

Meet your moderator

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Providing strategic and operational advice on
work-related psychological risks



Workplace bullying legislative requirements

- WHSQ webinar 2014



Session summary

Legislative framework for workplace bullying

Managing WHS hazards and risks code of practice 2011

- Risk management process or known controls

National guide - Preventing/responding workplace bullying

- What is workplace bullying?
- What are the risk factors?
- How can bullying be prevented or controlled?

Costs and prevalence of workplace bullying

- Claims and uninsured costs
- People at Work Project research findings

Role of WHSQ, FWC and other agencies

Audience profile - Industry

What industry do you work in?

- a) Construction
- b) Manufacturing
- c) Transport and Storage
- d) Health and Community Services
- e) Retail and Wholesale

Audience profile - Role

What is your role at work?

- a) Business owner/operator
- b) Manager or supervisor
- c) Health and Safety advisor
- d) Rehabilitation / Return to Work Coordinator
- e) Consultant

Workplace bullying - defined

1. repeated unreasonable behaviour,
2. directed towards a worker or group of workers,
3. that creates a risk to health and safety

What behaviours constitute bullying?

Behaviour, intended or not, including:

- Abusive, insulting, offensive language or comments
- Unjustified criticism or complaints
- Deliberately exclusion from workplace activities
- Withhold info vital for effective work performance
- Unreasonable and/or constantly changing deadlines

What behaviours constitute bullying?

- Tasks unreasonably below or beyond skill level
- Deny access to information, supervision, consultation, resources to the worker's detriment
- Spread misinformation or malicious rumours
- Deliberately change to rosters / leave etc to inconvenience

How can workplace bullying occur?

- Email, text, chat rooms, other social media.
- Directed at a worker or workers.
- Carried out by one or more workers.
- Can occur:
 - sideways between workers
 - downwards from managers to workers
 - upwards from workers to supervisors/ managers
- Others at the workplace

What is not workplace bullying:

- A single incident of unreasonable behaviour
- **Reasonable management action taken in a reasonable way**
- Workplace conflict
- Discrimination and sexual harassment
- Violence – assault or threats of assault

Reasonable management actions (1)

- Set performance goals, standards, deadlines
- Reasonable rostering / allocating working hours
- Transfer a worker for operational reasons
- Decide not to select a worker for promotion where a reasonable process has been followed

Reasonable management actions (2)

- Inform a worker about unsatisfactory work performance in an honest, fair and constructive way
- Inform a worker about inappropriate behaviour in an objective and confidential way
- Implement organisational changes or restructuring
- Take disciplinary action (suspend / terminate, etc)

Taken in a reasonable way

- Procedural Justice
 - Use a fair process
- Distributive Justice
 - Apply process consistently
- Interactional Justice
 - Treat parties fairly during interactions
- Informational Justice
 - Provide parties relevant information

Workplace bullying is bad for health

- Links to stress responses and psychological disturbance beyond non-work issues
- Bullying, harassment, and conflict related to work stress
- Can influence worker behaviours that have implications for organisational effectiveness (e.g., absenteeism, turnover, and reduced job performance)

Workplace bullying costs a lot

- Workplace bullying est. cost to Australian economy \$17 billion and \$36 billion per year
- Approx. 20% of manager's time managing conflict
- Workers' compensation data:
 - average duration of a psychological or psychiatric injury claim was 143.8 days
- Average finalised time lost claim - \$40,742
- Incidents reported to regulator
 - require significant resources to respond

People at Work research findings

- Prevalence (self-report)
 - No significant difference between genders
 - Decreases significantly with age
 - No significant difference in rates across industries or sectors
- Construction / Health and Community
 - Significantly higher levels of behavioural experience vs. self-labelling
 - Role of industry culture?

*Source: People at Work Project: Development and validation of a Psychological Risk Assessment Tool, University of Queensland. (Final report to WHSQ, 2011).

Sources of bullying – Industry level*

Supervisors reported source:

- Construction (37%)
- Manufacturing (35%),
- Cultural and Recreational Services (33%)
- Transport and Storage (32%)

Co-workers highest source - industries:

- Electricity, Gas & Water Supply (67%)
- Manufacturing (58%)
- Wholesale Trade (56%)

Education highest 'external' source:

- Clients 43% (students, parents, guardians)

*Source: People at Work Project: Development and validation of a Psychological Risk Assessment Tool, University of Queensland. (Final report to WHSQ, 2011).

Workplace bullying – work design

- Very few true ‘workplace bullies’
- Useful to consider the broader organisational context
- Work-related stress framework
 - Shifts focus to responding to behaviours
 - Requires an understanding of work design and management of work
 - Informs effective workplace systems and assists in identifying specific controls

HIGH JOB DEMANDS

- 1. Demand:** role overload, cognitive demand, emotional demand
- 2. Role** conflict and role ambiguity
- 3. Relationships:** group task conflict, group relationship conflict, bullying

LOW JOB RESOURCES

- 4. Control**
- 5. Support:** supervisor and co-worker support
- 6. Change** consultation
- 7. Recognition and reward**
- 8. Procedural justice**

Work-related Stress

Psychological
Injury/Illness

Physical
Illness

Poor health
behaviours

Workplace bullying – other risk factors

- Leadership styles
 - Autocratic leadership behaviours
 - Inappropriate delegation of responsibilities
- Inappropriate systems of work
 - Resources, training, rostering, performance measures or timeframes
- Workforce characteristics
 - Casual, young, apprentices/trainees, workers on return to work plans, minority groups etc

Workplace bullying control strategy

- Implement workplace bullying prevention policy
 - Set standards for workplace behaviours
- Design and implement a safe system of work
 - PDs, resources, task-specific training, monitor workloads etc
- Productive and respectful workplace relationships
 - Promote positive leadership styles, develop standards for external clients related to service delivery
- Implemented reporting and response procedures
 - Accessible to staff; objective, fair and transparent etc
- Provide training and information relevant to role

Role of WHSQ in bullying matters

- Make enquiries related to workplace systems for managing workplace bullying
- Assess workplace compliance with relevant standards
- Seek evidence of due diligence
- Take actions to secure compliance for managing ongoing risks at the workplace

WHSQ – complaint handling

- All enquires taken through Infoline Contact Centre
- On request, caller provided information pack including complaint form
- Returned complaints to WHSQ are triaged:
 - Administrative response
 - Regional response
- Regional response may include contact or visit to the workplace
- WHSQ assess workplace systems and take action to secure compliance
- Focus is not to prove / disprove if bullying has occurred

What is not the role of WHSQ:

- Resolve the problem
- Mediate or conciliate between the parties involved
- Validate whether bullying occurred
- Provide counselling or victim support
- Reprimand any parties
- Vindicate feelings of being wronged
- Seek apology, remuneration/compensation or reinstatement

Role of WorkCover Queensland

Psychological or psychiatric injuries (PPI) may include work related stress, anxiety or depression.

To receive compensation for these types of injuries, the injury must have occurred at work and resulted from a single event or over a period of time.

Examples of causes may include workplace bullying, harassment, unfair action taken by management or an excessive workload.

When making a decision on a psychological or psychiatric injury, WorkCover applies the criteria and exclusions as outlined in the [Workers' Compensation and Rehabilitation Act 2003](#).

The Act states that 'an injury does not include a psychiatric or psychological disorder arising out of, or in the course of, any of the following circumstances':

- reasonable management action taken in a reasonable way by the employer in connection with a worker's employment
- a worker's expectation or perception of reasonable management action being taken against a worker
- Action by the authority or an insurer in connection with a worker's application for compensation.

The onus is on the person who makes the claim to be able to prove the claim. Once WorkCover has gathered enough information to determine the claim, we'll inform both parties of the decision.

- WorkCover's role is not to undertake 'full' investigations of workplace rectification activities.
- WorkCover will not undertake any action against a person who has aggrieved the claimants (these are matters for employers to deal with at their discretion).
- WorkCover may have to refer workers or employers onto WHSQ or Fair Work Commission.

Concurrent regulatory processes

Multiple regulators may have a role in aspects of workplace bullying complaints:

- WHSQ
- FWC
- Workers' Compensation Regulator
- Anti-discrimination Commission
- Police

Concurrent regulatory processes

- Criminal acts of bullying or violence
- Anti-discrimination legislation
- Codes of conduct (e.g. public servants)
- Common Law
 - Recognised psychiatric injury,
 - Injury result of employer's negligence,
 - Reasonably foreseeable in the form manifested,
 - Reasonable person of normal fortitude,
 - Knowledge of health condition.

Key points

Overall legislative framework for workplace bullying

National guide - Preventing/responding workplace bullying

- What is workplace bullying?
- What are the risk factors?
- How can bullying be prevented or controlled?

Costs and prevalence of workplace bullying

Role of WHSQ, FWC and other agencies

Opportunities for input and feedback

Participants will be sent a link by e-mail to a post-Webinar survey:

- gather more specific feedback
- evaluate webinar content and process
- identify future topics related to workplace bullying and psychosocial risks

Further information

- Visit www.worksafe.qld.gov.au
 - *How to Manage Work Health and Safety Risks Code of Practice 2011*
 - *National Guide for preventing and responding to workplace bullying*
 - *Dealing with workplace bullying – a worker’s guide*
 - *The role of Workplace Health and Safety Queensland in workplace bullying complaints*
 - *Workplace bullying information tool*
 - *People at Work project*
 - *Work-related stress tip sheets*
- Phone WHS Infoline 1300 369 915
- Sign up for eNEWS (free email subscription service) at www.worksafe.qld.gov.au