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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](http://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](http://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).

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.

<table>
<thead>
<tr>
<th>PERSONAL ATTACKS (DIRECT) examples include:</th>
<th>TASK-RELATED ATTACKS (INDIRECT) examples include:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ignoring – excluding – silent treatment – isolating</td>
<td>Meaningless tasks – unpleasant jobs – belittling a person’s ability – undermining</td>
</tr>
<tr>
<td>Attacking a person’s beliefs, attitude, lifestyle or appearance – gender references – accusations of being mentally disturbed</td>
<td>Withholding or concealing information – information goes missing – failing to return calls or pass on messages</td>
</tr>
<tr>
<td>Ridiculing – insulting – teasing – jokes – ‘funny surprises’ – sarcasm</td>
<td>Undervaluing contribution – no credit where it’s due – taking credit for work that’s not their own</td>
</tr>
<tr>
<td>Being shouted or yelled at</td>
<td>Constant criticism of work</td>
</tr>
<tr>
<td>Threats of violence</td>
<td>Underwork – working below competence – removing responsibility – demotion</td>
</tr>
<tr>
<td>Insulting comments about private life</td>
<td>Unreasonable or inappropriate monitoring</td>
</tr>
<tr>
<td>Physical attacks</td>
<td>Offensive sanctions (eg denying leave where there is no reason to do so)</td>
</tr>
<tr>
<td>Humiliation (in public or private)</td>
<td>Excluding – isolating – ignoring views</td>
</tr>
<tr>
<td>Persistent and/or public criticism</td>
<td>Changing goalposts or targets</td>
</tr>
<tr>
<td>Using obscene or offensive language, gestures or material</td>
<td>Not giving enough training or resources</td>
</tr>
<tr>
<td>Ganging up – colleagues/clients encouraged to criticise or spy – witch hunt – dirty tricks campaign – singled out</td>
<td>Reducing opportunities for expression – interrupting when speaking</td>
</tr>
<tr>
<td>Intimidation – acting in a condescending manner</td>
<td>Supplying incorrect or unclear information</td>
</tr>
</tbody>
</table>

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

Table 1: Examples of bullying behaviours

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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:

- Feedback from HSRs and HSCs
- Worker interviews
- Worker focus groups
- Worker appraisals
- Worker surveys
- Resignations/turnover
- Absenteeism – sick leave
- Formal complaints/reports of unreasonable behaviour
- Employee assistance programme reports
- Grievances/legal actions (eg under the Employment Relations Act)
- Exit interviews

**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.
Building good relationships in a respectful work environment
- Have a code of conduct (describes expected behaviours and what serious misconduct is).
- Set the core values of your business.
- Have a ‘no-bullying tolerated’ work culture.
- Promote good work relationships.
- Recognise and promote diversity.
- Manage work and workloads.
- Set up a conflict management process.
- Set up systems to support workers at a greater risk of being bullied or of showing bullying behaviours.
- Involve workers in change processes (eg restructuring, technology changes).

Developing good managers
- Give managers leadership training to help them effectively manage and supervise workers.
- Expect managers to intervene early to call out and deal with any unreasonable behaviour before it escalates.

Making sure everyone knows their responsibilities
Everyone at work has a role in dealing with bullying and should be made aware of their roles and responsibilities in relation to bullying – see Glossary.

Making your anti-bullying policies, processes and systems transparent
- An anti-bullying policy outlines expectations for acceptable behaviour and your commitment to prevent bullying and address it if it occurs (see Section 7 of this guide for where to find an example you could base yours on).
- Processes/systems should cover how you will deal with bullying including:
  - what training workers and managers will receive
  - how workers report unreasonable behaviour, and what support they will receive
  - how you will deal with and investigate reports/complaints of unreasonable behaviour
  - how you will check that your control measures are minimising bullying.

Educating workers (including managers and health and safety representatives (HSRs)) about bullying
You must provide information, training, instruction or supervision needed to protect all people from health and safety risks from the work being carried out.
You could:
- run awareness programmes or training on what to do if workers experience or see bullying
- talk about bullying at team meetings and toolbox talks.

Making sure your workers know how to report unreasonable behaviour
Workers should know:
- how to record instances of unreasonable behaviour – the more specific information the better
- how to informally report unreasonable behaviour they directly experience or see or make a formal complaint (see Section 7 of this guide for where to find forms you could use)
- what to expect after they have made a report/complaint.

Providing support to workers who experience unreasonable behaviour
Support can come from within the organisation (eg health and safety representatives) or other parties such as unions, or employee assistance programmes.

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.

**Receive** a report/complaint about bullying or unreasonable behaviour.

**Consider the information provided**
Get a clear description of the behaviour/incident - the more specific information the better.

**Decide what approach to take** taking into account the seriousness of the issue. You can take one or more approaches.

- **Take a low key approach** such as talking directly to the subject of the complaint to remind them of the code of conduct, and values of your business.
- **Take an informal approach** such as:
  - you or a trusted third party talking to the subject of the complaint about the allegations
  - you organise early mediation resulting in an agreement understood by all parties.
- **Take a formal approach** *(see next page)*
  - suggest using this approach for reports of serious bullying, if you receive a formal complaint or if the person making the complaint requests it.

**Mediation** can be used as part of informal or formal approaches. Mediation involves a trained and impartial mediator sitting with all parties concerned to try to get an agreement and a way forward. Mediation can be used early on in the situation or at other times (eg after a formal complaint has been investigated).

Both parties should request and agree to participate.

You can run in-house mediation or use an external mediator. The Ministry of Business, Innovation and Employment (MBIE) provides a free, confidential and impartial mediation service for employers and employees. For more information see: [https://employment.govt.nz/resolving-problems/steps-to-resolve/mediation/what-is-mediation](https://employment.govt.nz/resolving-problems/steps-to-resolve/mediation/what-is-mediation)

**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.

You receive a formal complaint.

Inform
the subject of the complaint as soon as possible after a complaint has been received.

Support
everyone involved.

Maintain
privacy.

Decide
if you need to take interim measures to ensure the safety and welfare of the people involved in the investigation. Interim measures may include suspension of the subject of the complaint pending the outcome of an investigation, or reassignment to other duties until an investigation is complete.

You appoint an investigator.

Choose
the investigator (ideally someone who is trained to carry out investigations and is unbiased/not involved in the incident).

Investigator decides
on the process and timelines, and tells everyone involved.

Investigator interviews
all parties involved and any witnesses, and reviews any relevant documentation to determine the facts.

Investigator gives
the subject of the complaint reasonable opportunity to respond to the allegations/concerns.

Investigator gives
you a written report on their findings and recommended solutions.

You decide what to do.

Meet
with the people involved separately to discuss the recommended actions.

Give
type a copy of the report and tell them about their right to appeal and what the process is to do this.

Tell
the person who made the report/complaint your decision/actions (taking into account the privacy of the subject of the complaint).

Tell
the people involved what your processes are if either is unhappy with your final decision.

You follow up with the parties involved.

Check
the wellbeing of the people involved for a period of time.

You use the findings of the investigation to improve your control measures.

Review and improve
control measures if your control measures are not minimising the likelihood of bullying.

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 (e.g., 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.

<table>
<thead>
<tr>
<th>Employment Relations Act 2000 (ERA)</th>
<th>Crimes Act 1961 and other legislation administered by the New Zealand Police</th>
</tr>
</thead>
<tbody>
<tr>
<td>&gt; The ERA aims to build productive employment (employer/employee) relationships.</td>
<td>&gt; Acts of violence towards a person can be verbal (verbal abuse, threats, shouting, swearing) or physical (stalking, throwing objects, hitting, damage to property).</td>
</tr>
<tr>
<td>&gt; 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; <a href="https://employment.govt.nz/resolving-problems/steps-to-resolve/mediation/request-mediation">https://employment.govt.nz/resolving-problems/steps-to-resolve/mediation/request-mediation</a>).</td>
<td>&gt; Violence is illegal and should be referred to the Police.</td>
</tr>
<tr>
<td>&gt; If mediation is unsuccessful, the Employment Relations Authority can resolve disputes about a range of employment issue (<a href="http://era.govt.nz">http://era.govt.nz</a>).</td>
<td>&gt; Criminal charges can be filed by the Police.</td>
</tr>
<tr>
<td>&gt; 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 (<a href="http://www.employmentcourt.govt.nz">www.employmentcourt.govt.nz</a>).</td>
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<table>
<thead>
<tr>
<th>The Health and Safety at Work Act 2015 (HSWA)</th>
<th>The Harmful Digital Communications Act 2015 (HDCA)</th>
</tr>
</thead>
<tbody>
<tr>
<td>&gt; HSWA is the primary work health and safety legislation.</td>
<td>&gt; The HDCA aims to provide a quick, efficient and relatively cheap legal avenue for people dealing with serious or repeated harmful digital communications (e.g., threatening or offensive emails, texts or posts in comment sections, chat rooms or social media).</td>
</tr>
<tr>
<td>&gt; 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.</td>
<td>&gt; For information about what to do about cyberbullying, online harassment and abuse, visit: <a href="http://www.netsafe.org.nz">www.netsafe.org.nz</a>.</td>
</tr>
<tr>
<td>&gt; WorkSafe can be contacted on 0800 030 040 (24 hours). Issues can be raised anonymously or in confidence (<a href="http://www.worksafe.govt.nz">www.worksafe.govt.nz</a>).</td>
<td>&gt; Before applying to the Courts, you must have had your complaint investigated by NetSafe. For information on how to apply to the Court, visit: <a href="http://www.victimsinfo.govt.nz/staying-safe/staying-safe-online/harmful-digital-communications">www.victimsinfo.govt.nz/staying-safe/staying-safe-online/harmful-digital-communications</a>.</td>
</tr>
<tr>
<td>&gt; Not all concerns and notifications will meet WorkSafe’s threshold for initiating a response.</td>
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<table>
<thead>
<tr>
<th>The Human Rights Act 1993 (HRA)</th>
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<tbody>
<tr>
<td>&gt; 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.</td>
<td></td>
</tr>
<tr>
<td>&gt; The Human Rights Commission deals with complaints about discrimination (<a href="http://www.hrc.co.nz">www.hrc.co.nz</a>).</td>
<td></td>
</tr>
</tbody>
</table>
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

<table>
<thead>
<tr>
<th>Duty Holder</th>
<th>Explanation and Duties</th>
</tr>
</thead>
</table>
| Persons conducting a business or undertaking (PCBUs) | A PCBU is a ‘person conducting a business or undertaking’.  
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.  
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.  
See WorkSafe's website: [www.worksafe.govt.nz](http://www.worksafe.govt.nz) for information about PCBU duties. |
| Workers                                             | 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.  
Workers can be at any level (eg managers are workers too).  
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.  
Workers must co-operate with reasonable policies and procedures about bullying the PCBU has in place that have been notified to them.  
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.  
Workers should report bullying they experience so that their PCBUs can do something about it. |
| Other persons at workplaces such as visitors         | Examples of other persons at workplaces include workplace visitors, casual volunteers at workplaces and customers.  
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.  
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.  
Other persons should report bullying they experience so the PCBU can do something about it. |

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.