

# Workplace Bullying & Workplace Violence

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## What is Workplace Bullying?

Workplace Bullying can occur wherever people work together. Bullying is not always intentional, sometimes people do not realise their behaviour is harmful to others. Workplace bullying is repeated, unreasonable behaviour directed towards an employee or group of employees that creates a risk to health and safety.

The following types of behaviour, where repeated or occurring as part of a pattern of behaviour, could be considered bullying:

- Intimidation
- Assigning meaningless tasks unrelated to the job
- Giving employees impossible assignments
- Deliberately withholding information vital for effective work performance
- Verbal abuse
- Excluding or isolating employees
- Psychological harassment

Other types of behaviour may also constitute bullying.

## What is Occupational Violence?

Occupational violence is defined as 'any incident where an employee is physically attacked or threatened in the workplace'. The term applies to all forms of physical attacks on employees including:

- Attacking with knives, guns, clubs, guns or another type of weapon.
- Pushing, shoving, tripping, grabbing.
- Any form of indecent physical contact.
- Striking, kicking, scratching, biting, spitting or any other type of direct physical contact.

Many of these incidents are often characterised by factors such as inadequate training, limited supervision, inappropriate management policies and strategies, or a workplace culture that supports such behaviours. This type of violence is often reported and may

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escalate in severity over time. Wishful thinking – that the problem will "go away" – is unlikely to be effective.

## Legal Position

Employers may be liable for workplace bullying practices under a number of laws, including discrimination legislation, occupational health & safety (OHS) legislation, and workers compensation legislation.

Under OHS legislation, employers have 'a duty to provide and maintain so far as is reasonably practicable a working environment that is safe and without risk to health and to eliminate or reduce risks to employees.' This duty extends to psychosocial hazards, including bullying behaviours. Employees also have OHS legal responsibilities regarding how they act towards others within the workplace.

Employee participation is a key element in an effective health and safety management program. Employees are more likely to support actions to improve health and safety if they understand and contribute to those actions. Employee involvement and consultation promotes commitment to health and safety and develops a positive health and safety culture.

A number of publications are available to assist employers to recognise and address bullying issues in the workplace. For instance, 'WorkSafe' Victoria has issued a [Guidance Note on the Prevention of Bullying and Violence at Work.](#)

A failure to abide with standards set out in such guidance material could form a basis of a prosecution under occupational health and safety legislation. Further information can be found in the 'ComCare' publication [Bullying in the Workplace: A guide to prevention for managers and supervisors.](#)

Guidance material has been developed across a number of jurisdictions and additional references are listed at the end of this article.

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## NSW Case Law

A notable case *Naidu V Group 4 Securities Pty Ltd* (2005) NSWSC 618 is an important example of a victim of acute bullying relying on common law to receive compensation for psychological injuries and how employers can identify a number of steps they may take to minimise potential liability. Mr. Naidu was employed by Group 4 Securities as a security guard and was assigned to work at a Nationwide News worksite where he reported to and was under the supervision of Nationwide News.

Between 1992 and 1996 Mr. Naidu's Manager at Nationwide News allegedly subjected him to violent and financial threats, racial and sexual abuse, excessive and unpaid working hours and directed Mr. Naidu to perform personal tasks at the manager's home. As a result Mr. Naidu developed severe depression and post traumatic stress disorder. He incurred significant medical expenses, was unable to work and his marriage disintegrated.

## The Decision

Justice Adams concluded that over a period of almost five years, Mr. Naidu was subjected to a level of bullying that amounted to "brutal, demeaning abuse". Damages were apportioned at 35 percent for Group 4 Securities Pty Ltd and 65 percent for Nationwide News. Justice Adams awarded \$1.9 million in damages against Nationwide News. The bulk of this was compensation for Mr. Naidu's past and future medical expenses and income lost from his inability to work.

He also awarded exemplary damages of \$150,000 against Nationwide News, given that they had direct knowledge of the bullying and failed to act. Exemplary damages, as their name suggests, are intended to punish the wrongdoer and deter future misconduct by making an example of a particular defendant. Justice Adams sent a strong signal concerning the significance the court attaches to employers' responsibility to protect employees from abuse of this form and magnitude.

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## Landmark bullying conviction a first for Victoria

For the first time WorkSafe has successfully prosecuted verbal bullying under Victoria's Occupational Health and Safety Act. An employee was convicted and fined \$10,000 in the Ballarat Magistrates court on two counts relating to intimidating co-workers and for failing to take care for the health and safety of others in the workplace. The Court heard that a radio announcer for Radio Ballarat at the time of the incidents in 2002 and 2003 had, on ten occasions, allegedly subjected fellow employees to verbal abuse and threats of violence while at work.

It was also alleged that an employee was physically assaulted. While workers have, in the past been prosecuted for physical violence in the workplace, this is the first time a worker has been convicted on allegations of intimidating co-workers.

Magistrate James Mornane said the "explosive manner in which the radio announcer acted towards other employees was completely inappropriate". He said the incidents were serious, repetitive and extended over a period of time and resulted in abused workmates taking time off, being afraid, and not wanting to come back to work. He said in one case a woman would not leave her office if the radio announcer was nearby.

Radio Ballarat was also charged with failing to provide a safe workplace for its employees.

## The Strategic Proactive Approach

Gaye Cameron & Associates have recently assisted organisations to effectively manage bullying in the workplace by developing an assessment methodology to identify strengths and weaknesses in relation to current management processes. The assessment methodology can be applied across all levels of the organisation and encompasses nine key performance requirements which contain detailed questions in relation to workplace practices. These include:

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- **Senior Management Commitment:** a demonstrated commitment from senior management and their proactive involvement in bullying prevention.
- **Communication through consultation:** the extent to which the organisation communicates and consults with employees and encourages the participation of employees at all levels in the development of prevention initiatives.
- **Promoting awareness:** the manner in which the organisation promotes awareness of bullying as an issue in the workplace using a variety of strategies.
- **Policy & procedures:** the organisation has an up-to-date Bullying policy, authorised by senior management that clearly addresses the issue.
- **Organisational change management:** the extent to which the organisation has established/implemented change management processes, e.g. employee consultation and timely information.
- **Workforce characteristics:** the manner in which the organisation identifies diversity in their workplace and how they promote and manage integration of these groups.
- **Reporting & complaint handling:** how the organisation handles bullying complaints, grievances and incident reports.
- **Training:** employees who supervise others should have developed supervisory skills and are able to recognise, and manage bullying (and harassment issues) in the workplace.
- **Risk Management:** the organisation documents its methodology to reduce the risks of bullying incidents through hazard identification, risk assessments and the development of risk control measures.

Gaps in an organisation's policies and processes are able to be identified and strategies and action plans to meet obligations can subsequently be developed and implemented.

## What can employers do to establish an effective risk management plan for bullying?

Early intervention strategies that help minimise the impact of workplace bullying incidents facilitate a process that should be developed and communicated widely across an organisation for an anti-bullying program to be successful. Risk controls for implementation also need to reflect the degree of risk that has been identified.

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The following are examples of possible control strategies:

- Actively promoting supportive leadership programs.
- Undertaking positive workplace culture initiatives.
- Developing change management processes that include consultation with employees prior to workplace changes.
- Developing clear guidelines and procedures for complaint handling.
- Responding quickly and effectively when complaints about bullying are made or bullying behaviour is otherwise drawn to the employer's attention.
- Widely communicating the programs and initiatives being developed to all levels of the organisation.
- Implement policies specifically prohibiting bullying.
- Ensuring management is aware of its responsibilities to monitor and enforce the policies.
- Ensuring these policies are communicated to all employees, including the consequences of failure to comply. The policies should require employees to report incidences of workplace bullying.

An organisation should be aiming to achieve continuous improvement and maintaining a positive culture that does not tolerate bullying behaviour. Risk control measures implemented should be monitored and reviewed to ensure the control measures are adequate in terms of being effective in reducing the risk of workplace bullying.

## Our References

- [Dealing with Workplace Bullying - A Practical Guide for Employees and Preventing Workplace Bullying - A Practical Guide for Employers](#)
- [AI Crime reduction matters, No. 10: Prevention of Occupational Violence](#)
- [Occupational Violence](#)
- [Guidance Note on the Prevention of Bullying and Violence at Work](#)
- [Bullying in the Workplace: A guide to prevention for managers and supervisors](#)
- [Beyond Bullying Website – http://www.beyondbullying.com.au](http://www.beyondbullying.com.au)