



FACT SHEET



WHAT IS WORKPLACE BULLYING?

Statutory definition

Section 789FD(1) FWA provides that a worker is bullied at work if an individual, or a group of individuals, repeatedly behaves unreasonably towards the worker, or a group of workers of which the worker is a member. Section 789FD(2) specifically provides that bullying does not apply “to reasonable management action carried out in a reasonable manner”.

Could include:

‘intimidation, coercion, threats, humiliation, shouting, sarcasm, victimisation, terrorising, singling-out, malicious pranks, physical abuse, verbal abuse, emotional abuse, belittling, bad faith, harassment, conspiracy to harm, ganging up, isolation, freezing out, ostracism, innuendo, rumor mongering, disrespect, mobbing, mocking, victim blaming and discrimination: Mac v Bank of Queensland Ltd and Ors, Hatcher VP.

Case law

Physical and verbal abuse

Ostracism

Aggressive and Intimidating Conduct

Intimidating and Humiliating behavior

Victimisation – Arbitrary and Capricious Conduct by Employer

WHAT IS NOT WORKPLACE BULLYING?

- Sexual harassment and discrimination is not workplace bullying and needs to be dealt with differently. (Though there could be overlap)
- Assault or threats of assault should be reported to police.
- Reasonable management behaviour:
 - *setting reasonable performance goals, standards and deadlines¹;*
 - *rostering and allocating working hours where the requirements are reasonable;*
 - *transferring a worker for operational reasons;*
 - *deciding not to select a worker for promotion where a reasonable process is followed;*
 - *informing a worker about unsatisfactory work performance in an honest, fair and constructive way;*
 - *informing a worker about inappropriate behaviour in an objective and confidential way²;*
 - *implementing organisational changes or restructuring;*
 - *refusing an employee permission to return to work due to risk associated with a medical condition;*
 - *refusing an employee permission to return to work due to risk associated with a medical condition;*
 - *taking disciplinary action, including suspension or terminating employment*
 - *the test is objective*



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DUTIES IN RELATION TO WORKPLACE BULLYING

Employers and employees have duties in relation to preventing and managing workplace bullying,

PREVENTING WORKPLACE BULLYING

Identify potential

Control the risks

Monitoring and reviewing

RESPONDING TO WORKPLACE BULLYING

Is the behaviour bullying or not?

Measures to be taken to minimise risk of ongoing harm

What is the issue?

Parties involved

What are the behaviours that are considered unreasonable?

Who has observed or participated in the behaviour

HOW CAN THE MATTER BE RESOLVED?

What process should be used:

Self-management

Conciliation, mediation

Investigation

What is the outcome that can be achieved **to stop the unreasonable behaviour?**

Is this resolution satisfactory to the complainant?

PRINCIPLES FOR EMPLOYERS IN MANAGING/RESPONDING TO REPORTS OF WORKPLACE BULLYING

Prompt action

Matters taken seriously

Maintenance of confidentiality

Procedural fairness

Neutrality

Supportive of all parties

No victimisation

Communication of process and outcomes

Comprehensive records