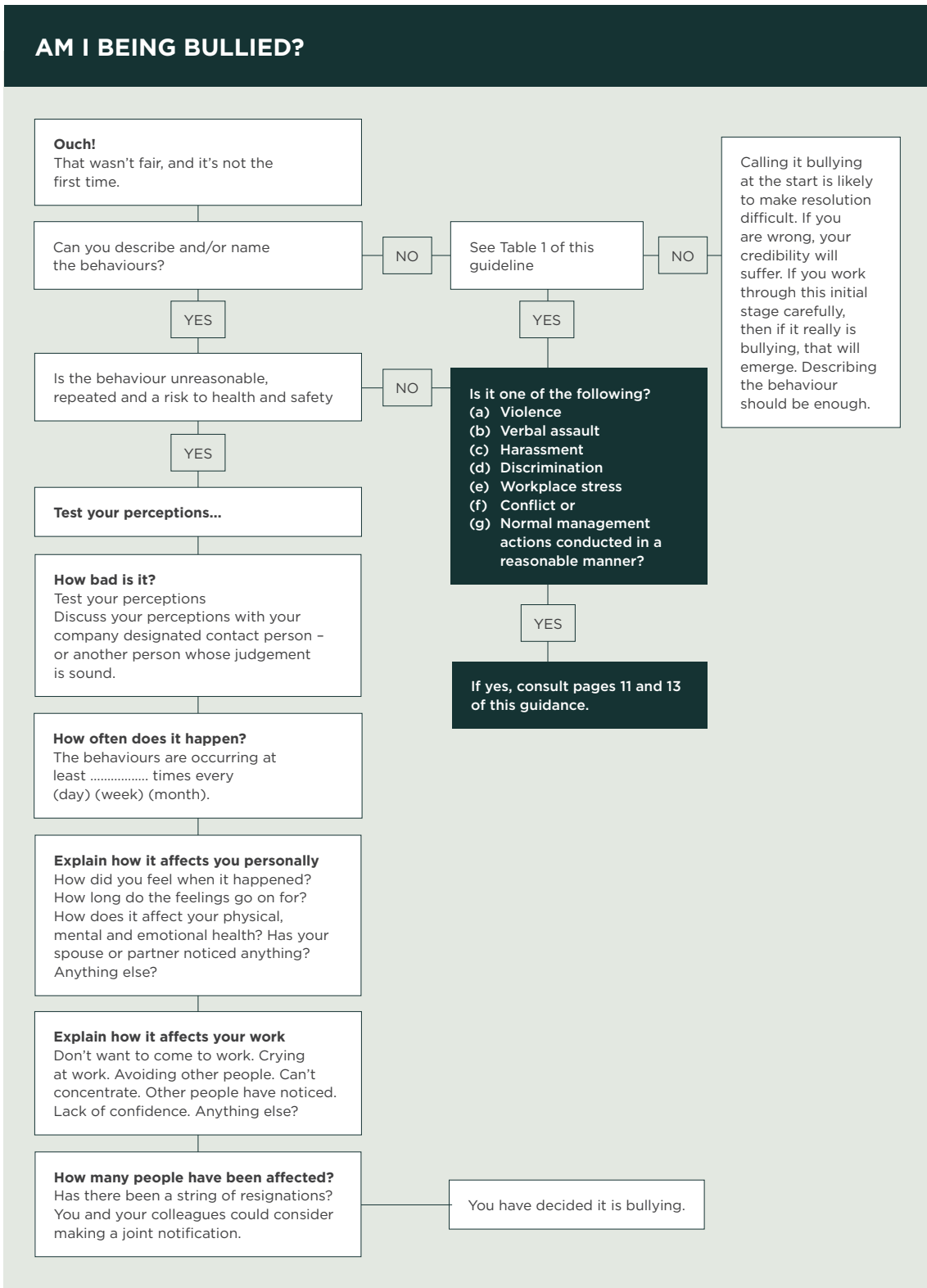
DEALING WITH BEING BULLIED
FOLLOW POLICY AND PROCESS
LOOK AFTER YOURSELF - DON'T
IGNORE YOUR STRESS LEVELS
GATHER INFORMATION
DECIDING HOW TO RESPOND
LOW-KEY SOLUTIONS

HARASSMENT AND DISCRIMINATION

LESSONS LEARNED FROM
THOSE EXPERIENCING BULLYING
BEHAVIOURS

WHAT TO DO WHEN SOMEONE
ACCUSES YOU OF BEING A BULLY

RESULTS AND RESOLUTIONS



WHAT CAN I DO ABOUT BEING BULLIED?

Think carefully about your situation

Find out what your internal policies are and follow them. If you don't have any follow the advice in this guidance. Consider:

- > what you want the outcome to be
- > the power balance between you and the person
- > the other person's intent
- > whether you have contributed to the situation
- > the consequences of each approach
- > the likely reaction of your manager and the person you make your report to.

Try a low key solution

There are many low key solutions. Some examples are on pages 19-22 of this guideline.

- > Refer to your company code of conduct
- > Talk to the person directly
- > Talk to someone you trust to decide on a course of action.

Did a low key solution work?

YES

Situation resolved

NO

Get expert advice

- > You may want to seek advice from Citizens Advice Bureau, health and safety workplace representatives or designated contact person, EAP counsellor, Union, GP or lawyer.

Did seeking expert advice resolve the situations?

YES

Situation resolved

NO

Talk to your manager or Human Resources

- > Your manager may help you address the issue.
- > If your manager is the problem, you can talk to Human Resources about the correct process to follow.
- > MBIE offers a early assistance through the Mediation Service.

Did talking to your manager or Human Resources work?

YES

Situation resolved

NO

Lay a complaint

Refer to the behaviour when making a complaint rather than using the word bullying.

- > investigation completed by an independent person and recommendations made
- > mediation through MBIE or workplace.

Did the complaint work?

YES

Situation resolved

NO

Try one or more of the following:

- > mediation
- > personal grievance
- > Employment Relations Authority
- > WorkSafe NZ health and safety inspectorate.

If you think you are being bullied, document the behaviour and try to do something straight away before the situation gets out of hand. Try a low key solution or use someone you trust as a sounding board to explore ways of responding.

2.1 DEALING WITH BEING BULLIED

Bullying that isn't dealt with may get worse. Address the unreasonable behaviour as soon as you become aware of it. Try to address it informally at first, unless it's serious. Even if you choose to do nothing at first, it's still important to keep a record of your interactions. If you take the matter further you'll need to describe the bullying behaviour, its instances, and how it affects you.

Always put your safety and wellbeing first, however you decide to deal with the undesirable behaviours.

2.2 FOLLOW POLICY AND PROCESS

Find out about your organisation's policy on workplace bullying and follow the process for dealing with it. There'll be various ways to respond from informal options, mediation, to investigation. If your workplace has no policies and procedures, then follow the advice in this guideline.

2.3 LOOK AFTER YOURSELF - DON'T IGNORE YOUR STRESS LEVELS

As with talking to a trusted friend or colleague, there are times when it's better to seek help than just hope things will get better.

Feeling bullied raises many negative emotions. Depression and anxiety, combined with suicidal thoughts are not uncommon.

If you are experiencing any of these reactions you need to seek help from your doctor immediately.

You can also use WorkSafe NZ's 'Notifiable Occupational Diseases System' (NODS). NODS is a voluntary system that anyone can use to notify WorkSafe NZ of a health problem that may have been caused by work. An occupational health nurse, or health and safety inspector will contact you to discuss your notification.

If your employer provides an Employee Assistance Programme (EAP) for staff, you can approach an EAP counsellor directly for independent confidential counselling. This can also independently validate your situation.

2.4 GATHER INFORMATION

If you believe you're being bullied, document each instance by recording:

- > date, time, place and who was present
- > what was said (verbatim if possible)
- > how you then felt
- > how you responded
- > what other people said and did.

A detailed record kept in this format may give valuable legal evidence, reveal behaviour patterns, clarify the issues and their effect on your work, and help you decide what to do.

Listen to what others are saying about the situation, or discuss it to see if they're experiencing similar behaviour. Ask yourself (and others who might have experienced similar incidents) if the behaviour was (1) unreasonable, (2) repeated and (3) is a risk to health and safety. These points define behaviour as 'bullying'.

2.5 DECIDING HOW TO RESPOND

Before deciding on how to respond you should consider:

- > what you want the outcome to be
- > the power balance between you and the other person
- > the other person's intent
- > whether you have contributed to the situation
- > the consequences for you from the various methods of responding
- > the likely reaction of your manager and the person you make your report to.

When responding, talk about the behaviours instead of making an accusation of bullying. Acting in good faith and following company procedures (or advice in this guideline) should take the emotion out of the situation, which may make it easier to resolve issues.

2.6 LOW-KEY SOLUTIONS

There are many types of low key solutions and there are some examples in this section.

It's important to find an approach that will resonate with the person. You should also pick your moment to try your approach. If the person is having a bad day (or days), you could wait until they are feeling better.

Informal response - low-key solutions

Talk to someone you trust

Talking to a friend, relative, colleague, health and safety representative or union delegate can give you an objective viewpoint about whether you're actually being bullied, or just experiencing annoying behaviour that occurs in any workplace. To help you determine bullying behaviour, see 'Table 1: Bullying behaviours' on p 7.

If others have experienced the same behaviour, you and your colleagues can take joint action.

Deal with the bullying behaviours informally

If you talk directly to the person targeting you, focus on the specific incidents, keep your language neutral, and try to see their viewpoint without excusing the behaviour. Be mindful of possible reprisals and keep a record of the date, time, location and details of the conversation.

Always use appropriate language and be respectful.

2.6.1 EXAMPLES OF LOW-KEY SOLUTIONS

Remind staff about the workplace code of conduct

A female worker started to bully a male colleague after a workplace dispute. She went out of her way to disrupt the person's work and blamed him for things that went wrong. She managed to get others in the workplace to do the same. One male staff member even threatened him with violence. On one occasion a staff member drove slowly alongside him as he was walking home and abused him for some time before driving off.

The worker concerned became quite depressed and had time away from work. He was seen by his doctor for depression and insomnia, and was also in fear for his safety.

An external advisor, the Human Resources manager of the company and the workshop foreman met and decided to arrange a one-on-one meeting with each of the individual staff members involved.

At the meetings, the staff code of conduct was reviewed with each of the staff members. The foreman pointed out that what had occurred was not acceptable behaviour and that they were there to do a job. He suggested to them that if they were not going to perform as team players in this workplace then they should leave. The company always treated the staff well and there was a level of respect for management, so this simple strategy worked. The staff member who was being bullied and the woman who started the bullying were spoken to together and agreed that things had got out of control. At follow-up the person affected was keeping a distance from some of the staff but workplace interactions were now polite and friendly.

A calm and informed response to an ambush

A manager called a meeting because he was angry at the effect a raw material shortage was having on his department. He believed that the purchasing manager was not doing enough to manage the situation. At the meeting he laid out his complaints in a loud and abusive manner. He also accused the purchasing manager of letting her family issues interfere with her work.

The other managers commented that they knew of the situation and its difficulties and agreed that there were effects on performance, but also noted that the purchasing manager had kept them informed and up to date.

While she was furious with being ambushed, she was determined to show professionalism, speak from a position of strength and to respond to issues rather than personal criticism.

The purchasing manager sat quietly while the meeting initiator and the other managers spoke. Once they had finished, she thanked them, and said she appreciated how frustrating the situation was. She acknowledged she did have a serious family situation and gave them an outline of how this was being managed and the processes in place.

She invited managers to give specific examples of any negative performance impacts either up until the present time, or moving forward, as this would enable her and the site manager to review how the situation was being managed.

She then gave them information on the raw material shortage (due to a producer strike), the steps that had been taken to monitor the situation, such as the twice-weekly phone conferences between parties, the frequent meetings to balance customer requirements against material on hand, the use of material substitutes after discussion and negotiation with customers.

She also reiterated that she understood the frustrations of managers, and the short-term effects on productivity of the strike (emphasising short-term). She reminded all managers that while she provided daily updates on the situation, they were welcome and encouraged to attend any of the phone conferences.

The manager who called the meeting apologised for what had happened. He said that he admired the way she had handled the situation and by not responding in anger to his comments but by calmly dealing with what was happening, had influenced him to calm down and think about the big picture and not just the effects on his department. He admitted he was wrong in the way he approached the situation, and that he should have spoken of his concerns before they had escalated.

Sharing a workplace problem

Two staff were not getting along at a site where five people worked. Both had worked with each other very successfully for many years until a female started picking on one of the male staff members.

The company brought in experts to work with the staff and try and resolve the situation. This didn't make much difference and it reached a point whereby the male staff member would not venture from his office during the day.

The company received a complaint from a client about the situation. The company asked the two staff members to work through the client's complaint.

The client had a reputation for being difficult, and not upfront. The two staff members came together to share their 'collective impressions'. They were able to clarify the misunderstanding between them. The complaint gave them a common focus and a goal which they were able to work towards together.

Escalating your concerns

Get expert advice

If you decide to escalate your complaint but want more advice before you do, you can talk to:

- > your lawyer or a community law centre
- > Citizens Advice Bureau
- > your workplace health and safety representative, contact person or union delegate
- > an EAP counsellor, if your employer provides that support
- > MBIE's contact centre on 0800 20 90 20. Parties can use MBIE's mediation or choose independent mediators. See also 'Mediation' on p 47.
- > WorkSafe NZ's contact centre on 0800 030 040.

Making a formal complaint about bullying behaviour**Talk to your manager**

Tell your supervisor or manager about your concerns – they can't address the problem if they don't know about it. If your manager is the person whose behaviour is concerning you, then speak to their manager.

Talk to Human Resources

If you have a Human Resources team in your organisation you can approach them for help, especially when you feel that you can't talk to your direct manager(s). Human Resources can help you follow the correct process and direct you to other support.

Lay a complaint

You don't have to wait until things are very bad before addressing an issue. You can request mediation as an early intervention before things get out of hand. If the matter isn't resolved at mediation you may then raise a personal grievance and have the matter investigated by the Employment Relations Authority. See also 'Formal investigation process' on pp 47-48.

Contact WorkSafe NZ

Contact WorkSafe NZ by calling freephone 0800 030 040 and report a bullying allegation. You can lodge your complaint with the health and safety response team. They will be in contact with you after looking at your complaint and will tell you what action WorkSafe NZ will take next.

2.7 HARASSMENT AND DISCRIMINATION

Sexual harassment, and harassment for a particular attribute such as gender, disability or race are illegal under the HRA. You can lodge a complaint with the Human Rights Commission online or by phoning 0800 496 877.

2.8 LESSONS LEARNED FROM PEOPLE EXPERIENCING BULLYING BEHAVIOURS

If you're being bullied, consider this advice from others who've been through it.

- > Don't resign from your job in a fit of anger or despair.
- > Consider the consequences of any action you take.
- > Keep your temper and avoid behaving in kind, eg name calling or excluding the person.
- > Be mindful of your employment agreement – don't take leave without permission or send angry emails.
- > Try not to rally other staff members to 'your side' or create a witch hunt.
- > Don't complain to people in other organisations about what you're experiencing.
- > Look after your health and ensure you eat well and get enough sleep.
- > Seek independent or formal help.
- > If lawyers get involved it is likely to take a lot longer to resolve the issue.

2.9 WHAT TO DO WHEN SOMEONE ACCUSES YOU OF BEING A BULLY

It can come as a shock if someone says that you've been bullying them. But it's important to be open to feedback and be prepared to change your behaviour if necessary.

2.9.1 WHAT YOU CAN DO

1. Check if your employer has a bullying policy and disputes resolution process.
 - > Your manager or Human Resources staff can help.
 - > Any process should list expected work behaviours and show how to respond to a complaint.
 - > If there's no process to resolve bullying complaints, follow this guidance.
2. Does your behaviour meet the definition of bullying (see 'Bullying defined' on p 6) or is it some other kind of undesirable behaviour?
3. Seek support from someone you trust.
 - > Talk to a friend, family member, colleague, supervisor, manager, health and safety representative or Human Resources staff member. Seeking an objective perspective on the issue can help you address it.

4. Speak to the person whom you may have offended, if you think it's reasonable and safe to do so. They may also approach you directly for an informal resolution.
 - > If this low-key informal response is an option, do it as quickly as possible without retaliation. Calmly explain that you didn't realise the effect your actions were having on them or others. Be open to feedback, and prepared to change your behaviour. Keep a record of the time, date and content of the conversation.
 - > You may ask your health and safety representative, union delegate or manager to be with you when you speak to the person.
 - > You can request help from the MBIE mediation service and a mediator may come to your workplace or suggest a neutral space to meet.
5. Speak to a counsellor or doctor – look after yourself.
 - > It's important to look after yourself during times of increased stress. Ask your manager or Human Resources staff whether your organisation offers free EAP counselling. A counsellor or doctor can help you deal with stress and give you an objective view of the situation.

For the purpose of this guideline, WorkSafe NZ and MBIE have adopted the Safe Work Australia definition of workplace bullying which is outlined below.

Bullying defined

Workplace bullying is repeated and unreasonable behaviour directed towards a worker or a group of workers that creates a risk to health and safety.³²

- > Repeated behaviour is persistent and can involve a range of actions over time.
- > Unreasonable behaviour means actions that a reasonable person in the same circumstances would see as unreasonable. It includes victimising, humiliating, intimidating, or threatening a person.

A single incident of unreasonable behaviour is not considered workplace bullying, but it could escalate and should not be ignored.

Harassment and discrimination, which can be part of bullying, have their own legal remedies that are explained in the section on 'Other undesirable behaviour'.

³² Safe Work Australia. (2011). *Draft model code of practice: Workplace bullying*. Canberra, Australia: Author.

2.9.2 WHAT TO EXPECT FROM YOUR ORGANISATION

If a bullying complaint has been made against you, your organisation should:

- > respond in a neutral, impartial and professional way
- > let you explain your version of events
- > apply the principles of natural justice (p 48)
- > try to resolve the matter quickly and reasonably, even if they don't have a bullying policy
- > inform you of the process of how the issue will be dealt with
- > maintain confidentiality
- > tell you what support options are available to you, such as counselling or having a support person present at interviews and meetings
- > keep records of conversations, meetings and interviews during the resolution process.

See also 'Employers: Dealing with reports of bullying' on p 41.

2.10 RESULTS AND RESOLUTIONS

2.10.1 IF THE ISSUE IS RESOLVED

If the issue is resolved, whether through an informal or formal process, your manager should follow up a short time later to ensure that work is running smoothly, offer support to both parties, and advise of other support services. Processes that involve a facilitator or mediator may include a written agreement. But even if situations are addressed by low-key informal dialogue, either party can ask for the outcome to be put in writing and signed.

2.4.2 IF THE ISSUE ISN'T RESOLVED

If the issue remains unresolved, your organisation may initiate an investigation. Either party can also ask for an investigation. Likewise, any party involved can report the matter to WorkSafe NZ where a response inspector will make contact to determine whether they will complete an investigation.

2.4.3 WORKPLACE INVESTIGATION

If the employer decides to investigate, the investigator must be an unbiased, qualified person who has knowledge of workplace bullying policies and processes. They may be inside or outside the organisation. Their aim will be to work out what happened, whether or not bullying is occurring, and recommend any solutions. See also 'Formal investigation process' on p 47.

Once the investigation is complete, the investigator will submit a report to your workplace that includes recommendations. Your employer will decide what action, if any, should be taken.

03/

PREVENTING BULLYING IN YOUR WORKPLACE

In this section:

**WHY IS BULLYING THE
EMPLOYER'S BUSINESS?
BUILD GOOD RELATIONSHIPS
IN A RESPECTFUL WORK
ENVIRONMENT
BUILD MANAGERS WHO
ARE LEADERS
MAKE YOUR WORKPLACE'S
CULTURE CLEAR**

**PROVIDE A DESIGNATED CONTACT
PERSON AND OTHER SUPPORT
EMPLOY STAFF WHO UNDERSTAND
YOUR WORKPLACE CULTURE
ASSESSING YOUR
WORKPLACE CULTURE
MEASURE YOUR
WORKPLACE CULTURE
REVIEW BULLYING DATA**

Make your workplace culture, and your processes and procedures clear and easy to understand.

3.1 WHY IS BULLYING THE EMPLOYER'S BUSINESS?

Under the HSE Act employers have to identify and control hazards that could harm their staff. This includes hazards from undesirable behaviours. Employers can be subject to fines of up to \$500,000 and imprisonment of up to two years for failing to keep employees safe at work.

Bullying has serious consequences for individuals, workplaces, relationships and productivity. See 'Bullying is bad for business' on p 5.

The Australian Government's recent Inquiry into Workplace Bullying estimated that workplace bullying costs the Australian economy from \$6 billion to \$36 billion every year – an average of \$17,000 to \$24,000 per case.³³

Whether an employee who makes an allegation stays at work or resigns, the employer is often faced with a costly and time-consuming exercise. They may also face additional costs of defending personal grievance claims in the Employment Relations Authority.

A person being bullied might also seek medical help, which can be costly to themselves and the public health system, especially if they have long-term effects such as stress or depression.

Use the bullying cost calculator at www.worksafe.govt.nz to find out the costs of bullying.

It's important to ensure your work culture promotes good relationships, effective leadership and management, clear expectations, and good bullying prevention and response processes.

3.2 BUILD GOOD RELATIONSHIPS IN A RESPECTFUL WORK ENVIRONMENT

Positive workplace relationships between management, staff, unions and other groups are vital to organisational success and the wellbeing of staff.

A distinctly different approach to workplace relationships is one of the five key attributes common to organisations that have achieved successful workplace partnerships.

A partnership approach moves away from relationships based on self-interest and conflict, to one based on mutual interest and cooperation.

For tools to help develop positive workplace relationships, see [Workplace partnership at www.mbie.govt.nz](http://www.mbie.govt.nz)

Creating an environment that builds good relationships prevents bullying. This is much easier than dealing with bullying once it occurs. If staff have a clear picture of what a business wants to achieve, they're more likely to engage with the common goal. Likewise, clear guidelines for expected behaviour, work culture and values means unreasonable behaviour is less likely to thrive.

³³ House of Representatives. (2012). *Workplace bullying: We just want it to stop*. Canberra, Australia: Author.

3.2.1 RECOGNISE AND PROMOTE DIVERSITY

Recognising diversity means understanding how people's differences can bring different strengths. Using diversity well can improve an organisation's efficiency, goods and services delivery, profitability, and create a competitive advantage. An inclusive and tolerant workplace motivates people to do their best and creates a stronger and more focused team.

Sometimes cultural differences can lead to misunderstandings in the workplace. Recognising diversity and creating an environment where people are aware of cultural differences and different communication styles can reduce misunderstandings.

For more information see the 'Equal Employment Opportunities (EEO) Trust' at www.eeotrust.org.nz.

3.2.2 FOSTER A SHARED PURPOSE

Fostering a shared sense of purpose for staff is another way to develop a culture that builds relationships and prevents bullying. It can be understood by staff and external stakeholders alike.

While strategy deals with what an organisation wants to achieve and how that will happen, purpose deals with why the organisation exists in the first place and what matters most in its work.³⁴

3.2.3 PROBLEM-SOLVING AND CHANGE

Any organisation that hopes to survive in the commercial world must be open to problem-solving and change. This means encouraging ideas and creativity across the business, and making use of staff diversity.

An organisation that can tackle problems and challenges is likely to promote openness and minimise the sort of undesirable behaviours that let bullying thrive.

Table 3 and Table 4 on pp 35 and 36 help identify and address factors that allow bullying to flourish, and suggests ways to prevent it from thriving.

For more information, see Solving problems at work at www.mbie.govt.nz

3.3 BUILD MANAGERS WHO ARE LEADERS

3.3.1 MANAGEMENT COMPETENCIES

Many studies show the advantages of competent management. For example:

- > It can reduce absenteeism.³⁵
- > An important determinant of job satisfaction is a person's immediate manager.³⁶

The United Kingdom Health and Safety Executive (HSE UK) research showed when managers behaved as in Table 2 next page, stress and bullying were less evident in their workplaces. The 66 competencies which resulted from this research are grouped into the following four areas in the table.

For more on the research and all 66 competencies identified, see 'What are the management standards for work-related stress?' at www.hse.gov.uk.

³⁴ Springett, N. (2004). The impact of corporate purpose on strategy, organisations and financial performance. *Human Resources and Employment Review*, 2(2), 117-124.

³⁵ Hogh, A., Mikkelsen, E. G., & Hansen, A. M. (2011). Individual consequences of workplace bullying/mobbing. In S. Einarsen, H. Hoel, D. Zapf, & C. Cooper (Eds.), *Workplace bullying: Developments in theory, research and practice* (2nd ed.) (pp. 107-128). London, England: Taylor & Francis.

³⁶ Society for Human Resource Management (SHRM). (2012). 2012 *Employee job satisfaction and engagement*. Retrieved from <http://www.shrm.org/Research/SurveyFindings/Articles/Documents/SHRM-Employee-Job-Satisfaction-Engagement.pdf>

Table 2: Management standards

Category	Details
1. Be respectful and responsible.	<ul style="list-style-type: none"> > Show integrity. > Manage emotions. > Have a considerate approach.
2. Manage and communicate existing and future work.	<ul style="list-style-type: none"> > Manage work proactively. > Have good problem-solving skills. > Participate with and empower others.
3. Use good reasoning to manage difficult situations.	<ul style="list-style-type: none"> > Manage conflict. > Use the organisation's resources. > Take responsibility for resolving issues.
4. Manage the individual within the team.	<ul style="list-style-type: none"> > Be personally accessible. > Be sociable. > Use empathetic engagement.

3.3.2 THE BENEFITS OF CLARITY, LEADERSHIP AND DIVERSITY

Large and small businesses alike need to give managers leadership training to help them effectively manage and supervise staff. This can create and maintain a well-functioning workplace culture.

Smaller businesses can access leadership courses through their local employers' association or chamber of commerce.

To gauge the training's effectiveness, management competencies and behaviour can be evaluated before and after training and constructive feedback given. The evaluation should measure whether managers are good coaches who can influence their staff. High-quality leadership is a strong key to changing an organisation's culture.

When expectations for work and behaviour are clearly demonstrated by management, there's less chance of undesirable behaviour from staff, and good staff conduct is the key to a healthy workplace.

Role clarity and good management are vital for an open, dynamic and productive workplace.

See 'Infozone: Business essentials' for more information on employment relations and health and safety in business, as well as links to templates, examples and other practical tools at www.mbie.govt.nz

3.4 MAKE YOUR WORKPLACE'S CULTURE CLEAR

Any workplace needs clear statements on expected conduct, core values, vision and purpose, and employees should be consulted with and involved in their development.

Organisational behaviours can be supported through a range of policies and practices such as codes of conduct.

3.4.1 CODE OF CONDUCT

Collins English Dictionary describes a code of conduct as “an agreement on rules of behaviour for a group or organisation”.³⁷ All organisations that employ staff generally benefit from a code of conduct that clearly states:

- > the expected behaviours, rules, practices and responsibilities for people, groups and the organisation
- > the consequences for not following the code of conduct
- > what is considered serious misconduct.

3.4.2 VALUES

Some organisations think of their values as the ‘guiding beacon’ that directs its growth and development. Others describe them as philosophically integral to how they work and do business.

Successful companies place a great deal of emphasis on their values. They govern how organisations deal with their people and work, and help define non-negotiable behaviours. Defining workplace values can:

- > provide a framework for how staff treat each other and customers
- > provide a framework for achieving the vision and increasing the effectiveness of the organisation
- > help clarify work-life and how people fit into the big picture
- > create an environment that promotes job satisfaction and meaningful work
- > differentiate one organisation from another.

In a well-functioning organisation all employees should understand the core values of the culture. Adopting a values approach can be difficult, as explained in ‘Difficulties and benefits of corporate values’ on p 64.

3.4.3 VISION

A ‘vision statement’ gives the direction and desired result for an organisation. It provides guiding principles for a workplace and is often accompanied by an organisation’s values, mission statement or other strategic long-term plans. It can also help navigate an organisation’s ups-and-downs, and reorient its culture in times of stress and change.

It’s important that a vision is simple, easy to communicate and understand, and clearly represents the defining values of the organisation.

3.4.4 MAKE BULLYING PREVENTION POLICIES AND PROCESSES TRANSPARENT

All organisations benefit from having documented policies and processes that are clear and easy to understand, so employees know what’s expected from them. Policies to address bullying should be included in the standard health and safety system to help the workplace run smoothly. See ‘Sample bullying policy’ on p 56. Some policies will deal with legislative business requirements. See ‘Legislation and bullying’ on p 13.

Reporting processes should be easy to access and staff should know what to expect once an incident is reported.

All policies and processes about bullying should be covered at induction when an employee or contractor starts work.

³⁷ Collins English Dictionary.

A bullying prevention policy outlines expectations for acceptable behaviour and needs to emphasise the organisation's commitment to prevent bullying. It should be developed with input from employees and their unions, and management, and is a positive way to build a culture where bullying can't thrive.

It should be endorsed by senior management to signal their commitment to prevent bullying.

A bullying prevention policy should be:

- > easy to understand
- > provided in languages other than English (if required)
- > consistent with the workplace's other health and safety policies and objectives
- > openly communicated and accompanied by staff training in expected behaviour and the bullying reporting process.

It has to be more than just words on a page and must be actively practised.

Following the processes will give staff confidence in the system, encourage further reporting, and give a systematic approach to addressing, managing and investigating bullying as a health and safety hazard.

Processes to deal with bullying should align with policy and are best if they give several ways to resolve issues, from low-key informal action, to lodging formal complaints. They should include:

- > identifying potential workplace hazards and developing controls
- > how to access the reporting processes
- > asking questions about bullying behaviours in regular surveys and at exit interviews
- > asking staff how to improve the workplace
- > promoting and acknowledging positive behaviour
- > developing clear methods for dealing with reported bullying, and easy reporting systems such as the notification template, which covers all required information
- > training a designated contact person to investigate bullying complaints
- > training all staff in the principles of natural justice
- > support for complainants
- > strategies for low-key informal solutions
- > clear and timely responses to resolve written complaints
- > transparent and impartial investigations
- > mechanisms to rebuild workplace relationships.

3.4.5 EDUCATE STAFF ABOUT BULLYING

Educating staff about bullying behaviours and their consequences is important because:

- > they become more aware of their roles and responsibilities
- > they become more aware of what bullying is and isn't
- > perpetrators can become more conscious of their behaviour, how it may be perceived, and the possible consequences of their actions, and be deterred from bullying
- > they are made aware of the consequences of malicious, frivolous, or troublesome complaints
- > it can promote cultural change and a healthy and safe workplace
- > they're encouraged to take responsible action against bullying behaviours
- > they become aware of other people's working styles.

Workplaces can run awareness programmes, provide training, show a DVD, or present selected information from this guidance at a team meeting or seminar to educate staff on bullying behaviour.

3.5 PROVIDE A DESIGNATED CONTACT PERSON AND OTHER SUPPORT

Internal support: Workplaces, especially larger ones, should designate and train a contact person to receive complaints about bullying. This is useful when a person's manager is the alleged bully. The contact person will be the first port of call for bullying reports and give advice and support. They're a confidential sounding board to help people assess situations and explore options to resolve issues. The role sits alongside the health and safety representative or union delegate, and between employee and organisational interests. It's impartial and neutral.

Support for managers could come from the Human Resources section, from managers talking to their peers, or from an external specialist.

External support: Organisations can also contract companies to give free confidential support. This could be the EAP to help with both work and personal issues, or professional supervision for legitimately stressful types of work (eg Police or Fire) (see 'Stress and bullying' on p 10).

See MBIE's 'Infozone: Business essentials' for more guidance on workplace practices and employing staff at www.mbie.govt.nz.

3.6 EMPLOY STAFF WHO UNDERSTAND YOUR WORKPLACE CULTURE

A good job description must be easily understood and clearly show the role, tasks and expected behaviours required. Employing people who fit the organisation's culture is crucial to a well-functioning workplace. It's much easier to recruit the right person than to manage people whose skills or personality don't match what's needed in the team. When hiring, look at the candidate's past performance and behaviour towards other staff.

Some tips for getting the right person are:

- > accurately describing the role
- > being clear about skills and qualifications required
- > ensuring personal attributes are suited to the role
- > doing psychometric testing
- > doing reference checks.

A clearly written employment agreement can help reduce the risk of misunderstandings. By law every employee must have a written employment agreement. This can be either an individual agreement or a collective agreement.

There are some provisions that must be included in employment agreements, and there are also a number of minimum conditions that must be met regardless of whether they are included in agreements. Employment law also provides a framework for negotiating additional entitlements. More information can be found on the MBIE website under the topic of Employment Relations. MBIE also has an employment agreement builder on its website at www.mbie.govt.nz.

For more information about hiring full-time, part-time, permanent, casual or fixed-term staff, see MBIE's:

- > How to hire – A guide for employers
- > Employment relations > Starting and hiring.

3.7 ASSESSING YOUR WORKPLACE CULTURE

Certain behaviours and organisational factors can either limit bullying behaviours or allow them to grow. Table 3 outlines what some of these factors are. Table 4 lists some workplace factors that can lead to bullying. The table makes recommendations for what workplaces can do to manage these factors through processes and systems. Table 1 on page 7 can also be used to assess workplace behaviour.

Table 3 and 4 can be used as tools to assess whether these factors are present in your workplace. You can also refer to the Preventing and responding to bullying, online tools at www.worksafe.govt.nz.

3.8 MEASURE YOUR WORKPLACE CULTURE

It's important to measure whether policies, processes and systems are working well. Some methods for assessing workplace culture and promoting positive relationships can be found in this section.

Table 3: Workplace factors that allow or limit bullying⁴⁰

Table 3 highlights factors that can open the door for workplace bullying, and factors that create a more positive environment in which bullies are less likely to emerge and thrive.

Bullying can flourish when...	Bullying is less likely to flourish when...
a code of silence exists and bullying behaviour isn't talked about. No-one dares to question the organisation's norms.	it's discussed openly and information and training is provided for staff.
undesirable workplace behaviour and practices are seen as 'normal'.	unacceptable behaviours are identified and alternative behaviours are modelled.
people who mention or report bullying are isolated and/or experience actual reprisals.	people can report bullying objectively and feel safe from reprisals or isolation. The notification template lists required details and may be used.
there are no consequences for bullying behaviour.	there are disciplinary consequences when bullying is confirmed.
there is no support for staff.	staff feel support from their peers, managers and Human Resources when they need it.
deadlines are not planned for or taken into consideration in the work programme.	work pressures and deadlines are factored into work programmes.
people feel a continuing need to defend their own performance.	people feel they are part of a self-supporting and self-correcting team.
there aren't any checks or balances on managers' behaviour, and managers aren't supported.	managers ask for, and get, training and support.
there is no model for expected management behaviour.	effective management behaviours are spelled out clearly.
managers fear a false charge of bullying.	there are consequences for bad faith complaints.
people are targeted.	behaviours are targeted.
there is no formal or informal process to deal with concerns or complaints.	informal and formal processes exist and are used to resolve issues.
negativity abounds.	positivity abounds.

⁴⁰ Table developed by Frank Darby, Ministry of Business, Innovation and Employment, 2012.

Table 4: Organisational factors that can lead to bullying⁴¹

Workplace factor	Factor characteristics	Process or system controls
Organisational change	<ul style="list-style-type: none"> > Significant technology change. > Restructures, downsizing, outsourcing. > Manager's work methods. 	<p>Involve staff in change processes</p> <p>Consult with workers affected as early as possible and plan all change.</p> <p>Review and evaluate change processes.</p>
Negative leadership styles	<ul style="list-style-type: none"> > Autocratic leadership. > Inadequate supervision. > Little or no guidance. 	<p>Management accountability for leadership</p> <ul style="list-style-type: none"> > Support, train, and supervise managers. > Coach managers in communication skills, democratic and participative leadership, and constructive feedback. > Provide and act on regular feedback on management performance (including feedback from workers under supervision).
Work organisation	<ul style="list-style-type: none"> > Poor resources, training, role definition. > Poor rostering. > Unreasonable performance measures. > Lack of support systems. 	<p>Implement standard operating processes</p> <ul style="list-style-type: none"> > Review resource availability. > Review and monitor workloads and staffing. > Reduce excessive working hours.
Poor workplace relationships	<ul style="list-style-type: none"> > Criticism and other negative interactions. > Interpersonal conflict. > Negative staff-management relationships. > Workers excluded. 	<p>Implement a conflict management process</p> <ul style="list-style-type: none"> > Provide training (eg diversity and tolerance, addressing conflict in the workplace, interpersonal communication and interaction). > Ensure managers act on inappropriate behaviour.
Workforce characteristics	<ul style="list-style-type: none"> > Vulnerable workers, apprentices or new staff. > Injured workers on return to work programmes. > Piece workers. > Workers in a minority because of ethnicity, religion, disability, etc. 	<p>Implement systems to support and protect vulnerable staff</p> <ul style="list-style-type: none"> > Train workers (eg in diversity, tolerance and communication skills). > Train line managers to support workers at higher risk. > Designate a contact person to provide support and advice. > Implement a 'buddy' system for new workers. > Monitor workplace relationships.

⁴¹ WorkSafe Victoria. (2012). *Your guide to workplace bullying - Prevention and response*. Melbourne, Australia: Author.

3.7.2 MEASURING PERFORMANCE

Measuring individual and team performance can ensure objectives, targets and goals are being met, and highlight whether staff are working in line with the organisation's values and vision.

Here are some ways to measure performance:

Positive rewards: Reward systems are often linked to good performance measures. This can be through recognition, remuneration or incentives. Ensure the system does not create other issues, eg staff covering up incidents, or shaming of staff who don't achieve work targets.

Customer surveys: Regularly surveying customers and clients on how your service is perceived is another way to measure performance.

Staff surveys: Regular staff surveys are a good way to gauge workplace culture and identify aspects that need improvement in both individual behaviour and corporate performance. A common staff survey is the Gallup Poll.

See also Management Competencies on p 29.

3.7.3 REVIEW POLICIES AND PROCESSES

Reviewing the effectiveness of policies and processes with staff will reveal whether they're being followed and are fit for purpose. All policies and processes should have a review date and review process.

Part of this review should include looking at the organisation's sources of information, such as accident/incident reports, investigation results, health and safety committee minutes, absenteeism records and staff surveys.

3.9 REVIEW BULLYING DATA

Bullying data gathered through reporting processes, exit interviews, staff surveys, absenteeism etc can reveal clusters of complaints and be used to track bullying trends. Reviews should also assess risk to the organisation from bullying, and whether to address it specifically or change the workplace environment. See 'Measuring bullying in your workplace' on p 39.

The reviews should be done in consultation with staff, health and safety representatives, and unions if they have members in the workplace. They can be conducted at any time, but are recommended:

- > when an employer is made aware of new information about bullying
- > when a situation of bullying has been confirmed
- > at the request of a health and safety representative or committee
- > according to a scheduled review date.

The results should be reported to health and safety representatives, senior leadership and the management board.

04/

MEASURING BULLYING IN YOUR WORKPLACE

In this section:

BULLYING INDICATORS

GATHERING INFORMATION

Bullying data gathered through reporting processes, exit interviews, staff surveys, and absenteeism records can reveal clusters of complaints and be used to track bullying trends. Reviews should also assess risk to the organisation from bullying, and whether to address it specifically or change the workplace environment.

4.1 BULLYING INDICATORS

4.1.1 CHECK THESE AREAS TO MEASURE WORKPLACE BULLYING:

- > Staff complaints
- > Productivity loss
- > Staff surveys
- > Exit interviews
- > Grievances
- > EAP reports
- > A string of resignations
- > Legal actions
- > Analysis of staff turnover and absenteeism.

4.1.2 A STRING OF RESIGNATIONS - THE PERSON BEHAVING IN A BULLYING MANNER STAYS, THE TARGET LEAVES

A string of resignations from one section of an organisation may indicate that a bully is present. Often the person experiencing bullying leaves and the person behaving in a bullying manner stays. Thirty percent of bully targets quit, 46 percent of targets regularly consider quitting, and 20 percent of those who aren't targets, but who witness bullying, also quit.

4.1.3 REPORTS OF UNDESIRABLE BEHAVIOUR

Look for increased reports of bullying behaviour, especially clustered around a particular business unit or work area. Reports could also come through other formal workplace networks such as disability, ethnic or gender-based support groups.

4.1.4 ABSENTEEISM

Assess absenteeism records to see if they cluster around specific business units or managers. Each year, targets of bullying take seven days more sick leave than someone not being bullied.

4.2 GATHERING INFORMATION

4.2.1 SURVEYS

Hold staff surveys to establish whether bullying is occurring in an organisation. Ask questions on both negative and positive behaviour so you can work to increase the positive. Always give overall feedback to the participants but keep individual responses confidential. Surveys will need to vary according to the purpose and situation.

4.2.2 APPRAISAL PROCESSES

Appraise managers and supervisors as well as other staff. One approach is an anonymous, structured appraisal of a manager's competencies by their peers and staff.

See 'Assessment measure of management competencies' on p 29. This can help develop more positive management behaviour.

See also 'HSE UK – Line manager competency indicator tool' at www.hse.gov.uk.

4.2.3 INTERVIEWS: ASK STAFF DIRECTLY OR INDIRECTLY

Hold interviews internally, or through an independent provider to measure bullying. Staff can be asked directly ("Have you been bullied?") or indirectly ("Have you experienced negative behaviour of this sort?"). Indirect questioning consistently obtains more comprehensive answers compared to direct questioning.

People who experience or witness bullying might not call it that. They can explain it away or minimise it to maintain group harmony, eg "It's been a stressful time for them".

Because bullying is ongoing and repeated, it can take a while for people to see the pattern, so it can go on for some time before being addressed. Also, the full impact on the target's wellbeing might only be realised in hindsight or with distance from the situation.

4.2.4 FOCUS GROUPS

Hold well-facilitated focus groups to reveal whether bullying is affecting staff, and to establish a positive work environment. Health and safety representatives, designated contact persons and union delegates can run focus groups, hold interviews, do surveys and give useful information. They can also advocate for staff who may not be able to represent themselves.

4.2.5 EXIT INTERVIEWS

Use exit interviews to find out why employees are leaving. Tracking the outcomes of exit interviews over time can help employers identify trends and patterns, and see whether turnover is due to management issues in certain areas.

Exit interviews can include the following questions:

- > Why are you leaving?
- > How long have you been intending to leave?
- > Are you going to a better job or leaving one you don't like?
- > Did you experience undesirable types of behaviour in our workplace?
- > Do you believe the word 'bullying' applies to these behaviours?
- > Did this contribute to your decision to leave?

05/

ADVICE FOR EMPLOYERS: DEALING WITH REPORTS OF BULLYING

In this section:

**MAKE SURE YOUR STAFF KNOW
HOW TO REPORT**

RESPONDING TO REPORTS

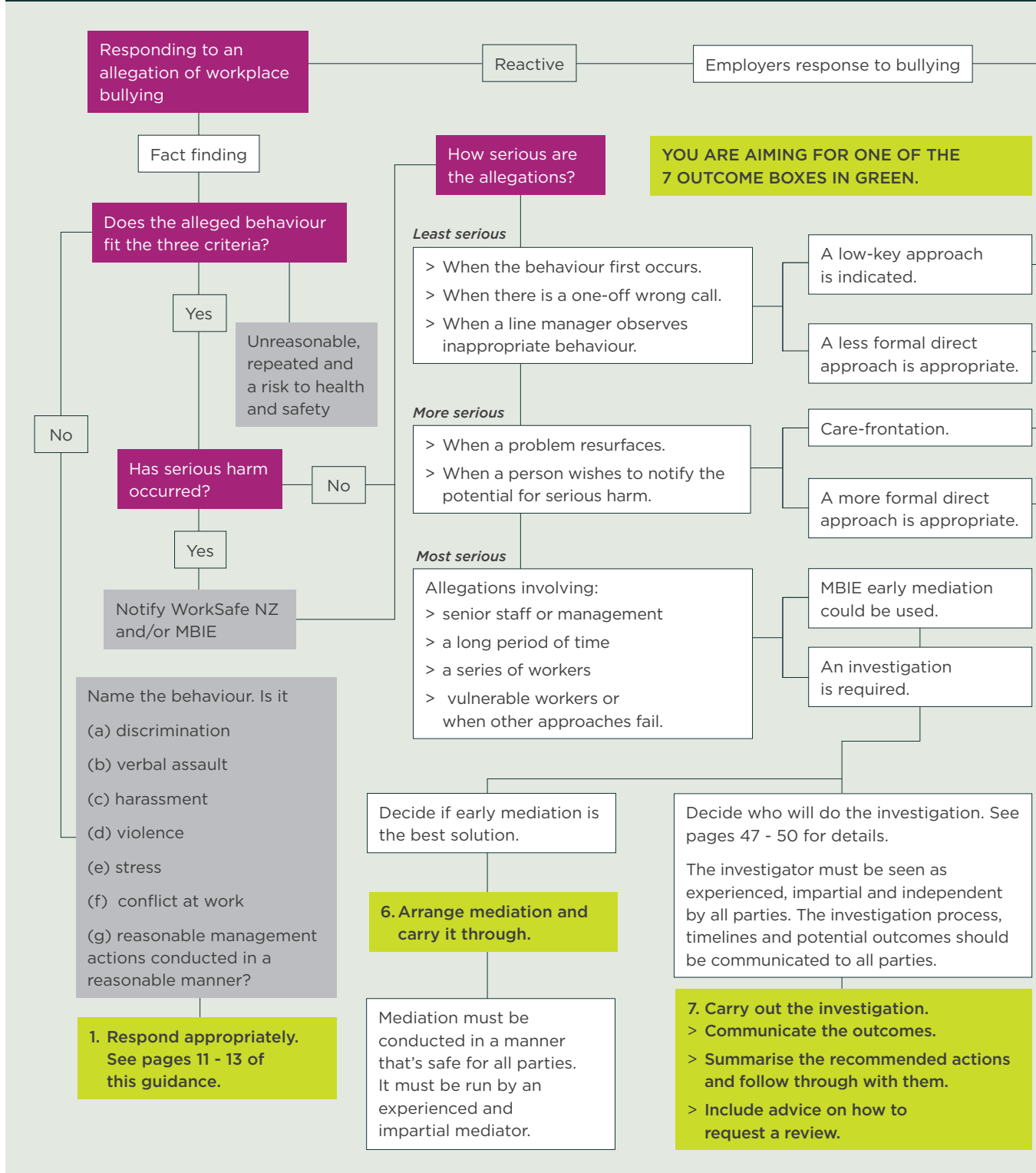
**DECIDING HOW SERIOUS
THE ISSUE IS**

RESPONSE OPTIONS

FORMAL INVESTIGATION PROCESS

PRINCIPLES OF NATURAL JUSTICE

THE PROCESS FOR PREVENTING AND MANAGING WORKPLACE BULLYING



Proactive

Planning for prevention

2. Decide if a low-key solution will work. See the examples on pages 19, 20 and 46 of this guidance.

3. A person talks with the person complained of and tries to work it out informally and confidentially - with the aim that unacceptable behaviour ceases.

4. The manager, the person complained about, the employees who report to him/her and a Human Resources representative meet to outline how things are seen and to decide if there is a case to answer.

5. Decide who will meet with the person complained about. Meet with the person, explain the undesirable behaviour and give an opportunity to respond.

Give the person time to make a fuller response, perhaps at a second meeting.

The aim is to make a polite and clear request that the undesirable behaviour stops.

Policies, process and training in place

- > Develop reporting and response policies and procedures.
- > Appoint and train a designated contact person.
- > Train staff on policies, procedures and reporting processes.

General measures

- > Have employment agreements, codes of conduct, values and vision.
- > Have processes in place that measure bullying behaviours - see page 38 of this guidance.
- > Build good relationships in a respectful work environment.
- > Build managers who are leaders through training and coaching.
- > Make your workplace culture clear.
- > Make policies and processes transparent and easy to follow.
- > Regularly assess managers' competencies.
- > Employ staff who understand your culture.

Monitor and measure

- > Monitor and measure rates of workplace injury and ill health, responses from exit interviews, absenteeism, sick leave and stress leave.
- > Complete regular workplace climate surveys.
- > Assess the factors pre-disposing your workplace to bullying (See Table 3 and Table 4 on page 35 and 36).
- > Complete employee engagement surveys.

Prompt and effective management response

- > Respond immediately to notifications and complaints.

Specific outcomes

- > Act on the recommendations of mediation or investigation.
- > Use any reports as a signal the workplace culture needs to be improved.
- > Use workplace assessment tools to prevent bullying and improve the workplace culture.

If you receive a complaint about bullying in your workplace, take it seriously and be impartial. Follow your internal processes if you have them. Try an informal response first before taking more formal approaches.

Employers: Dealing with reports of bullying	
Below are details of the actions managers can take to deal with allegations of workplace bullying. These principles are based in part on the principles of natural justice.	
Treat all matters seriously	<ul style="list-style-type: none"> > Take all complaints and reports seriously. Assess all reports on their merits and facts. > Ensure staff who deal with the complaint are trained to do a fair and thorough investigation, and use the principles of natural justice (p 49).
Act promptly	<ul style="list-style-type: none"> > Reports should be dealt with quickly, courteously, fairly and within established timelines.
Ensure non-victimisation	<ul style="list-style-type: none"> > It's important to ensure that anyone who raises an issue of bullying isn't victimised for doing so. Whoever the complaint is made against and any witnesses should also be protected from victimisation.
Support all parties	<ul style="list-style-type: none"> > Once a complaint has been made, both parties should be told what support is available (eg EAP or peer support systems). > Treat all workers involved with sensitivity, respect and courtesy. > Anyone involved is entitled to have a support person present at interviews or meetings (eg health and safety representative, contact person, union delegate or friend).
Be neutral	<ul style="list-style-type: none"> > Impartiality towards everyone involved is critical during the process. > The person in charge of the investigation or resolution process must not have been directly involved in the incident and must avoid any personal or professional bias.
Communicate the process and outcomes	<ul style="list-style-type: none"> > All parties need to be told what to expect during the process, how long it will take, the reasons for any delays and what will happen at the end. > Give them clear reasons for any actions that are taken or not taken.
Maintain confidentiality	<ul style="list-style-type: none"> > The process should ensure confidentiality for all parties involved. Details of the matter should only be known to those directly concerned.
Keep good documentation	<ul style="list-style-type: none"> > Documentation is important to any formal investigation. Even if the issue isn't formally investigated, keep a record of all meetings and interviews detailing who was present and the agreed outcomes.

5.1 MAKE SURE YOUR STAFF KNOW HOW TO REPORT

All reporting methods should be known to staff. They should know what to expect and what will happen after they have made a report.

Look at what your workplace has in place already and consider including ways of reporting into your current systems if it is not already included.

Staff should know:

- > how to record instances of the unreasonable behaviour
- > how to know if it is bullying or not, or something else
- > how to report
- > what to expect after they have made a report
- > that all reports will be taken as complaints, whether or not the staff member intends them to be informal or informal.

5.2 RESPONDING TO REPORTS

The key factors managers need to work through when dealing with complaints are:

1. Get the facts.
 - > get clear descriptions of the behaviour and the incident, and being able to describe it
 - > listen and gather the information in an unbiased, empathetic and respectful way
 - > understand the issues and what's needed to resolve them.
2. Does it fit the definition of bullying, or is it something else?
3. Decide on an effective course of action, tailoring your responses to the seriousness of the issue.

4. Get the parties to agree to resolve the issues.

5. Stop any potential retaliation.

6. Re-check your prevention measures.

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

5.3 DECIDING HOW SERIOUS THE ISSUE IS

Your judgement will be needed to interpret the seriousness of the issue in the specific situation you face.

Least serious

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

More serious

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

Most serious

- Allegations involving:
- > senior staff or management
 - > a long period of time
 - > a series of workers report problems
 - > when there is a one-off wrong call or lapse
 - > vulnerable workers.

When other approaches fail.

5.4 RESPONSE OPTIONS

There are a number of response options and where possible low key and informal solutions should be attempted.

5.4.1 LOW KEY SOLUTIONS

Where possible encourage the employee to try a low key solution. For more information on low key solutions refer to page 19.

Table 5: Employees and managers: Risks and benefits of approaching a bully informally

The approach of...	has the risk of...	but might work well if...
direct confrontation with evidence about an incident or several incidents	generating defensive rationalisation and other destructive results	the person is approached at the right time and place, accepts the concerns raised, and changes their behaviour
carefrontation - confronting the person in a caring manner	the receiver not taking the feedback in the spirit it is given and reacting negatively	the person accepts that the feedback is given in the spirit of caring
presenting pooled data gained anonymously about an employee or manager	staff not giving feedback for fear of being identified	the employee or manager sees themselves through others' eyes
the person targeted having a close colleague talk to the person	airing the problem without creating a way to change behaviour	the person approached accepts the concerns raised and changes their behaviour
the person targeted discussing the issue with a designated contact person	the alleged bully not receiving insight or changing their behaviour	a strategy is developed with the contact person to address the issue
telling a parallel story that highlights the behaviour of the person concerned	the person not making the connections between the story and their behaviour	the parallel story resonates with the person and they have the ability to change their behaviour

5.4.2 INFORMAL AND DIRECT APPROACH

At times you'll need to approach a person whose behaviour is unacceptable. This needs to be done carefully and Table 5 gives some advice on its risks and benefits. People can become defensive and rationalise their behaviour when approached directly, so clear boundaries are needed to show what is and isn't acceptable behaviour.

Creating a clear standard of acceptable behaviour, based on a comprehensive set of human values, is important.

5.4.3 INFORMAL RESOLUTION PROCESS

An informal process may involve a facilitator or mediator, but is designed to resolve concerns through dialogue and without a formal complaint. The informal process isn't disciplinary and doesn't disadvantage those involved. Informal options include:

- > reporting it to the manager but doing nothing else – the manager is then responsible for identifying and mitigating any risk
- > reporting it to the manager and agreeing to an early mediation resulting in an agreement understood by all parties (this could be a written agreement or based on a handshake)
- > seeking advice and support from the designated contact person, a health and safety representative, a union delegate, a manager and/or Human Resources staff
- > asking a trusted third party to talk to the person accused of bullying behaviour, or talking to them directly being mindful of personal safety and possible reprisals. Keep a record of the conversation's details, time and date.

Any written agreements will be the only record of the allegation. The aim of the informal process is to stop the bullying and restore people to a productive working relationship.

5.4.4 MEDIATION

Mediation can be used early on in the situation, or used in a more structured ways after the complaint has been investigated. Mediation can cover all employment issues including bullying, and simply means that a trained and impartial mediator sits with all parties concerned to try to get an agreement and a way forward. If parties can't reach an agreement, a formal investigation may continue. It's important that mediation creates a safe and constructive environment. If there are genuine safety concerns, parties should inform the mediator before the mediation begins.

Employers can provide their own mediation style process, or use an external mediator. MBIE also provides a free, confidential and impartial mediation service.

5.5 FORMAL INVESTIGATION PROCESS

When people make a complaint about workplace bullying, it's important that they clearly understand what to expect. The investigation should happen as soon as possible after the complaint is received, and embrace the natural justice principles to ensure fairness. Check your workplace's policies and procedures as there may be a specific form for making a formal complaint.

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

5.5.1 AN EMPLOYEE VERBALLY ADVISES THE MANAGER/SUPERVISOR

Before lodging a formal complaint an employee may need to advise their supervisor or manager that they want to do that. If their manager or supervisor is the alleged bully, then they should go to the next senior manager, the designated contact person or Human Resources staff. Whoever receives the verbal notification is responsible for:

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

5.5.2 AN EMPLOYEE OR MANAGER LODGES THE COMPLAINT

The complainant will need to know how to format their complaint and who to send it to. It needs to include the specific allegations, dates, times and names of any witnesses.

The notification template on p 55 can be used and its sections prompt the sort of information that may be required.

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

5.5.3 THE ORGANISATION RESPONDS

When a complaint is lodged, arrange for an appropriate senior manager or Human Resources staff to separately meet with both parties as soon as possible and explain the investigation process and their rights and responsibilities. They must explain:

- > the expected timetable for investigating and resolving the complaint
- > how the complaint will be investigated (eg interviews with the complainant, alleged bully, and any witnesses, viewing documentary evidence, etc)
- > who will receive copies of statements and records of the interview
- > who can be present at the interviews
- > whether parties can refuse to participate
- > what support will be available for each party, including the right to have a support person present
- > what interim measures will be taken to ensure the safety and welfare of the complainant during the investigation. Interim measures may include suspension of the alleged bully pending the outcome of the investigation, or assignment to other duties until the investigation is complete.

5.6 PRINCIPLES OF NATURAL JUSTICE

Fairness and good faith are fundamental to the ERA, and these concepts are key to employees' and employers' duties covered by the ERA. When investigating allegations of bullying behaviour, the concept of natural justice must come into play.

Principles of natural justice

Here is a summary of the main principles of natural justice:

- > Before taking any action against an employee, the employer should:
 - > raise their allegations/concerns with the employee
 - > carry out an impartial and independent investigation of the allegations/concerns
 - > give the employee a reasonable opportunity to respond to the allegations/concerns
 - > genuinely consider the employee's explanation.
- > Other principles include:
 - > making sure the decision-maker is as impartial as possible
 - > treating employees equally avoiding 'disparity of treatment'
 - > allowing support people and/or representatives to be present
 - > maintaining confidentiality.

5.6.1 THE MANAGER ARRANGES AN INVESTIGATION

The manager overseeing the complaint should contact the alleged bully in writing and notify them about:

- > the details of the complaint and who made it
- > an interview time
- > the process and their rights (including the right to have a support person present)
- > the timeframe for the investigation
- > the requirement for confidentiality and non-victimisation
- > the possible consequences.

5.6.2 THE INVESTIGATOR GATHERS INFORMATION

The impartial and independent investigator interviews all parties involved, any witnesses, and reviews any relevant documentation to determine the facts. The determination is made on the balance of probability after considering all the facts. They provide a written report on their findings and recommended solutions to the employer.

The employer gets the investigator's findings and deals with the issue.

The employer reviews the investigator's findings and recommendations, and meets each person separately to discuss the recommended solution. They give each party a copy of the report and explain their right to appeal and what the process is.

If the allegation can't be proven, it doesn't mean there was no bullying. Employers need to identify ways to help those involved return to a constructive working relationship. This could involve mediation, changed working arrangements, and/or addressing other organisational issues that contributed to the complaint. It could also include counselling for the complainant if the complaint is found to be vexatious.

If the allegation is upheld, the employer must decide how to:

- > address the bullying
- > make the person behaving in a bullying manner accountable for their conduct
- > protect the complainant from any further bullying or reprisals.

Some options are to:

- > ask the person behaving in a bullying manner to apologise and agree to change their behaviour
- > give a formal warning or take other disciplinary action
- > move the person behaving in a bullying manner or the complainant into a different work unit
- > integrate the complainant back to work using a structured programme.

Report the decisions and actions back to the complainant so they know the issue has been taken seriously and dealt with. This will help staff trust the process and establish a lack of tolerance for bullying in the workplace.

Bullying data will also need to be regularly assessed, see 'Reviewing bullying data' on page 37.

5.6.3 MANAGERS FOLLOW UP ON PARTIES INVOLVED

The manager should ensure the agreed changes have been effective by reviewing the wellbeing of the complainant and the alleged bully for a period of time after the resolution. The length of time and frequency of checks will depend on the issue and type of work.

06/

ROLES AND RESPONSIBILITIES FOR PREVENTING AND MANAGING BULLYING

In this section:

**RESPONSIBILITIES OF EMPLOYERS
AND MANAGERS**

**ADDITIONAL RESPONSIBILITIES
OF LINE MANAGERS**

**RESPONSIBILITIES OF
HUMAN RESOURCES**

RESPONSIBILITIES OF EMPLOYEES

**RESPONSIBILITIES OF HEALTH
AND SAFETY REPRESENTATIVES,
CONTACT PEOPLE AND UNIONS**

Everyone in a workplace has a role to play to prevent and manage bullying. There are some specific roles in the workplace, and responsibilities for preventing and responding to workplace bullying should be clearly outlined.

6.1 RESPONSIBILITIES OF EMPLOYERS AND MANAGERS

- > Be mindful of your duties under the HSE Act, HRA and the ERA legislation (details on p 12 and 13).
- > Develop a culture where bullying cannot thrive, including bullying from clients or customers.
- > Create, reinforce, monitor and review policies and processes against bullying.
- > Identify hazards associated with bullying and put controls in place.
- > Create complaint-handling processes.
- > Take complaints seriously and listen without judgement.
- > Ensure all staff, especially managers, are trained in bullying policies and processes.
- > Ensure an effective and timely response to allegations.

6.2 ADDITIONAL RESPONSIBILITIES OF LINE MANAGERS

- > Record and investigate complaints fairly and in line with the workplace's policies and processes.
- > Look for informal solutions before escalating an issue to higher levels, eg mediation or investigation.
- > Support positive culture-change programmes.
- > Lead by example.
- > Seek help if you don't know what to do.

6.3 RESPONSIBILITIES OF HUMAN RESOURCES

- > Use recruitment practices to hire the right people for the role and minimise the risk of hiring bullies.
- > Ensure references are checked.
- > Use pre-employment tools including appropriate psychometric tests.
- > Raise awareness of bullying behaviours by ensuring staff are educated about them.
- > Establish open communication systems.
- > Maintain and update bullying policies and processes and ensure staff are trained in them.
- > Have performance management processes that measure behaviour against the code of conduct.

- > Ensure managers and supervisors are properly trained in people management, and keep the training records.
- > Have processes for both informal resolutions and formal investigations.
- > Follow up on complaint responses and be proactive with solutions.
- > Analyse workplace information (e.g. absenteeism records, exit interviews) for indicators of bullying.

6.4 RESPONSIBILITIES OF EMPLOYEES

- > Report incidents of bullying against yourself or a colleague, and keep records of behaviours.
- > Support fellow workers experiencing bullying.
- > Where possible, speak up about instances of bullying or inappropriate behaviour you may witness.
- > Look for informal ways to resolve incidents.
- > Learn and follow the policies and processes that limit bullying.
- > Contribute to a positive workplace by demonstrating positive behaviours.

6.5 RESPONSIBILITIES OF HEALTH AND SAFETY REPRESENTATIVES, CONTACT PEOPLE AND UNIONS

- > Understand bullying issues and where to get information and support.
- > Help to develop the organisation's policies and processes that limit bullying.
- > Support people who report a bullying incident.
- > Advise management about any factors that could lead to bullying.
- > Promote a positive work culture and help in any initiatives to improve it.

07/

USEFUL TOOLS FOR PREVENTING AND MANAGING BULLYING

In this section:

**NOTIFICATION OF UNDESIRABLE
BEHAVIOUR - TEMPLATE**

SAMPLE BULLYING POLICY

HEALTHY WORK - TEMPLATE

**DESIRABLE WORKPLACE
BEHAVIOUR**

**ASSESSMENT MEASURE OF
MANAGEMENT COMPETENCIES**

HAZARD REGISTER - EXAMPLE

**WORKPLACE FEATURES
ASSESSMENT TOOL**

**DIFFICULTIES AND BENEFITS
OF CORPORATE VALUES**

Here are examples of templates and tools for recording details of bullying behaviour, measuring and preventing bullying, and creating prevention policies. There is also information on corporate and personal values.

7.1 NOTIFICATION OF UNDESIRABLE BEHAVIOUR - TEMPLATE

This notification is about behaviour that has distressed me. The essential details are recorded below.

Name: _____ Is supporting information attached? Yes / No

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

7.2 SAMPLE BULLYING POLICY

This template should be adopted with careful consideration by an organisation. Consultation and discussion with staff and their health and safety representatives and union should take place before rolling out the policy. The policy should be supported by a good implementation process, and staff should be trained in both the policy and procedures.

See also WorkSafe Victoria's 'Preventing bullying at work – Sample policies'.

Sample Preventing and Responding to Workplace Bullying Policy

After discussions involving all staff which led to general agreement, Company X puts on record that bullying at work has the potential for:

- > serious consequences
- > an individual to experience health problems, loss of self-esteem and performance ability
- > divisions in the workplace to occur as people take sides
- > financial and productivity losses for employees and the company.

Workplace bullying defined

Bullying is defined as unreasonable and repeated behaviour towards a person or group that creates a health and safety risk. Repeated behaviour is persistent and can include a range of actions. Unreasonable behaviour covers actions which a reasonable person wouldn't do in similar circumstances, including victimising, humiliating, intimidating or threatening a person. A single incident isn't considered bullying but can escalate if ignored.

Company X will do the following to prevent and respond to workplace bullying. Senior management and the board of directors will prevent workplace bullying by:

- > establishing respect for the broad range of human values and character strengths required for this organisation to survive
- > actively looking for ways to create a positive workplace ('healthy work') that employees feel is pleasant, fair, rewarding and positively challenging
- > encouraging positive leadership styles and investing in our managers to achieve this
- > training key staff to receive bullying reports and give support and advice
- > directing attention towards behaviour rather than people, and aiming to promote harmonious relationships across the organisation
- > providing staff who believe they've been bullied, with a range of options to resolve the issue
- > promoting low-key solutions before formal actions
- > aiming to repair the working relationship and promote positive workplace values
- > openly discussing bullying, in both formal and informal settings, and providing information and training about it
- > identifying workplace factors that contribute to bullying, and putting control measures in place
- > ensuring our workplace processes and systems are fit for purpose and regularly reviewed
- > having regular staff surveys on workplace culture.

Employees agree to:

- > tell their managers if they experience or see any bullying behaviours – if the manager is the person behaving in a bullying manner then advise [name other contacts]
- > try low-key solutions, eg talking to the person initially
- > follow the company's informal or formal processes when making a complaint
- > keep an eye out for other people, providing support when seeing a person being isolated or experiencing reprisals
- > accept that perceptions of bullying may need to be negotiated.

When dealing with an allegation of bullying our company will:

- > treat all matters seriously and investigate promptly and impartially
- > ensure neither the complainant nor the alleged bully are victimised
- > support all parties involved
- > find appropriate remedies and consequences for confirmed bullying as well as false reports
- > communicate the process and its outcome
- > ensure confidentiality
- > use the principles of natural justice
- > keep good documentation
- > have specialist external advisors available to help.

This policy was developed by representatives from the board of directors, senior management, line managers, employees, health and safety, and unions.

7.3 HEALTHY WORK - TEMPLATE

The template below lists features of a healthy workplace. It's taken from *Healthy Work - Managing Stress and Fatigue in the Workplace*, www.worksafe.govt.nz.

The tool can be used by individuals but is better used in groups to facilitate discussions about concerns or improvements in the workplace. It's useful for gathering information about trends across the organisation and developing improvement plans.

When using this tool remember that:

- > it's based on an average of findings and results about groups of people – some people can be happy working in some of the situations described as 'unhealthy'

- > work underload can be as stressful as work overload, but with different consequences
- > the responsibility for creating a healthy workplace lies with employers but is shared by employees
- > employers may have little ability to address some of the features, eg providing task variety may be difficult in some types of work
- > it might be difficult to improve the healthy work features due to the type of business – workplaces could initially improve what they can, and work to improve other features later
- > the features of healthy work are inter-related and focusing on only one area might not solve all the problems.

Complete the template by giving examples of how each feature is present, or absent. Circle how much the employer and employee can control this feature. Use the last two columns as suggestions to improve the workplace.

Feature of healthy work	Show the evidence for the presence or absence of this feature in the workplace	Extent that this can be controlled by the:		Actions needed to address this feature by support from the:	
		Employer	Employee	Employer to employees	Employees to colleagues and employer
There's a balance of effort and rest		High...Low	High...Low		
There's a variety of tasks, interest and stimulation		High...Low	High...Low		
There's a sense of personal control		High...Low	High...Low		
Mechanisms exist to address poor workplace relationships		High...Low	High...Low		
There's good communication		High...Low	High...Low		
Workplace hierarchies promote confidence		High...Low	High...Low		
Workplace collaboration is effective		High...Low	High...Low		
The workplace design and environment is healthy and safe		High...Low	High...Low		
There's good change management		High...Low	High...Low		
There are appropriate rewards		High...Low	High...Low		
The workplace is supportive		High...Low	High...Low		
There are opportunities for personal progress		High...Low	High...Low		

7.4 DESIRABLE WORKPLACE BEHAVIOUR

This tool can help to establish a good workplace atmosphere and can be used in conjunction with the healthy work template to promote positive exchanges in daily work. Tick the middle column to show acceptable behaviour, or put a mark in the appropriate box for the degree of abundance or deficit.

Behaviour	Deficit	Acceptable	Abundance
	< Greater deficit		Higher abundance >
Wanted and needed <ul style="list-style-type: none"> > Greetings and smiles > Encouragement > When there is a one-off wrong call or lapse > Questions and discussions about perceptions of work > When there is a one-off wrong call or lapse > Appropriate humour and banter 			
Warranted and deserved <ul style="list-style-type: none"> > Thanks > Praise > Empathy 			
Repeated attention from managers <ul style="list-style-type: none"> > Communication > Managing workload and resources > Participative approach 			
Add other features here			

7.5 ASSESSMENT MEASURE OF MANAGEMENT COMPETENCIES

This tool is a short version of the HSE UK Management Competencies Indicator. It can assess management competencies and help develop management skills. Tick the middle column to show acceptable competency, or tick the column to show the degree of abundance or deficit.

Results should be fed back to managers only when three or more staff complete this form and the results are averaged and made anonymous.

Competency	Deficit	Acceptable	Abundance
< Greater deficit		Higher abundance >	
Three key competencies > Communication > Managing workload and resources > Participative approach			
Respectful and responsible > Integrity > Managing emotions > Considerate approach			
Managing and communicating work > Proactive work management > Problem solving > Participative/empowering approach			
Reasoning/managing difficult situations > Managing conflict > Use of organisation resources > Taking responsibility for resolving issues			
Managing individuals > Personally accessible > Sociable > Empathetic engagement			

7.6 HAZARD REGISTER – EXAMPLE

Workplace / Location:												
Identify hazards	Potential harm	Significant hazard?		Eliminate	Isolate	Minimise	Hazard controls	Hazard controls in place				
		Yes	No					Training Required	Date Checked	Date Checked	Date Checked	Review
Bullying	Stress, increased errors affecting self and clients, anxiety disorder, health compromised	Yes				Minimise	<ul style="list-style-type: none"> > Effective policy > Support person identified > Invest in training programme and provider > Train all staff from induction > Schedule ongoing training > Key performance indicators for managers > Key performance indicators for other staff 	Induction and annual updates				Date Checked Annual or as needed

7.7 WORKPLACE FEATURES ASSESSMENT TOOL

This assessment was developed by the New South Wales Government WorkCover and amended for New Zealand use. Tick the box in each row and column that most applies to your workplace. The green, amber or red zone with the most ticks will identify your rating and show you whether, or how much, you need to make improvements.

Management commitment			
1	<input type="checkbox"/> Manager and worker responsibilities clearly identified, understood and acted on.	<input type="checkbox"/> Responsibilities identified but not understood or operating effectively.	<input type="checkbox"/> No clear identification or understanding of responsibilities.
2	<input type="checkbox"/> Sufficient resources allocated to meet responsibilities.	<input type="checkbox"/> Insufficient resources allocated to meet responsibilities.	<input type="checkbox"/> No resources allocated to meet responsibilities.
3	<input type="checkbox"/> Managers always promote prevention of bullying as a high priority.	<input type="checkbox"/> Prevention of bullying behaviour not always a priority.	<input type="checkbox"/> Prevention and management of bullying behaviour not a priority.
4	<input type="checkbox"/> Managers involved in all prevention and management of bullying behaviour initiatives.	<input type="checkbox"/> Limited involvement of managers in managing bullying prevention initiatives.	<input type="checkbox"/> No initiatives to prevent/ manage bullying.
5	<input type="checkbox"/> Managers always lead by example.	<input type="checkbox"/> Managers do not always lead by example.	<input type="checkbox"/> Managers set a poor safety example.
Consultation			
6	<input type="checkbox"/> Agreed consultation arrangements are used to discuss bullying issues and work effectively.	<input type="checkbox"/> Consultation arrangement in place but not working effectively.	<input type="checkbox"/> No consultation arrangement in place.
7	<input type="checkbox"/> Workers are always involved in decisions and developing policy and processes.	<input type="checkbox"/> Workers not always involved in decisions and developing policies and processes.	<input type="checkbox"/> No involvement of workers in decisions and developing policy and processes.
8	<input type="checkbox"/> The views of workers are always valued and taken into account.	<input type="checkbox"/> Workers' views not always valued or taken into account.	<input type="checkbox"/> Workers' views not valued.
Policy and processes			
9	<input type="checkbox"/> All bullying risks have been promptly assessed.	<input type="checkbox"/> Only some bullying risks have been assessed.	<input type="checkbox"/> Bullying risks not assessed.
10	<input type="checkbox"/> Policy and processes developed and implemented.	<input type="checkbox"/> Limited development and implementation of policy and processes.	<input type="checkbox"/> No bullying policy and processes developed.
11	<input type="checkbox"/> Workers involved in developing processes.	<input type="checkbox"/> Limited involvement of workers in developing policy and processes.	<input type="checkbox"/> No bullying policy and processes developed.
12	<input type="checkbox"/> Processes followed in day-to-day operations.	<input type="checkbox"/> Policy and processes developed but not always followed in day-to-day operations.	<input type="checkbox"/> No bullying policy and processes developed.
13	<input type="checkbox"/> Processes are reviewed.	<input type="checkbox"/> Policy and processes not reviewed.	<input type="checkbox"/> No bullying policy and processes developed.

Training and supervision			
14	<input type="checkbox"/> Induction includes bullying prevention.	<input type="checkbox"/> Induction on bullying prevention inconsistently applied.	<input type="checkbox"/> Workers not inducted.
15	<input type="checkbox"/> All workers trained in bullying prevention policy and processes.	<input type="checkbox"/> Training on bullying prevention policy and processes inconsistently applied.	<input type="checkbox"/> No training provided.
16	<input type="checkbox"/> All workers understand policy and processes and demonstrate knowledge.	<input type="checkbox"/> Some workers not able to demonstrate they understand bullying policy and processes.	<input type="checkbox"/> Workers not made aware of bullying policy and processes.
17	<input type="checkbox"/> All workers are supervised to ensure policy and processes are followed.	<input type="checkbox"/> Supervision does not always result in bullying policy and processes being followed.	<input type="checkbox"/> Workers' understanding of bullying policy and processes not checked.
Reporting			
18	<input type="checkbox"/> Processes for reporting issues and incidents are developed and are always followed.	<input type="checkbox"/> Processes for reporting issues developed but not always followed.	<input type="checkbox"/> No reporting processes.
19	<input type="checkbox"/> All bullying issues and incidents are acted on and reported, including notifying WorkSafe NZ.	<input type="checkbox"/> Some incidents reported, but follow-up action limited.	<input type="checkbox"/> Bullying incidents not reported.
20	<input type="checkbox"/> Processes and training are always reviewed following incident reports.	<input type="checkbox"/> Processes and training are not always reviewed following incident reports.	<input type="checkbox"/> No review of processes and training following incidents.
Injury management			
21	<input type="checkbox"/> All injuries are reported promptly.	<input type="checkbox"/> Not all injuries are reported, or aren't reported promptly.	<input type="checkbox"/> No injuries are reported.
22	<input type="checkbox"/> Workers are informed of the return to work programme and process, in the event of an injury or illness.	<input type="checkbox"/> Workers not aware of the return to work programme and processes.	<input type="checkbox"/> No return to work programme or plans.
23	<input type="checkbox"/> Return to work plans are implemented for injured workers when required and are effective in getting injured workers back to work.	<input type="checkbox"/> Return to work plan is not effective in getting injured workers back to work.	<input type="checkbox"/> Workers not helped to return to work after an injury.
24	<input type="checkbox"/> Designated return to work coordinator is appointed.	<input type="checkbox"/> Designated return to work coordinator is appointed.	<input type="checkbox"/> No designated return to work coordinator appointed.

Each tick in the green zone means you are likely to have a healthy workplace.

Monitor and review to continually improve.

Each tick in the orange zone means you are increasing your bullying prevention processes.

But you still have work to do.

Each tick in the red zone means you are less likely to have good bullying prevention processes.

Address these areas immediately.

7.8 DIFFICULTIES AND BENEFITS OF CORPORATE VALUES

Shalom Schwarz identified 10 motivationally distinct values, shown in the diagram below, that people across different cultures recognise.

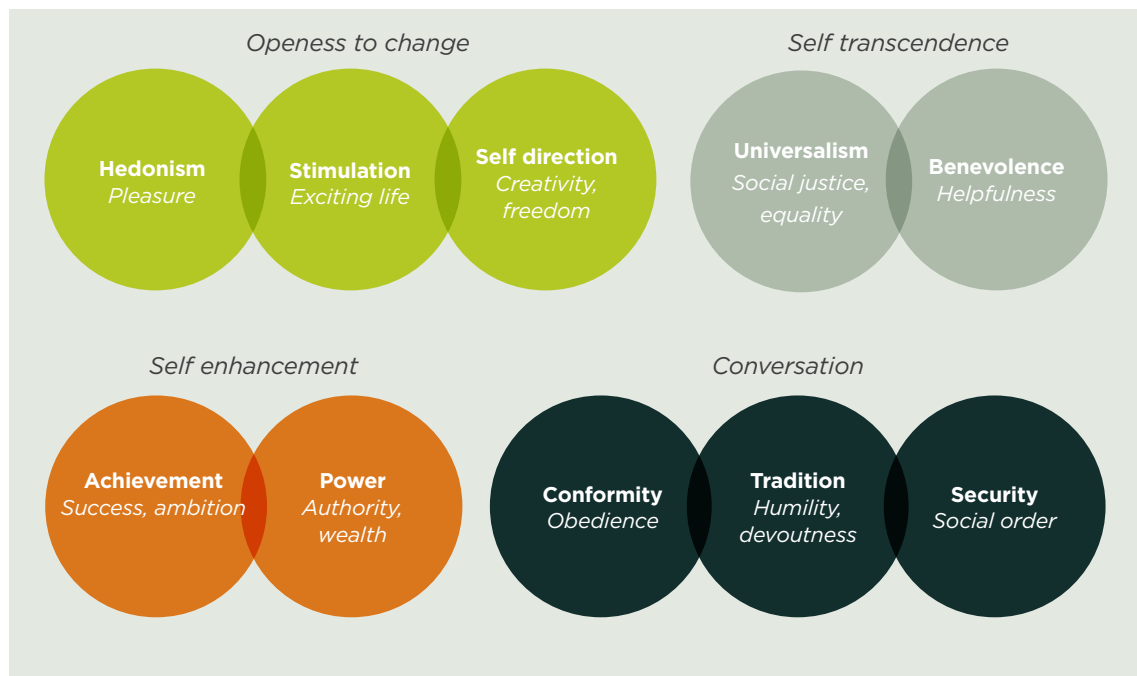
Similar values are grouped together and the closer they are the more similar are their underlying motivations. For example, there's more similarity and shared motivation between self-direction and stimulation than there is between self-direction and conformity. Likewise, the further apart the values are in the circle, the more their underlying motivations will be in conflict. For example, someone who values stimulation is likely to have conflicting motivations when conformity and tradition are required in a workplace culture.

People generally agree that the 10 values are important but tend to give them different priorities. This means that a person's values may be in conflict with an organisation's values. For example, a person who values self-direction may give less value to hierarchical power structures.

This inevitable tension springs from human diversity and is neither good nor bad. Workplaces can choose to reject adopting a values approach, but environments that seek to avoid bullying will promote diversity. This also provides opportunities to grow and learn from other's perspectives. Some authors believe that excellence emerges from this place of tension.

A number of frameworks and methods have been developed to manage these competing personal and workplace values.

Values are inevitably in tension when they have different motivators



08/

**THREE CASE
STUDIES**

In this section:

**CASE STUDY 1: BULLYING AND
LACK OF SENIOR LEADERSHIP
LEADS TO A RESIGNATION**

**CASE STUDY 2: HIGH HUMAN
AND CORPORATE COST
OF AN UNTIMELY INVESTIGATION
PROCESS**

**CASE STUDY 3: BULLYING NOT
IDENTIFIED AS A HAZARD**

These case studies show some of the features of workplace bullying. They're taken from real life investigations and show the sort of effects that workplace bullying can have on people and workplaces. Names have been changed to protect confidentiality. See 'Further information' on page 69.

8.1 CASE STUDY 1: BULLYING AND LACK OF SENIOR LEADERSHIP LEADS TO A RESIGNATION

When Denise began her new role, she understood that she would be an apprentice to her manager, John. Soon after she was employed, John's manager Simon restructured the unit and John was made redundant. Soon after this Grant was appointed into a new role, and became Denise's manager. Denise had a small team of professionals reporting to her.

Initially everything ran smoothly. The relationship between Denise and her new manager Grant seemed to go well. About eight months later an event occurred which caused Denise great concern. One day Grant accused her of making an error in a report. Denise accepted that she'd made the error and offered to discuss and rectify it. Grant refused to resolve the issue by talking about it and a short time later Denise found a warning letter about the incident on her desk. This came as a surprise because she hadn't been told verbally that the error was grounds for a formal warning. Denise was upset by the action, so left for the day to go home and be supported by her husband.

This was the first in a series of incidents in which Grant berated Denise for perceived performance issues. She was accused of not performing for several reasons. Grant implied that her lack of initiative in asking for work constituted non-performance, despite Denise's argument that her role was clearly set out and she had no space for additional work. He often called her into his office and spoke to her accusingly, asking for explanations about what she'd been doing and why certain things weren't yet completed. He directly questioned her ability to manage her staff, particularly regarding her management style and techniques. Denise felt that Grant was watching all of her interactions with her staff, and was always ready to criticise. Grant would often call her into his office to comment on an interaction he'd observed between Denise and a member of her staff, asking, for example, why she'd spoken to the person in a certain way. Eventually Grant would not allow her to talk to her own staff members.

While these incidents occurred over several weeks, Denise tried to discuss the issues to resolve them, but Grant refused to meet with her.

Denise began to feel that she wasn't doing her job properly, although there'd been no problems for several months, including before Grant's appointment as her manager. As Grant's accusations continued, Denise felt less and less capable of doing her job. She began to feel guarded in everything she did – both her individual work and her interactions with others. Eventually she felt a loss of confidence and self-esteem, and her own self-doubt seemed to lead to errors in her work.

Denise knew that her experiences, and particularly her reactions, were affecting those around her. The team's morale, communication and ability to work together began to decrease. While she instigated meetings with her team to talk about the issues they were experiencing, she believed that their knowledge of the issues between her and Grant was taking a toll on the team. In particular, her coping style of getting on with her work and keeping her head down contributed to the team's decreased communication as staff members followed her lead. Denise was also aware that Grant was having discussions with a member of her team she was having problems with, and she felt that Grant was taking the employee's comments at face value rather than discussing them with Denise.

Throughout the situation, Denise turned to her family, friends and her previous manager John, and received emotional support and advice on how to manage the situation. She didn't discuss the situation with her senior manager Simon, because she believed he was a close ally of Grant's and would not treat her issues seriously. In fact, as things progressed, Simon also began treating Denise badly – going behind her back to get her staff members to complete jobs for him, and accusing her of errors in her work. In one instance, after accusing Denise of making an error in a report, Denise reviewed the report and found that there was in fact no error. On returning to Simon to point this out, she was dismissed by him with no apology or acknowledgement that he had been wrong.

After about three months of experiencing these actions, Denise was called to a disciplinary meeting with Grant. She contacted Human Resources to ask how she could prepare for the meeting, but they said they didn't know, weren't in a position to help, and that their only role was to sit in on the meeting. She felt that Human Resources didn't want to know her. On receiving advice from a friend, Denise contacted an employment lawyer who came to the disciplinary meeting with her. At the meeting Grant mentioned a series of issues he had with her performance, but gave her no opportunity to resolve them. Two days after the meeting, a second formal warning letter was left on Denise's desk.

Denise decided to leave the organisation and negotiated a settlement. She was paid three months' salary and left immediately. During the negotiations the Human Resources manager, who had previously been on leave, contacted Denise to ensure that this was what she wanted. The Human Resources manager made it clear that she did not agree with the process or the warnings given, and that it was inconsistent with similar incidents that had occurred across the organisation. Her senior manager, Simon, who had not once intervened in the situation, told her on her last day how professional she had been throughout the situation.

In retrospect, Denise believes it is clear that she was operating in a culture that she was not suited to ('a man's world'), and that she simply didn't fit in and wasn't wanted there. Women were not thought of highly, particularly in management roles, and she believes the personal attacks on her performance were aimed at removing her from the organisation.

8.2 CASE STUDY 2: HIGH HUMAN AND CORPORATE COST OF AN UNTIMELY INVESTIGATION PROCESS

This second case study summarises events in a company across a year.

Colin met with a CEO and alleged wrongdoing by Ryan. The CEO treated the complaint seriously and said he'd oversee an investigation.

Ryan was given a written summary of four allegations and asked to respond within a week. He responded but when meeting with the CEO, found that legal advice had recommended an 'independent' investigation. The independent investigator began the process from scratch.

Colin filed a new claim with 24 allegations rather than four and, across one month, was interviewed by the investigator and confirmed the notes that were taken. He then went on stress leave.

The investigator then met with people referred to in the notes to get supporting evidence. These people were also asked to confirm the notes. Another month passed.

Four months after the original complaint the CEO was given a set of summaries. They were now as thick as a phone book.

A similar process then occurred when Ryan responded. Four separate half-day interviews were needed, over one month, to address the allegations. It took another month or so to interview Ryan's witnesses and have them confirm the notes.

The investigator then gave Ryan's material to Colin for comment.

After documenting Colin's comment, there were now three sets of material, each the size of a phone book, and nine months had passed since the initial complaint. Colin had been off work on stress leave, and his witnesses had been relocated as they felt uncomfortable having contact with Ryan.

Ryan believed the outcome so far showed that the CEO thought he was 'guilty'. He was also turned down for a new position.

When the investigator filed his report it was long, lacked detail, and wasn't comprehensive. Both Colin and Ryan found a large number of errors and flawed conclusions. But the CEO accepted the report and dismissed Ryan, who then filed a claim for unjustified dismissal and unjustified disadvantage.

Witnesses for both parties were by now at odds with each other and the organisation. Several made complaints about the way they'd been treated and at least one resigned.

One year later: The issue completely divided the workplace, three employees had resigned and two grievance claims had been lodged.

Costs to the organisation were estimated at several hundred thousand dollars.

8.3 CASE STUDY 3: BULLYING NOT IDENTIFIED AS A HAZARD

Clare was a student working at a residential care facility. She often worked with John, a co-worker whose behaviour with clients worried her. Clare witnessed several passive-aggressive acts by John toward a client. He also spoke to Clare in an insulting way.

Clare wanted to discuss this with someone, but the only system she knew of for dealing with this kind of problem was to speak to the manager. She also knew the manager and John were friends outside work. When approached, the manager downplayed the matter and told her to tell John how she felt. Without any support offered, Clare tried to address the matter with John directly. But his response was negative and the behaviour continued.

Over time, both verbal and written attempts at dealing with the problem (which she had documented on each occasion) had failed to remedy the matter. Clare became unwell. Her study was being impaired and her doctor placed her on medication and advised she take time off work. She was away from the workplace for several months.

When Clare returned she witnessed a further bullying event toward a client and contacted MBIE. The inspector she spoke to was an occupational health nurse who agreed to contact the chief executive (CE) of the organisation. She also agreed she would contact the Health and Disability Commission on behalf of the client.

The CE was appropriately concerned. The inspector asked the organisation to investigate the report, and made them aware that Clare's illness and absence was work-related.

The CE agreed to forward the organisation's health and safety system documents to the inspector. The system showed that bullying hadn't been identified as a hazard, and that there were no pathways for helping a worker address such issues.

The organisation was told of the failings in their system and began to establish lines of communication immediately in consultation with the inspector and workers in the organisation's various work sites. Through conversations with other employees, the investigation confirmed that the bullying behaviour was persistent and had been witnessed and experienced by other employees and clients.

The perpetrator and the manager were removed from their positions. The workplace, through collaborative meetings and agreed protocols, gradually became a safe rehabilitation environment.

Once Clare had completed her studies successfully, she got work in another city.

FURTHER INFORMATION

MINISTRY OF BUSINESS, INNOVATION AND EMPLOYMENT

www.mbie.govt.nz

- > Contemporary mediation practice
- > Employment relations – Best practice

WORKSAFE VICTORIA

www.worksafe.vic.gov.au

- > Your guide to workplace bullying – Prevention and response
- > Preventing bullying at work – Sample policies

SAFE WORK AUSTRALIA

www.safeworkaustralia.gov.au

- > Guide for preventing and responding to workplace bullying
- > Dealing with workplace bullying – a worker's guide
- > Frequently asked questions: workplace bullying

MORE INFORMATION

www.massey.ac.nz

- > Massey University research – Understanding stress and bullying in New Zealand workplaces
- > Massey University press release – 'Sorry Chef, but you're a bully'

www.hse.gov.uk

- > UK Health and Safety Executive – Bullying and harassment

www.eeotrust.org.nz

- > The Equal Employment Opportunities Trust

www.hrc.co.nz

- > The Human Rights Commission

www.mentalhealth.org.nz

- > The Mental Health Foundation

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