

Preventing and Responding to Bullying at Work

ADVICE FOR SMALL BUSINESSES



TABLE OF CONTENTS

01	WHO IS THIS GUIDE FOR?	1
02	WHAT IS BULLYING AT WORK?	2
	What is workplace bullying?	2
	When can bullying happen?	2
	What kind of behaviour can be perceived as bullying?	3
03	HOW CAN YOU WORK OUT WHETHER BULLYING IS OCCURRING?	5
04	WHAT CAN YOU DO TO MINIMISE THE LIKELIHOOD OF BULLYING?	6
05	HOW CAN YOU DEAL WITH REPORTS/COMPLAINTS?	8
	Example of a formal approach	10
06	WHO CAN HELP?	11
07	GLOSSARY AND TOOLS	13
	Glossary	13
	Templates and tools	14

TABLES

1	Examples of bullying behaviours	3
2	Explanation of duty holders and duties	13

FIGURES

1	Definition of bullying at work	2
2	Sources of information about bullying prevalence	5
3	Possible control measures	7
4	General principles when dealing with reports or complaints	8
5	Overview of steps for dealing with reports or complaints	9
6	Overview of a formal investigation process	10
7	Legislation that deals with aspects of bullying	11



WHO IS THIS GUIDE FOR?

Bullying harms workers. This is a quick guide for small businesses that outlines what they could do to minimise the likelihood of bullying at their workplace and the harm arising from it if it does occur.

While persons conducting a business or undertaking (PCBUs) must effectively deal with bullying at work, everyone at work has a role in dealing with it. In this guide the term 'business' means 'business or undertaking'.

See Section 7 of this guide for explanation of the duties and roles of PCBUs, workers and others.

This guide is based on WorkSafe's good practice guidelines *Preventing and Responding to Bullying at Work*. More specific information on the topics described in this guide can be found there.

See the WorkSafe website: www.worksafe.govt.nz for other anti-bullying guidance and tools including guidance for workers.



WHAT IS BULLYING AT WORK?

WHAT IS WORKPLACE BULLYING?

Workplace bullying is: repeated and unreasonable behaviour directed towards a worker or a group of workers that can lead to physical or psychological harm.

- > **Repeated** behaviour is persistent (occurs more than once) 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.
- > Bullying may also include harassment, discrimination or violence (see Section 6 of this guide for how these are dealt with).

Note: The bullying definition is adapted from Safe Work Australia's definition.

Workplace bullying is not:

- > one-off or occasional instances of forgetfulness, rudeness or tactlessness
- > setting high performance standards
- > constructive feedback and legitimate advice or peer review
- > a manager requiring reasonable verbal or written work instructions to be carried out
- > warning or disciplining workers in line with the business or undertaking's code of conduct
- > a single incident of unreasonable behaviour
- > reasonable management actions delivered in a reasonable way
- > differences in opinion or personality clashes that do not escalate into bullying, harassment or violence.

Figure 1: Definition of bullying at work

WHEN CAN BULLYING HAPPEN?

Bullying can happen at all levels and at any time. It:

- > isn't limited to managers targeting staff or staff targeting managers – it can also happen between co-workers, and between workers and other people at workplaces such as clients, customers or visitors
- > can occur when, because of how an organisation operates, behaviour is allowed to occur that offends or unduly stresses or unreasonably burdens workers without concern for their well-being (eg unrealistic deadlines)
- > can be carried out by one or more persons
- > can be directed at a single person or a group
- > may occur outside normal work hours.

Bullying can be carried out in a variety of ways including through email, text messaging, internet chat rooms or other social media channels (called cyberbullying).

For further information on cyberbullying, see NetSafe's website: www.netsafe.org.nz/advice/harmfuldigitalcommunications

WHAT KIND OF BEHAVIOUR CAN BE PERCEIVED AS BULLYING?

There are different types of bullying and types of bullying behaviours.

Bullying can be physical, verbal or relational/social (eg excluding someone from a peer group, spreading rumours).¹

Common bullying behaviours fit in two main categories:

- > attacks that are direct and personal or
- > indirect and task-related.

Examples of these behaviours are described in Table 1.

Some of these behaviours may also fall under other types of behaviour such as discrimination or violence.

PERSONAL ATTACKS (DIRECT) examples include:	TASK-RELATED ATTACKS (INDIRECT) examples include:
Belittling remarks - undermining integrity - lies being told - sense of judgment 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
Being 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 where there is no reason to do so)
Humiliation (in public or private)	Excluding - isolating - ignoring views
Persistent and/or public criticism	Changing goalposts or targets
Using obscene or offensive language, gestures or material	Not giving enough training or resources
Ganging up - colleagues/clients encouraged to criticise or spy - witch hunt - dirty tricks campaign - singled out	Reducing opportunities for expression - interrupting when speaking
Intimidation - acting in a condescending manner	Supplying incorrect or unclear information

¹ From www.education.govt.nz/school/student-support/student-wellbeing/health-and-wellbeing-programmes/bullying-prevention-and-response/bullying-prevention-and-response-a-guide-for-schools/section/2

PERSONAL ATTACKS (DIRECT) examples include:	TASK-RELATED ATTACKS (INDIRECT) examples include:
Intruding on privacy (eg spying, stalking, harassed by calls when on leave or at weekends)	Making hints or threats about job security
Unwanted sexual approaches, offers, or physical contact	No support from manager
Verbal abuse	Scapegoating
Inaccurate accusations	Denial of opportunity
Suggestive glances, gestures, or dirty looks	Judging wrongly
Tampering with personal effects - theft - destruction of property	Forced or unjustified disciplinary hearings
Encouraged to feel guilty	Lack of role clarity
	Not trusting
	Sabotage

Table 1: Examples of bullying behaviours²

² Adapted from Health and Safety Executive. (2003). Research report: *Bullying at work: A review of the literature*.

03

HOW CAN YOU WORK OUT WHETHER BULLYING IS OCCURRING?

To work out whether bullying or other unreasonable behaviour is occurring in your business, you could look at the following sources of information:

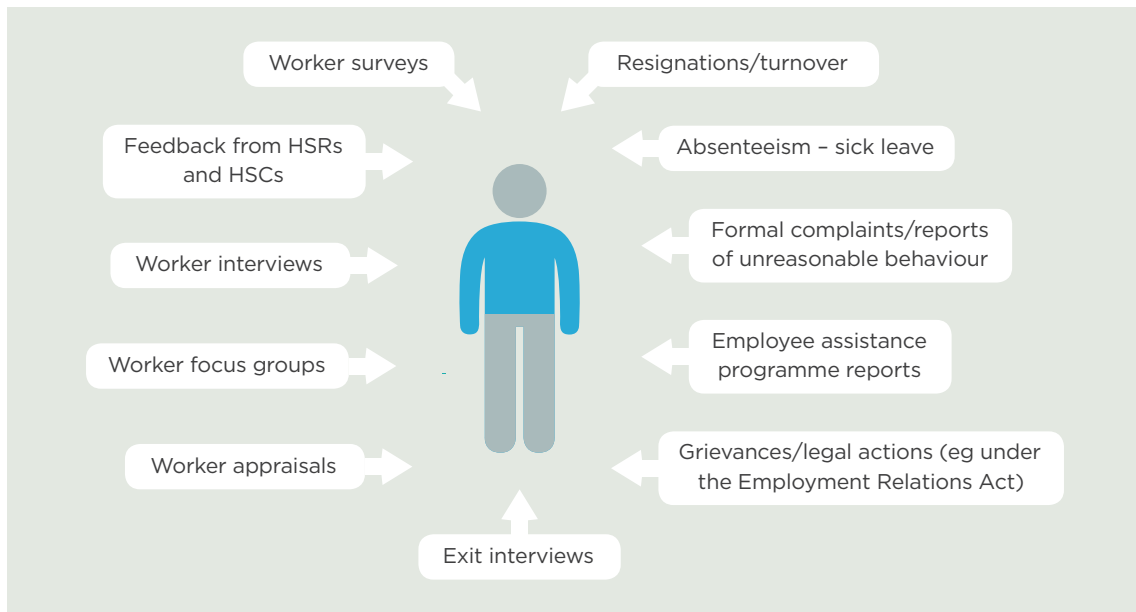


Figure 2: Sources of information about bullying prevalence

Note: More information about these information sources can be found in WorkSafe’s good practice guidelines *Preventing and Responding to Bullying at Work*.

Using the information gathered, assess the likelihood of bullying occurring in your business. This will determine the extent and urgency of the actions you need to take in the first instance.

However even if your business is assessed as having a low likelihood of bullying occurring, as bullying can occur at any time, you are still expected to put control measures in place.



WHAT CAN YOU DO TO MINIMISE THE LIKELIHOOD OF BULLYING?

Risks to health and safety arise from people being exposed to hazards (anything that can cause harm such as bullying).

Work risks must be eliminated so far as is reasonably practicable. If a risk can't be eliminated, it must be minimised so far as is reasonably practicable.

'Reasonably practicable' means you do what is reasonable to ensure health and safety in your circumstances (eg what a reasonable person in your position would be expected to know and do) – you do what is reasonable to first try to eliminate the risk. If the risk can't be eliminated, then you must minimise it.

Just because something is possible to do, doesn't mean it is reasonably practicable in the circumstances. However, cost can only be used as a reason to not do something when it is grossly disproportionate to the risk.

For further information, read WorkSafe's fact sheet *Reasonably Practicable*.

It is unlikely that you will be able to eliminate bullying. Instead you should minimise the likelihood of bullying occurring at your workplace, and effectively deal with bullying when it does occur.

The control measures summarised in Figure 3 can help to address potential causes of bullying. Consider what is reasonably practicable in your circumstances.

Once you have put your control measures in place, it's important to check that your control measures are working to minimise the likelihood of bullying. You can use the information sources described in Section 3 of this guide to help with this.

In addition, control measures should be reviewed on a routine basis (eg yearly) to check that they're being followed and are still fit-for-purpose. If your control measures are not effectively minimising the likelihood of bullying, they must be reviewed and improved.

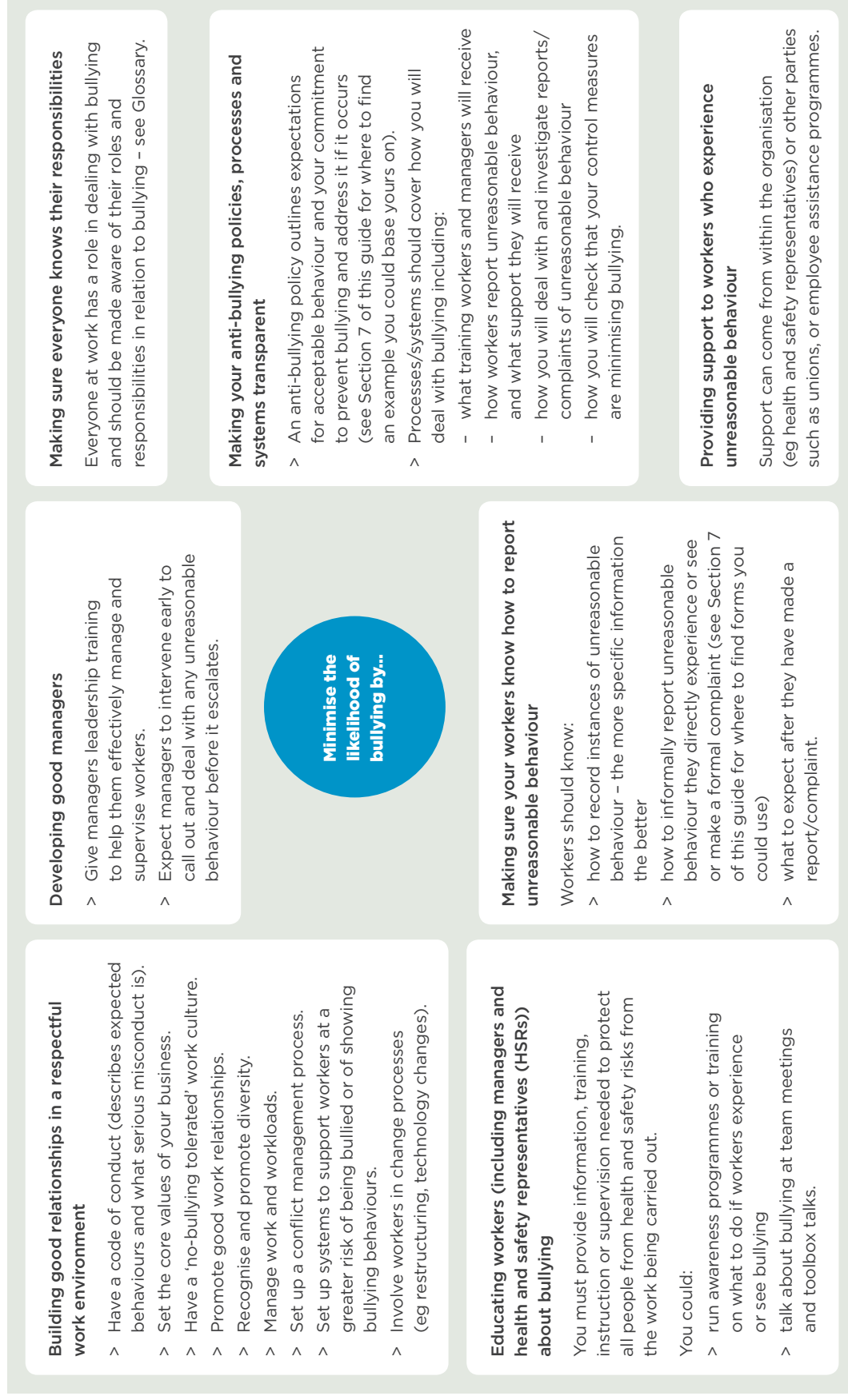


Figure 3: Possible control measures

Note: More information about these measures can be found in WorkSafe's good practice guidelines *Preventing and Responding to Bullying at Work*.



HOW CAN YOU DEAL WITH REPORTS/COMPLAINTS?

You can follow the general principles described in Figure 4 when you deal with reports/complaints of bullying or other unreasonable behaviour.

GENERAL PRINCIPLES

- > **Take all allegations seriously**
- > **Act promptly**
 - Set timelines and deal with reports/complaints as soon as you can after you receive them.
- > **Clearly communicate the process**
 - Tell everyone involved what the process is.
 - Let the people involved know if there are delays to timelines.
- > **Ensure non-victimisation**
 - Protect the people involved from victimisation.
- > **Support the people involved**
 - Anyone involved can have a support person present at interviews or meetings (eg health and safety representative, their union, colleague, friend).
 - Tell everyone involved what support is available to them (eg do you have an employee assistance programme, health and safety representatives?).
- > **Maintain privacy (confidentiality)**
 - Maintain privacy for all parties involved.
 - Ensure details of the matter are only known to those directly concerned (except their representative or support person).
- > **Be unbiased and fair**
 - Treat the people involved fairly.
 - Get someone unbiased and trained to look into the allegation.
 - Make decisions on how to deal with the allegation based on the facts.
 - Clearly tell the people involved what you are going to do (taking into account privacy).

Figure 4: General principles when dealing with reports or complaints

You can use Figure 5 to help you decide what approach to take after receiving a report/complaint.

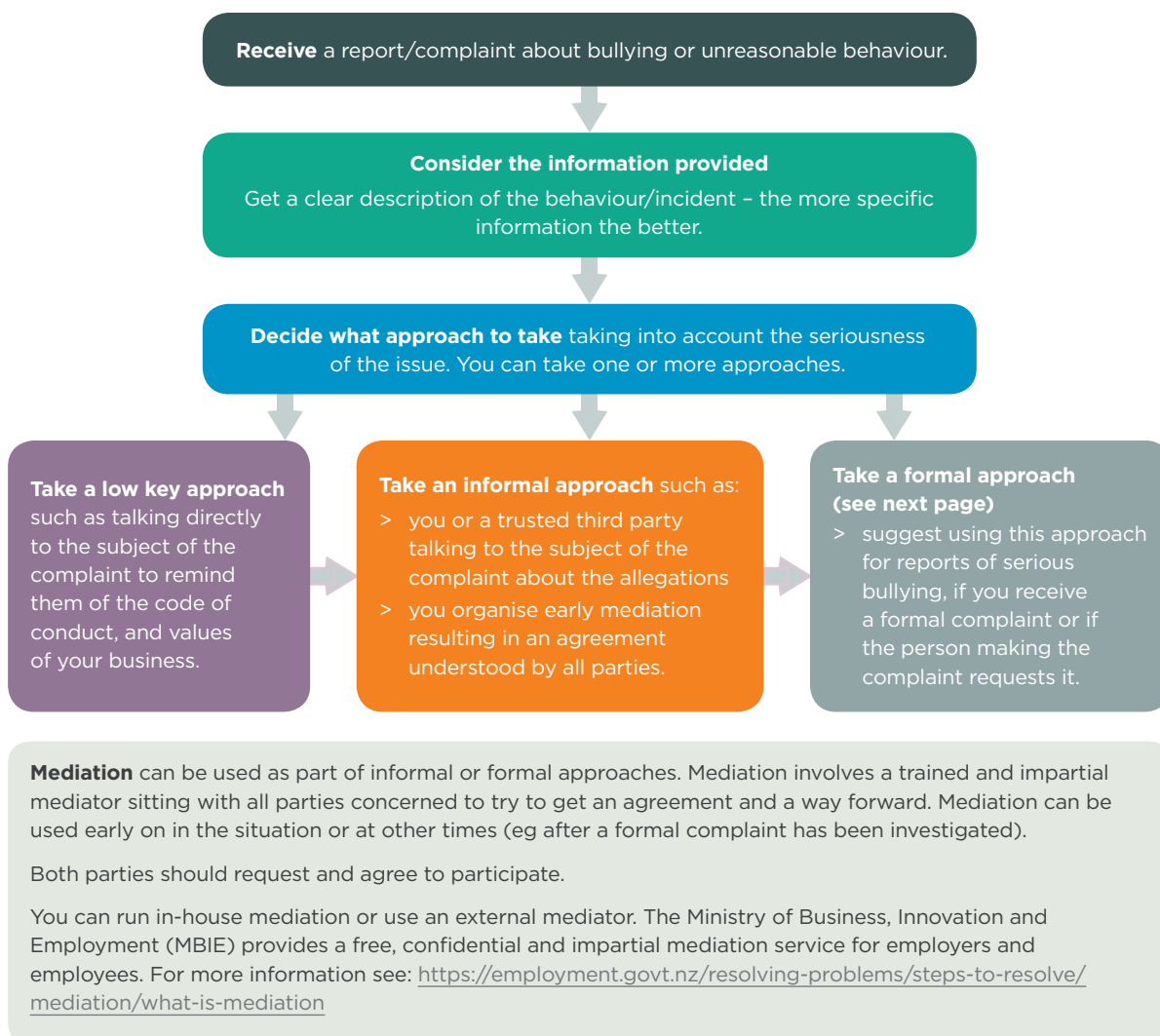


Figure 5: Overview of steps for dealing with reports or complaints

Note: More information about these steps can be found in WorkSafe's good practice guidelines *Preventing and Responding to Bullying at Work*.

EXAMPLE OF A FORMAL APPROACH

You can use the approach outlined in Figure 6 to investigate allegations of bullying or other unreasonable behaviour. It's important that workers clearly understand what to expect. The investigation should happen as soon as possible after the complaint is received, and embrace the general principles described earlier to ensure fairness for both parties.

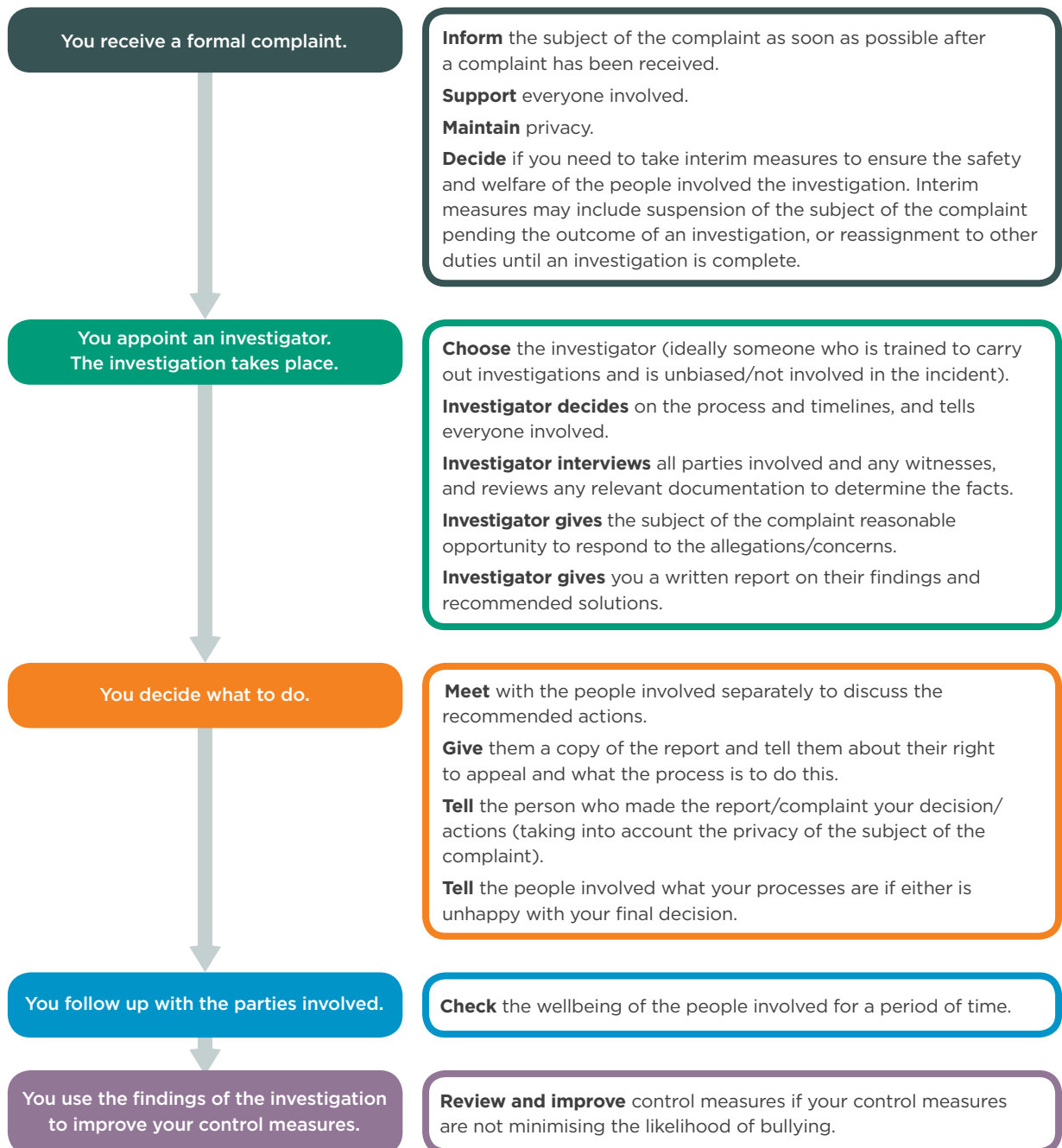


Figure 6: Overview of a formal investigation process

Note: More information about these steps can be found in WorkSafe's good practice guidelines *Preventing and Responding to Bullying at Work*.



WHO CAN HELP?

At times, you or the parties to the complaint may wish to seek external help. This could happen if someone is not satisfied by your actions, or when the behaviour is best dealt with externally (eg acts of violence should be dealt with by the Police).

Figure 7 outlines the laws and the government agencies that can help under different circumstances.

Employment Relations Act 2000 (ERA)

- > The ERA aims to build productive employment (employer/employee) relationships.
- > MBIE's free mediation service is available to any employer or employee and can help parties resolve an employment relationship problem (Phone 0800 20 90 20; <https://employment.govt.nz/resolving-problems/steps-to-resolve/mediation/request-meditation>).
- > If mediation is unsuccessful, the Employment Relations Authority can resolve disputes about a range of employment issue (<http://era.govt.nz>).
- > Like the Employment Relations Authority, the Employment Court deals with cases about employment disputes. The Employment Court also deals with challenges to Employment Relations Authority decisions (www.employmentcourt.govt.nz).

The Health and Safety at Work Act 2015 (HSWA)

- > HSWA is the primary work health and safety legislation.
- > WorkSafe is the primary work health and safety regulator – although Maritime New Zealand and the Civil Aviation Authority also carry out certain health and safety functions for their industries.
- > WorkSafe can be contacted on 0800 030 040 (24 hours). Issues can be raised anonymously or in confidence (www.worksafe.govt.nz).
- > Not all concerns and notifications will meet WorkSafe's threshold for initiating a response.

Crimes Act 1961 and other legislation administered by the New Zealand Police

- > Acts of violence towards a person can be verbal (verbal abuse, threats, shouting, swearing) or physical (stalking, throwing objects, hitting, damage to property).
- > Violence is illegal and should be referred to the Police.
- > Criminal charges can be filed by the Police.

The Harmful Digital Communications Act 2015 (HDCA)

- > The HDCA aims to provide a quick, efficient and relatively cheap legal avenue for people dealing with serious or repeated harmful digital communications (eg threatening or offensive emails, texts or posts in comment sections, chat rooms or social media).
- > For information about what to do about cyberbullying, online harassment and abuse, visit: www.netsafe.org.nz
- > Before applying to the Courts, you must have had your complaint investigated by NetSafe. For information on how to apply to the Court, visit: www.victimsinfo.govt.nz/staying-safe/staying-safe-online/harmful-digital-communications

The Human Rights Act 1993 (HRA)

- > Discrimination occurs when a person is treated unfairly or less favourable than another person in the same or similar circumstances. Discrimination can be part of bullying.
- > The Human Rights Commission deals with complaints about discrimination (www.hrc.co.nz).

Harassment Act 1997 (HA)

- > Harassment can be part of bullying. Harassment takes place when someone engages in a pattern of behaviour that is directed against 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.
- > See the ERA and HRA for dealing with racial and sexual harassment.
- > People who are being harassed may be able to obtain restraining orders against the person harassing them. Help may be found at organisations such as community law centres (<http://communitylaw.org.nz>) and the Citizens Advice Bureau (www.cab.org.nz/vat/gl/laws/Pages/Harassment.aspx).

Figure 7: Legislation that deals with aspects of bullying

Note: For further details on the relevant laws and the government agencies that can help, see WorkSafe's good practice guidelines *Preventing and Responding to Bullying at Work*.

Advice may be found from places like:

- > unions
- > community law centres: <http://communitylaw.org.nz>
- > the Citizens Advice Bureau: www.cab.org.nz/Pages/home.aspx



GLOSSARY AND TOOLS

GLOSSARY

DUTY HOLDER	EXPLANATION AND DUTIES
<p>Persons conducting a business or undertaking (PCBUs)</p>	<p>A PCBU is a 'person conducting a business or undertaking'.</p> <p>A PCBU may be an individual person or an organisation. This does not include workers or officers of PCBUs (to the extent they are solely workers or officers), volunteer associations (that do not have employees), or home occupiers that employ or engage a tradesperson to carry out residential work.</p> <p>A PCBU must ensure, so far as is reasonably practicable, the health and safety of workers, and that other persons are not put at risk by its work.</p> <p>See WorkSafe's website: www.worksafe.govt.nz for information about PCBU duties.</p>
<p>Workers</p>	<p>A worker is an individual who carries out work in any capacity for a PCBU. A worker may be an employee, a contractor or sub-contractor, an employee of a contractor or sub-contractor, an employee of a labour hire company, an outworker (including a homeworker), an apprentice or a trainee, a person gaining work experience or on a work trial, or a volunteer worker. It also includes an individual PCBU that carries out work for the business or undertaking.</p> <p>Workers can be at any level (eg managers are workers too).</p> <p>Workers have duties to take reasonable care for their own health and safety and to take reasonable care that they don't harm others at a workplace.</p> <p>Workers must co-operate with reasonable policies and procedures about bullying the PCBU has in place that have been notified to them.</p> <p>Workers must comply, so far as is reasonably practicable, with any reasonable instruction about bullying given by the PCBU so the PCBU can comply with the law.</p> <p>Workers should report bullying they experience or see so their PCBUs can do something about it.</p>
<p>Other persons at workplaces such as visitors</p>	<p>Examples of other persons at workplaces include workplace visitors, casual volunteers at workplaces and customers.</p> <p>Other persons have duties to take reasonable care for their own health and safety and to take reasonable care that they don't harm others at a workplace.</p> <p>They must comply, so far as is reasonably practicable, with any reasonable instruction about bullying given by the PCBU so the PCBU can comply with the law.</p> <p>Other persons should report bullying they experience so the PCBU can do something about it.</p>

Table 2: Explanation of duty holders and duties

TEMPLATES AND TOOLS

There are a range of templates and tools available through the WorkSafe website (www.worksafe.govt.nz) including:

- > an example of an anti-bullying policy
- > a template for an informal reporting of unreasonable behaviour form
- > a template for a formal complaint form
- > a workplace features assessment tool.

Check the website for other online tools.

DISCLAIMER

WorkSafe New Zealand has made every effort to ensure the information contained in this publication is reliable, but makes no guarantee of its completeness. WorkSafe may change the contents of this guide at any time without notice.

This document is a guideline only. It should not be used as a substitute for legislation or legal advice. WorkSafe is not responsible for the results of any action taken on the basis of information in this document, or for any errors or omissions.

ISBN: 978-0-908336-98-2 (online)

Published: February 2017 Current until: 2019

PO Box 165, Wellington 6140, New Zealand

www.worksafe.govt.nz



Except for the logos of WorkSafe, this copyright work is licensed under a Creative Commons Attribution-Non-commercial 3.0 NZ licence.

To view a copy of this licence, visit <http://creativecommons.org/licenses/by-nc/3.0/nz/>

In essence, you are free to copy, communicate and adapt the work for non-commercial purposes, as long as you attribute the work to WorkSafe and abide by the other licence terms.

WorkSafe New Zealand

Level 6
86 Customhouse Quay
PO Box 165
Wellington 6140

Phone: +64 4 897 7699

Fax: +64 4 415 4015

0800 030 040

www.worksafe.govt.nz

[@WorkSafeNZ](https://twitter.com/WorkSafeNZ)

ISBN: 978-0-908336-98-2 (online)