

GUIDE FOR PREVENTING AND RESPONDING TO WORKPLACE BULLYING

May 2016

OIR Disclosure Log



safe work australia

Safe Work Australia is an Australian Government statutory agency established in 2009. Safe Work Australia consists of representatives of the Commonwealth, state and territory governments, the Australian Council of Trade Unions, the Australian Chamber of Commerce and Industry and the Australian Industry Group.

Safe Work Australia works with the Commonwealth, state and territory governments to improve work health and safety and workers' compensation arrangements. Safe Work Australia is a national policy body, not a regulator of work health and safety. The Commonwealth, states and territories have responsibility for regulating and enforcing work health and safety laws in their jurisdiction.

ISBN 978-1-74361-243-9 [PDF]

ISBN 978-1-74361-244-6 [DOCX]



Creative Commons

Except for the logos of Safe Work Australia, SafeWork SA, Workplace Standards Tasmania, WorkSafe WA, Workplace Health and Safety QLD, NT WorkSafe, SafeWork NSW, Comcare and WorkSafe ACT, this copyright work is licensed under a Creative Commons Attribution-Noncommercial 3.0 Australia licence. To view a copy of this licence, visit

<http://creativecommons.org/licenses/by-nc/3.0/au/>

Generally, you are free to copy, communicate and adapt the work for non commercial purposes, as long as you attribute the work to Safe Work Australia and abide by the other licence terms.

Contact information

Safe Work Australia

Email: info@swa.gov.au

Website: www.swa.gov.au



TABLE OF CONTENTS

Guide for preventing and Responding to workplace bullying	1
TABLE OF CONTENTS	3
1 INTRODUCTION	5
1.1 What is workplace bullying?	5
1.2 What is not workplace bullying?	6
Reasonable management action taken in a reasonable way.....	6
Unlawful discrimination and sexual harassment	7
Workplace conflict	7
1.3 How can workplace bullying occur?	7
1.4 Impact of workplace bullying	8
1.5 Who has duties in relation to workplace bullying?	8
Table 1 - Duties in relation to workplace bullying.....	8
1.6 How can the risk of workplace bullying be managed?	9
Consulting workers.....	9
Consulting, co-operating and co-ordinating activities with other duty holders	10
2 PREVENTING WORKPLACE BULLYING	11
2.1 Identifying the potential for workplace bullying	11
2.2 Controlling the risks	12
Management Commitment	12
Set the standard of workplace behaviour.....	13
Develop productive and respectful workplace relationships.....	13
Design safe systems of work.....	14
Implement reporting and response procedures	14
Provide training and information	15
2.3 Monitoring and reviewing	16
3 RESPONDING TO WORKPLACE BULLYING	17
3.1 How to respond to a report of workplace bullying	17
3.2 Principles when responding to reports of workplace bullying	18
Table 2 - Responding to workplace bullying	19

3.3	Balancing confidentiality and transparency	20
	Confidentiality.....	20
	Transparency for the parties involved.....	20
	Transparency for the organisation	21
3.4	Actions after reports of workplace bullying are resolved	21
	Reviewing the systems of work	21
4	INVESTIGATIONS	22
4.1	Who should conduct the investigation?	22
4.2	Informing the parties of the investigation	22
4.3	Outcomes of an investigation	23
5	EXTERNAL AVENUES	25
5.1	Work Health and Safety Regulators	25
5.2	Fair Work Commission	25
6	APPENDIX A – EXAMPLE OF A WORKPLACE BULLYING POLICY	26
7	APPENDIX B – WORKPLACE BULLYING FLOWCHART	28
8	APPENDIX C – FURTHER INFORMATION	29

OIR Disclosure Log

1 INTRODUCTION

Workplace bullying is a risk to health and safety. 'Health' is defined in the WHS Act as both physical and psychological health. Failure to take steps to manage the risk of workplace bullying can result in a breach of Work Health and Safety (WHS) laws. Workplace bullying can occur wherever people work together and in all types of workplaces. It is best dealt with by taking steps to prevent it from occurring and responding quickly if it does occur. The longer the bullying behaviour continues, the harder it becomes to repair working relationships and the greater the risk is to health and safety.

This guide provides information for persons conducting a business or undertaking (PCBU) on how to manage the risks of workplace bullying as part of meeting their duties under the WHS laws.

It includes guidance on what workplace bullying is, how it can be prevented and how to respond to reports.

This is the second version of this guide. It will continue to be revised as strategies for preventing and responding to workplace bullying evolve.

Practical guidance for workers on how to deal with workplace bullying is available in *Workplace Bullying – A Worker's Guide*.

1.1 What is workplace bullying?

Workplace bullying can adversely affect the psychological and physical health of a person. Workplace bullying is a psychological hazard that has the potential to harm a person, and it also creates a psychological risk as there is a possibility that a person may be harmed if exposed to it. If effective control measures are put in place to address and resolve workplace issues early, a workplace can minimise the risk of workplace bullying and prevent it from becoming acceptable behaviour in the workplace.

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

Repeated behaviour refers to the persistent nature of the behaviour and can involve a range of behaviours over time.

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

Examples of behaviour, whether intentional or unintentional, that may be workplace bullying if they are **repeated, unreasonable and create a risk to health and safety** include but are not limited to:

- abusive, insulting or offensive language or comments
- aggressive and intimidating conduct
- belittling or humiliating comments
- victimisation

- practical jokes or initiation
- unjustified criticism or complaints
- deliberately excluding someone from work-related activities
- withholding information that is vital for effective work performance
- setting unreasonable timelines or constantly changing deadlines
- setting tasks that are unreasonably below or beyond a person's skill level
- denying access to information, supervision, consultation or resources to the detriment of the worker
- spreading misinformation or malicious rumours, and
- changing work arrangements such as rosters and leave to deliberately inconvenience a particular worker or workers.

If the behaviour involves violence, for example physical assault or the threat of physical assault, it should be reported to the police.

1.2 What is not workplace bullying?

A single incident of unreasonable behaviour is not workplace bullying, however it may be repeated or escalate and so should not be ignored.

Reasonable management action taken in a reasonable way

A PCBU may take reasonable management action to effectively direct and control the way work is carried out. It is reasonable for managers and supervisors to allocate work and give feedback on a worker's performance. These actions are not workplace bullying if they are carried out in a lawful and reasonable way, taking the particular circumstances into account.

A manager exercising their legitimate authority at work may result in some discomfort for a worker. The question of whether management action is reasonable is determined by considering the actual management action rather than a worker's perception of it, and where management action involves a significant departure from established policies or procedures, whether the departure was reasonable in the circumstances.

What is reasonable would be determined by an objective test through a court of law. However, a court could consider the following examples as reasonable management action:

- setting realistic and achievable performance goals, standards and deadlines
- fair and appropriate rostering and allocation of working hours
- transferring a worker to another area or role for operational reasons
- deciding not to select a worker for a promotion where a fair and transparent process is followed
- informing a worker about unsatisfactory work performance in an honest, fair and constructive way
- informing a worker about unreasonable behaviour in an objective and confidential way
- implementing organisational changes or restructuring, and
- taking disciplinary action, including suspension or terminating employment where appropriate or justified in the circumstances.

Unlawful discrimination and sexual harassment

Unreasonable behaviour may involve unlawful discrimination or sexual harassment which, by itself, is not bullying.

Discrimination on the basis of a protected trait in employment may be unlawful under anti-discrimination, equal employment opportunity, workplace relations and human rights laws. Generally, unlawful discrimination is where a person or group of people are treated unfairly or less favourably than others because they have a particular characteristic or belong to a particular group of people. Protected traits include race, colour, sex, sexual orientation, age, physical or mental disability, marital status, family or carer's responsibilities, pregnancy, religion, political opinion, national extraction or social origin. For example, it would be unlawful for an employer not to employ or promote a woman because she is pregnant or may become pregnant.

The WHS Act prohibits a person from engaging in 'discriminatory conduct' for a 'prohibited reason'. For example, it is unlawful for a person to terminate the employment of a worker for raising health and safety concerns or performing legitimate safety-related functions in relation to their workplace.

Generally, sexual harassment includes unwelcome sexual advances, requests for sexual favours or other unwelcome conduct of a sexual nature that could be expected to make a person feel offended, humiliated or intimidated.

Advice and assistance on how to deal with discrimination or sexual harassment can be provided by:

- the Australian Human Rights Commission
- the Fair Work Commission, and
- state and territory anti-discrimination, equal opportunity and human rights agencies.

Contact details are provided in Appendix C.

Workplace conflict

Differences of opinion and disagreements are generally not workplace bullying. People can have differences or disagreements in the workplace without engaging in repeated, unreasonable behaviour that creates a risk to health and safety. Some people may also take offence at action taken by management, but that does not mean that the management action in itself was unreasonable. However, in some cases conflict that is not managed may escalate to the point where it becomes workplace bullying.

1.3 How can workplace bullying occur?

Workplace bullying can be carried out in a variety of ways including through verbal or physical abuse, through email, text messages, internet chat rooms, instant messaging or other social media channels. In some cases workplace bullying can continue outside of the workplace.

Workplace bullying can be directed at a single worker or group of workers and be carried out by one or more workers. It can occur:

- sideways between workers
- downwards from supervisors or managers to workers, or
- upwards from workers to supervisors or managers.

Workplace bullying can also be directed at or perpetrated by other people at the workplace such as clients, patients, students, customers and members of the public.

1.4 Impact of workplace bullying

Workplace bullying can be harmful to the person experiencing it and to those who witness it. The effects will vary depending on individual characteristics as well as the specific situation and may include one or more of the following:

- distress, anxiety, panic attacks or sleep disturbance
- physical illness, for example muscular tension, headaches, fatigue and digestive problems
- loss of self-esteem and self-confidence
- feelings of isolation
- deteriorating relationships with colleagues, family and friends
- negative impact on work performance, concentration and decision making ability
- depression, and
- thoughts of suicide.

Workplace bullying can also have a negative impact on the work environment and incur direct and indirect costs for a business, including:

- high staff turnover and associated recruitment and training costs
- low morale and motivation
- increased absenteeism
- lost productivity
- disruption to work when complex complaints are being investigated
- costs associated with counselling, mediation and support
- costly workers' compensation claims or legal action, and
- damage to the reputation of the business.

1.5 Who has duties in relation to workplace bullying?

Everyone at the workplace has a work health and safety duty and can usually help prevent workplace bullying. The following table sets out the various duties in relation to workplace bullying.

Table 1 - Duties in relation to workplace bullying

Who	Duties
Person conducting a business or undertaking (section 19)	<ul style="list-style-type: none"> • A PCBU has the primary duty of care under the WHS Act to ensure, so far as is reasonably practicable, that workers and other persons are not exposed to health and safety risks arising from work carried out as part of the business or undertaking. <p>This duty includes, so far as is reasonably practicable:</p> <ul style="list-style-type: none"> • providing and maintaining a work environment that is without risks to health and safety • providing and maintaining safe systems of work • monitoring the health and safety of workers and the conditions at the workplace to ensure that work related illnesses and injuries are prevented, and

	<ul style="list-style-type: none"> providing appropriate information, instruction, training or supervision to workers and other persons at the workplace to allow work to be carried out safely.
Officers (section 27)	Officers, such as company directors, must exercise due diligence to ensure the business or undertaking complies with the WHS Act and Regulations. This includes taking reasonable steps to ensure the business or undertaking has and uses appropriate resources and processes to eliminate or minimise risks associated with workplace bullying.
Workers (section 28)	Workers including employees, contractors, subcontractors, labour hire employees, outworkers, apprentices or volunteers have a duty to: <ul style="list-style-type: none"> take reasonable care for their own health and safety while at work take reasonable care that their acts or omissions do not adversely affect the health and safety of other persons comply, so far as the worker is reasonably able, with any reasonable instruction given by the PCBU, and co-operate with any reasonable policies and procedures of the PCBU, for example a workplace bullying policy.
Others (section 29)	Other persons at a workplace, such as visitors and clients, have similar duties to that of a worker and must: <ul style="list-style-type: none"> take reasonable care for their own health and safety while at work take reasonable care that their acts or omissions do not adversely affect the health and safety of workers or other persons, and comply, so far as the person is reasonably able, with any reasonable instruction given by the PCBU.

1.6 How can the risk of workplace bullying be managed?

Health and safety risks in a workplace must be eliminated so far as is reasonably practicable. If this is not possible, the risks must be minimised so far as is reasonably practicable. The risk of workplace bullying can be minimised by taking a pro-active approach as described in Chapter 2 that involves:

- early identification of unreasonable behaviour and situations likely to increase the risk of workplace bullying occurring
- implementing control measures to manage the risks, and
- monitoring and reviewing the effectiveness of the control measures.

Further guidance on risk management is provided in the [Code of Practice: How to Manage Work Health and Safety Risks](#).

Consulting workers

Section 47: The person conducting the business or undertaking must consult, so far as is reasonably practicable, with workers who carry out work for the business or undertaking who are (or are likely to be) directly affected by a work health and safety matter.

Section 48: If the workers are represented by a health and safety representative, the consultation must involve that representative.

Consultation can include sharing information, giving workers a reasonable opportunity to express their views and taking those views into account before making decisions on work health and safety matters that directly affect them.

Consultation enables workers to have input in developing policies and procedures for workplace bullying that are best suited to the needs of the business or undertaking. Effective consultation can also help raise awareness of workplace bullying. Consultation with workers is required when:

- making decisions about measures to control the risks of workplace bullying, including policies and procedures for preventing and responding to workplace bullying
- making decisions about procedures for providing information and training on workplace bullying, and
- proposing changes that may affect the health and safety of workers.

Consultation can be conducted in various ways to suit the nature and size of the business

Consulting, co-operating and co-ordinating activities with other duty holders

Section 46: If more than one person has a duty in relation to the same matter, each person with the duty must, so far as is reasonably practicable, consult, co-operate and co-ordinate activities with all other persons who have a work health or safety duty in relation to the same matter.

In some situations there may be a risk of a worker being bullied by a worker of another business.

For example labour hire workers may be exposed to workplace bullying by workers in a host business and vice versa. Both the on-hire company and the host business have a duty to manage the risk of workplace bullying. The businesses must consult and co-operate with each other on the standards of behaviour expected in the workplace including workplace bullying policies and procedures. They should develop an agreed approach for reporting and investigating potential workplace bullying incidents.

Further guidance on consultation is in the [Code of Practice: Work health and safety consultation, co-operation and co-ordination](#).

2 PREVENTING WORKPLACE BULLYING

There is a risk of workplace bullying wherever workers have contact with other people, including co-workers, supervisors, clients and other visitors to the workplace. There may not be obvious signs of bullying at the workplace but this does not mean it is not occurring. Workplace bullying is best dealt with by taking steps to prevent it before it creates a risk to health and safety.

2.1 Identifying the potential for workplace bullying

Processes that may help identify workplace bullying or the potential for it to occur include:

- regular consultation with workers and, where they exist, health and safety representatives and health and safety committees, including discussions aimed at finding out if bullying is occurring or if there are factors likely to increase the risk of workplace bullying—for some businesses conducting an anonymous survey may be useful
- seeking feedback when workers leave the business, for example holding exit interviews
- seeking regular feedback from managers, supervisors or other internal and external parties
- monitoring incident reports, workers compensation claims, patterns of absenteeism, sick leave, staff turnover and records of grievances to establish regular patterns or sudden unexplained changes, and
- recognising changes in workplace relationships between workers, customers and managers.

Research indicates that there are a number of factors which may increase the risk of workplace bullying occurring. The following characteristics could help alert to potential WHS risks in the workplace:

- presence of work stressors –
 - high job demands
 - limited job control
 - organisational change, such as restructuring or significant technological change
 - role conflict and ambiguity
 - job insecurity
 - an acceptance of unreasonable workplace behaviours or lack of behavioural standards, and
 - unreasonable expectations of clients or customers.
- leadership styles –
 - autocratic behaviour that is strict and directive and does not allow workers to be involved in decision making
 - behaviour where little or no guidance is provided to workers or responsibilities are inappropriately and informally delegated to subordinates, and

- abusive and demeaning behaviour that may include inappropriate or derogatory language, or malicious criticism and feedback.
- systems of work –
 - lack of resources
 - lack of training
 - inappropriate work scheduling, shift work and poorly designed rostering, and
 - unreasonable performance measures or timeframes.
- *poor workplace relationships* –
 - poor communication
 - isolation
 - low levels of support, or
 - work group hostility.
- *workforce characteristics* – groups of workers that may be more at risk of being exposed to workplace bullying can include:
 - young workers
 - apprentices/trainees
 - workers in a minority group because of ethnicity, religion, disability, gender or sexual preferences
 - casual workers
 - new workers
 - injured workers and workers on return to work plans
 - piece workers, and
 - volunteers, work experience students and interns.

2.2 Controlling the risks

The risk of workplace bullying can be minimised so far as is reasonably practicable by creating and promoting a positive work environment where everyone is treated fairly and with respect. A combination of control measures aimed at the organisational level and at individual behaviours should be considered.

Management Commitment

Demonstrated senior management commitment in identifying, preventing and responding to workplace bullying is one of the key factors for preventing unreasonable behaviour and managing psychological risks. Effective leaders model their organisation's values and standards for workplace behaviour through their own conduct. This can send a clear message to workers that the organisation is serious about preventing workplace bullying and contribute to a positive workplace culture where unreasonable behaviour is not tolerated.

Managers can demonstrate commitment in various ways including by:

- modelling respectful behaviours at all times
- developing and implementing a bullying policy which clearly identifies the expected behaviours and consequences of not complying

- dealing with unreasonable behaviour as soon as they become aware of it
- ensuring that reports of bullying are taken seriously and properly investigated, and
- consulting with workers.

Set the standard of workplace behaviour

A workplace can set and enforce clear standards of behaviour through a code of conduct or a workplace policy that outlines what is and is not appropriate behaviour and what action will be taken to deal with unacceptable behaviour. It can apply to all behaviours that occur in connection with work, even if they occur outside normal working hours. The standards of behaviour should also include a reference to reasonable management action.

The advantage of this approach is that unreasonable behaviours can be addressed before they escalate into workplace bullying.

Implement a workplace bullying policy

A policy designed to prevent workplace bullying may be a stand-alone policy or incorporated into a broader code of conduct or work health and safety policy. The policy should be set out in writing, be developed in consultation with workers and should include:

- a statement that the organisation is committed to preventing workplace bullying as part of providing a safe and healthy work environment
- the definition of workplace bullying (as described in this guide)
- the standard of behaviour expected from workers and others in the workplace
- a statement, where relevant, that the policy extends to communication through email, text messaging and social media
- the process for reporting and responding to incidents of unreasonable behaviour
- the process for managing reports of workplace bullying, including vexatious reports, and
- the consequences of not complying with the policy.

An example of a workplace bullying policy is at Appendix A. Implementing a policy in a small business may simply involve the business owner advising workers and reminding them when necessary that bullying behaviour is not tolerated in the workplace, what to do if it does occur and what action will be taken.

To be effective, the policy should be easily accessible and consistently applied. It should be communicated and promoted through notice boards, the intranet, team meetings and by managers discussing the policy with their staff.

Develop productive and respectful workplace relationships

Good management practices and effective communication are important in creating a workplace environment that discourages workplace bullying. Examples include:

- promote positive leadership styles by providing training for managers and supervisors
- mentor and support new and poor performing managers and workers
- facilitate teamwork, consultation and co-operation
- ensure that reasonable management actions are clearly defined, articulated and understood by workers and supervisors, and
- ensure supervisors act in a timely manner on unreasonable behaviour they see or become aware of.

Dealing with external parties

Where there is a risk of workplace bullying by other people, for example clients, the following control measures may be considered:

- communicate the expected standard of behaviour through a code of conduct or in contracts and agreements
- empower workers to refuse or suspend service if other people fail to comply with the expected standard of behaviour
- provide support to workers who are exposed to unreasonable behaviour, and
- implement control measures to eliminate or minimise the risk of workplace violence.

Design safe systems of work

The following work design control measures may reduce the risk of workplace bullying:

- clearly define jobs and seek regular feedback from workers about their role and responsibilities
- provide workers with the resources, information and training they need to carry out their tasks safely and effectively
- review and monitor workloads and staffing levels to reduce excessive working hours
- provide access to support mechanisms, such as employee assistance programs, particularly during busy and stressful work periods, and
- provide effective communication throughout workplace change, including restructuring or downsizing.

Implement reporting and response procedures

Workplace bullying behaviours should not be tolerated and early reporting of these behaviours should be encouraged.

If a worker considers they are being bullied they will be more likely to report it if they know there is a transparent reporting process in place and that it will be followed as soon as a report is received.

Reporting can be encouraged by:

- making it clear that victimisation of those who make reports will not be tolerated
- ensuring consistent, effective and timely responses to reports, and
- being transparent about dealing with workplace bullying by regularly providing information on the number of reports made, how they were resolved and what actions were taken—see section 3.3 on balancing confidentiality and transparency.

It is important for those who experience or witness workplace bullying to know who they can talk to in the business, that a report will be taken seriously, and that confidentiality will be maintained. Implementing effective response procedures should ensure that reports of workplace bullying are dealt with in a consistent and reasonable way. These procedures should be used each time a report of bullying is made. They should also provide flexibility to fit the different circumstances of each report, and be designed to suit the size and structure of the organisation. An effective procedure should:

- be in plain English and if necessary available in other languages
- outline how issues will be dealt with when a report of workplace bullying is made or received including broad principles to ensure the process is objective, fair and transparent—see section 3.2

- clearly state the roles of individuals such as managers and supervisors, and
- identify external avenues available to workers where reports of workplace bullying have been unable to be resolved internally.

A procedure must be developed in consultation with workers and health and safety representatives (if any).

Provide training and information

Training is a significant factor in preventing and managing workplace bullying, particularly to enable early intervention in workplace conflict before it potentially escalates into bullying. Workers including managers and supervisors should be aware of their roles in relation to preventing and responding to workplace bullying and have the appropriate skills to take action where necessary.

Training

Induction training for workers should include information on:

- the standards of behaviour expected in the workplace including the use of social media if relevant
- how workplace bullying should be reported and how such reports are managed, and
- where to go internally and externally for more information and assistance.

Training for workers can be provided in various ways including through online courses, podcasts and face-to-face training. A training program should cover:

- awareness of the impact certain behaviours can have on others
- the work health and safety duties and responsibilities relating to workplace bullying
- measures used to prevent workplace bullying from occurring
- how individuals can respond to workplace bullying
- how to report workplace bullying, and
- how workplace bullying reports will be responded to including timeframes.

Managers and supervisors need the skills to be able to identify psychological hazards and put the right control measures in place. They should be trained in how to prevent and respond to workplace bullying, and in skills that will help develop productive and respectful workplace relationships, for example training that covers:

- communicating effectively and engaging workers in decision-making
- managing difficult conversations and providing constructive feedback both formally and informally
- conflict management
- effectively managing workloads and performance, and
- diversity and tolerance.

Training should be tailored to meet the needs of workers and suit the nature of the workplace and the workforce, for example levels of literacy.

Providing workers with information

Information about workplace bullying can be given to workers in a number of ways including:

- talking directly with workers by holding team meetings, tool box talks or speaking one-on-one with them at the beginning of the work day
- handing out company newsletters or pamphlets
- including information sheets in payslips
- displaying posters around the workplace, or
- through email messages or intranet announcements.

2.3 Monitoring and reviewing

Once control measures have been implemented they should be monitored and reviewed to ensure they are effective in managing the risk of workplace bullying. If the control measures do not work the situation should be analysed further to determine how to fix the problem.

Monitoring should be undertaken through regular scheduled discussions at management meetings, staff meetings and health and safety committee meetings. A standing agenda item at these meetings may help to ensure that regular monitoring occurs. Regular monitoring of the incidence of grievances, staff turnover and use of employee assistance programs is also useful. Bullying incident reports and findings should be reviewed to identify any trends.

Policies and procedures should be reviewed regularly. A review must be carried out in consultation with workers and their health and safety representatives (if any). A review can be conducted at any time but it is recommended it is conducted at least:

- when an instance of workplace bullying has been substantiated
- at the reasonable request of a health and safety representative or a health and safety committee
- when new or additional information or research about workplace bullying becomes available
- where a review of records indicates reports of workplace bullying are increasing, or
- according to a scheduled review date.

Information for a review can be obtained from the same sources used when identifying the potential for workplace bullying, for example:

- confidential surveys
- exit interviews, or
- records of sick leave.

Gathering evidence to answer the following questions may help in a review:

- Are supervisors and managers trained to recognise and deal with workplace bullying? Has the training been effective?
- Has awareness been raised amongst staff about workplace bullying?
- Do workers speak up about unreasonable behaviour?
- Has there been a change in workplace morale and behaviour over time?
- Are workplace bullying policies being consistently enforced?
- Are reports of workplace bullying being responded to quickly and effectively?

Results of reviews and suggested improvements should be reported to managers, board members and where applicable health and safety representatives and health and safety committees.

3 RESPONDING TO WORKPLACE BULLYING

Workplace bullying may be identified and reported by those subject to the behaviour or by witnesses. A person can raise or report workplace bullying verbally or in writing by:

- informing a supervisor, manager or business owner
- informing their health and safety representative or union representative and asking them to make a report on your behalf, or
- using other established reporting procedures.

A manager or supervisor may also identify a risk of workplace bullying through changes in the workplace, for example increased absences, changes in workers' performance or low staff morale.

For ease of reading, references to 'reports of workplace bullying' in this Chapter are intended to encompass all of the ways in which bullying might be identified, raised or reported including verbally and in writing.

3.1 How to respond to a report of workplace bullying

Workplace bullying is best managed by responding as soon as possible after suspecting or becoming aware there is a problem. Responses to reports of workplace bullying will vary depending on the situation, the number of parties involved and the size and structure of the workplace.

In the first instance, attempts should be made to resolve the situation within the workplace, regardless of whether or not workplace bullying has occurred. Where internal processes are not effective, complainants may refer the complaint to external agencies. A flowchart to assist in applying the information in this Guide is provided at Appendix B.

Consider the following when responding to workplace bullying:

- **Is the behaviour bullying or not?**
The type of behaviour occurring may need to be determined to develop an appropriate response. For example, if the behaviour involves physical violence or what appears to be unlawful discrimination or sexual harassment, whether it is repeated or not, it will require a different response to workplace bullying.
- **Does the situation warrant measures to minimise the risk of ongoing harm?**
If necessary interim measures should be taken to minimise the risk to health or safety. This may involve temporarily reassigning tasks, separating the parties involved or granting leave.
- **Do I have a clear understanding of the issues?**
Seek additional information to ensure a clear understanding of the parties involved and the specific behaviour or behaviours thought to be unreasonable. This may be achieved by speaking to others who may have observed or participated in the behaviour.
- **Do I need additional information or assistance?**
People with specialist roles in the organisation or external specialists may be able to provide information, help identify the issues and develop potential responses to address the

behaviour. Additionally, an individual may wish to seek information or assistance that allows for objectivity and affords all parties due process.

- **Can the matter be safely resolved between the parties or at a team level?**
In some situations it may be possible to use a no-blame conciliatory approach to help individuals reach an outcome that will ensure the unreasonable behaviour ceases. A proposed resolution should be discussed with the person who reported the behaviour to check they are comfortable with it.
- **Should the matter be progressed to an investigation?**
Depending on the severity or complexity, some matters may need to be investigated. Chapter 4 provides further guidance on the investigation process.

A person may choose to resolve issues by self-managing the situation. This usually involves telling the other person the unreasonable behaviour is not welcome and asking for it to stop. If an individual does not feel safe or confident with approaching the other person they can seek the assistance of a supervisor or manager, human resources officer, their health and safety representative or union representative.

Anyone asked to act on behalf of an individual should use a confidential and non-confrontational approach.

In most circumstances, the person who is alleged to have perpetrated the bullying behaviour must be notified as soon as possible of the report and be given a chance to explain his or her version of events. They should be treated as innocent until the reports are proven to be true.

Providing training to workers about appropriate standards, expected behaviours and workplace bullying may help workers understand how to deal with issues such as conflict, confidentiality and related issues.

The role of supervisors and line managers

Supervisors and line managers should intervene when they observe unreasonable behaviour in their work teams or if they are requested to intervene by a member of their team. If a supervisor or manager approaches an individual directly about their behaviour they should record the actions taken. Supervisors should know how and when it is appropriate to seek advice or to escalate an issue.

The role of health and safety representatives

Health and safety representatives can raise issues on behalf of workers in their work group. They can also give advice to workers in their work group on how to approach an issue. The health and safety representative is not responsible for trying to resolve the matter.

3.2 Principles when responding to reports of workplace bullying

Effectively responding to issues when they are raised can stop the situation happening again and reinforce to workers that workplace bullying is treated seriously and consistently by the organisation. The following table sets out the principles that should be applied when handling reports of workplace bullying.

Table 2 - Responding to workplace bullying

Response	Measure
Act promptly	Reports should be responded to quickly, reasonably and within established timelines. Relevant parties should be advised of how long it will likely take to respond to the report and should be kept informed of the progress to provide reassurance the report has not been forgotten or ignored.
Treat all matters seriously	All reports should be taken seriously and assessed on their merits and facts.
Maintain confidentiality	The confidentiality of all parties involved should be maintained. Details of the matter should only be known by those directly concerned in the complaint or in resolving it.
Ensure procedural fairness	<p>The person who is alleged to have perpetrated the bullying behaviour should be treated as innocent unless the reports are proven to be true. Reports must be put to the person they are made against and that person must be given a chance to explain his or her version of events.</p> <p>The person reporting the bullying should be respectfully listened to and their report treated as credible and reliable unless conclusively proven otherwise.</p> <p>The opportunity to have decisions reviewed should be explained to all parties.</p>
Be neutral	Impartiality towards everyone involved is critical. This includes the way people are treated throughout the process. The person responding to the report should not have been directly involved and they should also avoid personal or professional bias.
Support all parties	Once a report has been made, the parties involved should be told what support is available, for example employee assistance programs, and allowed a support person to be present at interviews or meetings e.g. health and safety representative, union representative or work colleague.
Do not victimise	It is important to ensure anyone who reports workplace bullying is not victimised for doing so. The person accused of workplace bullying and witnesses should also be protected from victimisation.
Communicate process and outcomes	All parties should be informed of the process, how long it will take and what they can expect will happen during and at the end of the process. Should the process be delayed for any reason, all parties should be made aware of the delay and advised when the process is expected to resume. Finally, reasons for actions that have been taken and in some circumstances not taken should be explained to the parties.

Response	Measure
Keep records	<p>The following should be recorded:</p> <ul style="list-style-type: none"> • the person who made the report • when the report was made • who the report was made to • the details of the issue reported • action taken to respond to the issue, and • any further action required – what, when and by whom. <p>Records should also be made of conversations, meetings and interviews detailing who was present and the agreed outcomes.</p>

3.3 Balancing confidentiality and transparency

Both confidentiality and transparency are essential to maintain the integrity of the policies and procedures used to manage workplace bullying.

Confidentiality

Failure to maintain confidentiality can lead to workers mistrusting the reporting process. Confidentiality should be considered in what information, how and to who it is communicated. To limit breaches of confidentiality, measures include:

- discussing sensitive or private information with third parties only if they need to know and with the permission of those involved
- secure storage, coding and access to files and documentation on the workplace bullying report
- conducting discussions in a private location, and
- choosing appropriate times or locations for printing, copying or disposing of materials.

It is important the parties involved in the complaint are instructed:

- to maintain confidentiality of the materials presented, discussed or submitted, and
- on how to maintain confidentiality, for example who they can and cannot speak to about the matter.

Ensuring confidentiality should not prevent the parties involved from seeking support, such as through an employee assistance program, or bringing along a support person to interviews or meetings.

Transparency for the parties involved

Transparency of the report handling process promotes accountability. It allows the parties involved to be fully informed about how the report is going to be handled. The parties should be made aware of:

- the steps and estimated timeframes for resolving or investigating the workplace bullying report
- the name and details of a contact person
- progress reports and an explanation for delays

- the outcome of actions taken and the reasons for decisions made, and
- the right of review if the parties are not satisfied with the outcome.

Transparency for the organisation

An organisation can show it is committed to managing the risk of workplace bullying by highlighting activities that have been or will be undertaken to resolve workplace bullying. Generic information on workplace bullying reports and how these were handled can be provided to workers or to external parties, for example through public reports.

Information that could be considered for disclosure may include:

- the number of reports received and the number of reports resolved
- time taken to complete investigations
- whether investigations were conducted internally or externally, and
- the general nature of the outcomes.

This helps to generate confidence that the organisation is serious about preventing bullying.

3.4 Actions after reports of workplace bullying are resolved

After a report of workplace bullying is resolved there should be a follow-up review to check the health and safety of the parties involved, to offer support and to find out whether actions taken to stop the workplace bullying have been effective. These may include:

- offering professional counselling
- providing mentoring and support from a senior manager
- providing training and relevant professional or skills development
- redressing inequality resulting from the bullying behaviour
- re-instating lost entitlements resulting from the bullying behaviour e.g. re-crediting leave
- monitoring behaviours of the affected work group, or
- organising work in another area of the organisation.

Reviewing the systems of work

After addressing a specific case of workplace bullying, the work situation should also be examined to identify and address any underlying factors that may increase the risk of workplace bullying occurring. For example review the systems of work including workloads and staffing levels and the effectiveness of procedures and training.

Keeping records on reports of workplace bullying and actions taken as recommended in section 3.2 can be useful in analysing trends to help prevent bullying from recurring in the future. Records must remain confidential.

4 INVESTIGATIONS

Workplace bullying reports of a serious or complex nature should always be investigated. Serious bullying reports may include those:

- covering a long period of time
- involving multiple workers
- where the alleged behaviours are in dispute
- involving alleged bullying by senior managers, or
- where other processes have not been able to resolve the matter.

The aim of an investigation is to look into the circumstances of the matter and work out what has occurred.

Once it has been determined that an investigation will be undertaken, the PCBU should decide on the scope and process including:

- who will conduct the investigation
- details of the behaviour that will be investigated
- how the investigation will be conducted and likely timeframes
- what the investigation aims to achieve
- what support needs to be provided to the parties involved, and
- how outcomes of the investigation will be communicated.

The principles outlined in section 3.2 should be applied when a report of workplace bullying is being investigated.

4.1 Who should conduct the investigation?

Investigations should always be carried out by an unbiased person who has experience and knowledge in dealing with workplace bullying matters.

If being led internally it is important to ensure all parties have confidence in the neutrality of the investigator and they are suitably qualified to lead the investigation. If this is not possible an external investigator is recommended. The investigator should be impartial, objective and focus on whether a report of workplace bullying is substantiated or not, or if there is insufficient information to decide either way.

4.2 Informing the parties of the investigation

To ensure the investigation process is conducted in a fair, objective and timely way it is important to inform the parties about:

- who is conducting the investigation

- conflicts of interest—these should be declared before the investigation proceeds
- their obligations and the obligations of the investigator regarding confidentiality
- their right to seek independent advice and representation
- the expected timeframes of the investigation
- how the issue will be investigated e.g. interviews with the parties and witnesses or viewing documentary evidence
- who will receive copies of statements and records of interviews (if obtained)
- who can be present at interviews
- what support mechanisms will be in place for each party, including any interim measures to ensure the health and safety of the parties during the investigation process, and
- possible outcomes (e.g. disciplinary action) and rights of appeal and review.

4.3 Outcomes of an investigation

Where the investigator is not the decision-maker, at the end of an investigation, the investigator should provide an objective report to the PCBU who will then use the findings and recommendations of the investigation to make a decision. The report should outline:

- the report that was investigated
- the investigation process
- all relevant evidence (including who was interviewed), and
- the findings of the investigation as to whether the alleged bullying occurred.

The findings of the investigation should then be communicated to the parties involved.

If a report is substantiated, actions should be taken consistent with relevant policies and procedures. The actions may be different in each situation and depend on the severity of the workplace bullying, the size and structure of the business. Such actions may include:

- directing the person to cease the behaviour and gaining a commitment that the behaviour will not be repeated and monitoring this over time
- providing information to workers to raise the awareness of workplace bullying and standards of behaviour expected
- providing training or coaching e.g. leadership, communication and inter-personal skills and conflict management
- providing counselling support
- reviewing the workplace bullying policy and prevention measures
- addressing organisational issues that may have contributed to the behaviour occurring
- requesting an apology
- providing a verbal or written warning
- transferring a worker or workers to another work area, or
- demotion, dismissal or other actions subject to workplace relations laws.

It is likely a combination of strategies will be appropriate to prevent bullying behaviour from re-occurring.

If an investigation finds a report of workplace bullying is not substantiated, assistance may still need to be provided to resolve outstanding issues. This may involve mediation, counselling or changing working arrangements. Mediation is a voluntary process where an impartial third party, preferably a trained mediator, assists the parties put their respective cases before each other. The role of a mediator is to help both parties understand each other's perspective and to try to find an agreement the parties are willing to abide by.

If the report is found to be vexatious or malicious, disciplinary action or counselling may be considered against the person who made the report. Any action taken should be consistent with the organisation's policies on misconduct and disciplinary action.

OIR Disclosure Log

5 EXTERNAL AVENUES

Reports of workplace bullying should be raised within the workplace, and reasonable attempts should be made to resolve the matter internally before referring to external agencies. Most external agencies encourage complainants to attempt to resolve the situation within the workplace through an informal or formal process (where available) prior to seeking their assistance.

WHS Regulators and the Fair Work Commission may be contacted where reasonable attempts to resolve a workplace bullying complaint through internal processes within the workplace have failed. The most appropriate agency will depend on the nature of the complaint and the desired outcome.

5.1 Work Health and Safety Regulators

Work health and safety regulators will assess and respond to bullying complaints in accordance with their individual compliance and prosecution policies, which may take into account issues such as the immediate risk to health and safety and possible breaches of work health and safety legislation.

Contact information for state and territory work health and safety regulators can be found in Appendix C.

5.2 Fair Work Commission

Workers who reasonably believe they have been bullied at work may apply to the Fair Work Commission for an order to stop the workplace bullying.

The Fair Work Commission's anti-bullying jurisdiction does not cover all Australian workers, for example those employed by local councils and state governments. The Fair Work Commission can assist workers to identify if they are eligible to apply for an order.

The Fair Work Commission's anti-bullying jurisdiction is limited to preventing the worker from being bullied at work. The Fair Work Commission cannot issue fines or penalties and cannot award financial compensation. The focus is on resolving the matter and enabling normal working relationships to resume.

Further information on the role of the Fair Work Commission can be found at <http://www.fwc.gov.au>.

Contact information for the Fair Work Commission can be found in Appendix C.

6 APPENDIX A – EXAMPLE OF A WORKPLACE BULLYING POLICY

[PCBU Name] - Workplace bullying policy

Our commitment

[PCBU name] is committed to providing a safe and healthy workplace free from bullying.

Workers are protected by this policy whether they feel bullied by a supervisor, another worker, client, contractor or member of the public.

[PCBU name] will treat reports of workplace bullying seriously. We will respond promptly, impartially and confidentially.

This policy will be made available to all workers including contractors. New workers will be given a copy of this policy at their induction. Managers and supervisors will remind workers of the policy from time to time.

Expected workplace behaviours

Under work health and safety laws, workers and other people at our workplace must take reasonable care that they do not adversely affect the health and safety of others.

[PCBU name] expects people to:

- behave in a responsible and professional manner
- treat others in the workplace with courtesy and respect
- listen and respond appropriately to the views and concerns of others, and
- be fair and honest in their dealings with others.

This policy applies to behaviours that occur:

- in connection with work, even if it occurs outside normal working hours
- during work activities, for example when dealing with clients
- at work-related events, for example at conferences and work-related social functions, and
- on social media where workers interact with colleagues or clients and their actions may affect them either directly or indirectly.

What is workplace bullying?

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

Repeated behaviour refers to the persistent nature of the behaviour and can refer to a range of behaviours over time.

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

Single incidents of unreasonable behaviour can also present a risk to health and safety and will not be tolerated.

What is not workplace bullying?

Reasonable management action taken by managers or supervisors to direct and control the way work is carried out is not workplace bullying if the action is carried out in a lawful and reasonable way, taking the particular circumstances into account.

What can you do?

If you feel you are experiencing or witnessing workplace bullying, and are not comfortable dealing with the problem yourself, or your attempts to do so have not been successful, you should raise the issue promptly either with your supervisor, health and safety representative or other manager within the organisation. If you are a member of the union you may also raise any issues with your delegate.

If you witness unreasonable behaviour you should bring the matter to the attention of your manager as a matter of urgency.

How we will respond

If workplace bullying or unreasonable behaviour is reported or observed we will take the following steps:

- The responsible supervisor or manager will speak to the parties involved as soon as possible, gather information and seek a resolution to satisfactorily address the issue for all parties.
- If issues cannot be resolved or the unreasonable behaviour is considered to be of a serious nature, an impartial person will be appointed to investigate. Both sides will be able to state their case and relevant information will be collected and considered before a decision is made.
- All complaints and reports will be treated in the strictest of confidence. Only those people directly involved in the complaint or in resolving it will have access to the information.
- There will be no victimisation of the person making the report or helping to resolve it. Complaints made maliciously or in bad faith may result in disciplinary action.

Consequences of breaching this policy

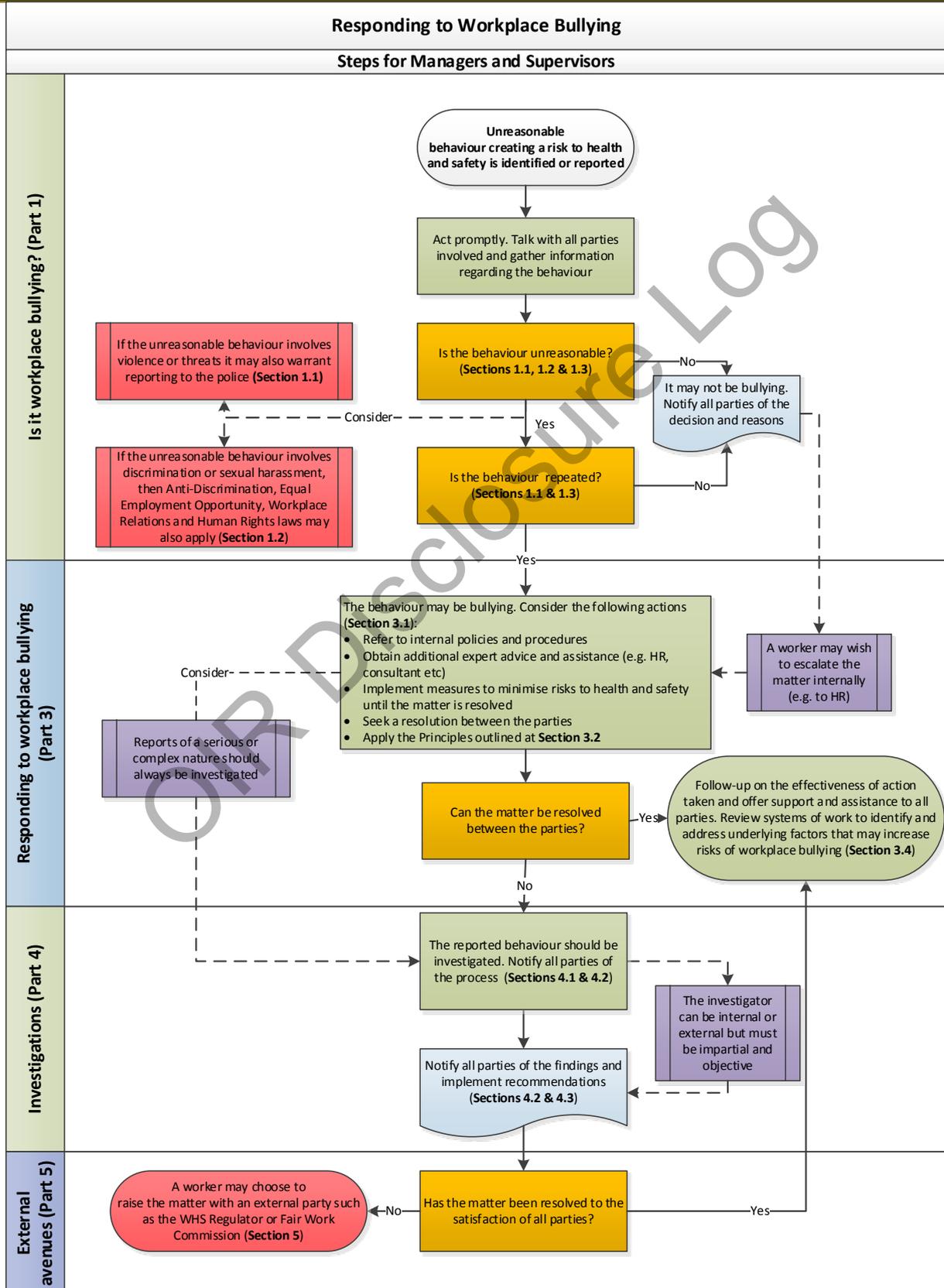
Appropriate disciplinary action may be taken against a person who is found to have breached this policy. The action taken will depend on the nature and circumstance of each breach and could include:

- a verbal or written apology
- one or more parties agreeing to participate in counselling or training
- a verbal or written reprimand, or
- transfer, demotion or dismissal of the person engaging in the bullying behaviour.

If workplace bullying has not been substantiated

If an investigation finds workplace bullying has not occurred or cannot be substantiated, **[PCBU name]** may still take appropriate action to address any workplace issues leading to the bullying report.

7 APPENDIX B – WORKPLACE BULLYING FLOWCHART



8 APPENDIX C – FURTHER INFORMATION

Work Health and Safety Regulators

Commonwealth

Comcare

Website: www.comcare.gov.au

Email: general.enquiries@comcare.gov.au

Phone: 1300 366 979

Victoria

WorkSafe Victoria

Website: www.worksafe.vic.gov.au

Email: info@worksafe.vic.gov.au

Phone: 1800 136 089 or 03 9641 1444

South Australia

SafeWork SA

Website: www.safework.sa.gov.au

Email: help.safework@sa.gov.au

Phone: 1300 365 255

Tasmania

WorkSafe Tasmania

Website: www.worksafe.tas.gov.au

Email: wstinfo@justice.tas.gov.au

Phone: 1300 366 322 (within Tasmania)

Australian Capital Territory

WorkSafe ACT

Website: www.worksafe.act.gov.au

Email: worksafe@act.gov.au

Phone: 02 6207 3000

New South Wales

SafeWork NSW

Website: www.safework.nsw.gov.au

Email: contact@safework.nsw.gov.au

Phone: 13 10 50

Queensland

Workplace Health and Safety Queensland

Website: www.worksafe.qld.gov.au

Phone: 1300 362 128

Western Australia

WorkSafe WA

Website:

www.commerce.wa.gov.au/WorkSafe

Email: safety@commerce.wa.gov.au

Phone: 1300 307 877 (within Western Australia)

Northern Territory

NT WorkSafe

Website: www.worksafe.nt.gov.au

Email: ntworksafe@nt.gov.au

Phone: 1800 019 115

Fair Work Commission

National Helpline: 1300 799 675

Website: www.fwc.gov.au

Human Rights and Anti-Discrimination Agencies

Commonwealth

Australian Human Rights Commission

Website: www.humanrights.gov.au

Email: infoservice@humanrights.gov.au

Phone: (02) 9284 9600 or 1300 656 419
(National Information Service)

TTY: 1800 620 241

Victoria

Equal Opportunity and Human Rights
Commission

Website:

www.humanrightscommission.vic.gov.au

Email: information@veohrc.vic.gov.au

Phone: 1300 891 848

South Australia

Equal Opportunity Commission

Website: www.eoc.sa.gov.au

Email: eoc@agd.sa.gov.au

Phone: (08) 8207 1977 or 1800 188 163 (Toll
free for regional SA)

TTY: (08) 8207 1911

Tasmania

Office of the Anti-Discrimination
Commissioner

Website: www.antidiscrimination.tas.gov.au

Email: antidiscrimination@justice.tas.gov.au

Phone: (03) 6165 7515 or 1300 305 062
(Statewide local call)

Web SMS: 0409 401 083

Australian Capital Territory

Human Rights Commission

Website: www.hrc.act.gov.au/

Email: human.rights@act.gov.au

Phone: (02) 6205 2222

SMS: 0466 169997

TTY: (02) 6205 1666

New South Wales

Anti-Discrimination Board

Website:

www.antidiscrimination.justice.nsw.gov.au

Email: adbcontact@agd.nsw.gov.au

Phone: (02) 9268 5555 or 1800 670 812 (Toll
free for regional NSW)

TTY: (02) 9268 5522

Queensland

Anti-Discrimination Commission

Website: www.adcq.qld.gov.au/

Email: info@adcq.qld.gov.au

Phone: 1300 130 670

TTY: 1300 130 680

Western Australia

Equal Opportunity Commission

Website: www.eoc.wa.gov.au

Email: eoc@eoc.wa.gov.au

Phone: (08) 9216 3900

Northern Territory

Anti-Discrimination Commission

Website: www.adc.nt.gov.au/

Email: antidiscrimination@nt.gov.au

Phone : (08) 8999 1444 or 1800 813 846
(Freecall)

Other support services

Lifeline: 13 11 14

Beyond Blue: 1300 224 636