

Bullying and Sexual Harassment

Workplace bullying is, unfortunately, quite common. However, often the problem goes unreported.

Workers may be unaware that they can take action against bullying, worry that no one will believe them or, worst of all, may just accept it as part of their working life.

In truth, any form of bullying is unacceptable and should never be tolerated.

Bullying can have a serious and damaging impact on workers. Workers who are bullied often dread going to work and may take more sick leave as a result. In the most serious cases, bullying can result in depression, anxiety, panic attacks, and insomnia.

Anyone can be affected by bullying, but young workers are particularly vulnerable. This is because young workers are often inexperienced in workplace practices and tend to be less familiar with their rights than other workers.

WHAT IS WORKPLACE BULLYING?

Bullying occurs in many forms. However, in general, bullying can be described as any repeated behaviour that is intimidating, insulting, offensive, demeaning, or humiliating to others.

WHAT ARE SOME EXAMPLES OF BEHAVIOUR THAT COULD BE BULLYING?

Workplace bullying may be obvious and aggressive in nature. It can also be much more subtle. The following behaviours are some examples of what might amount to bullying (these examples are taken from the Interagency Roundtable on Workplace Bullying website, located at www.stopbullyingsa.com.au)

- Abusive, insulting or offensive language;
- Behaviour or language that frightens, humiliates, belittles or degrades, including criticism that is delivered with yelling or screaming;
- Teasing or regularly making someone the brunt of practical jokes;
- Displaying material that is degrading or offending;
- Spreading gossip, rumours and innuendo of a malicious nature;
- Harmful or offensive initiation practices;
- Physical assault or unlawful threats;
- Deliberately excluding, isolating or marginalizing a person from normal workplace activities;
- Intruding on a person's space by pestering, spying or tampering with their personal effects or work equipment;
- Intimidating a person through inappropriate personal comments, belittling opinions or unjustified criticism;
- Overloading a person with work;
- Setting timelines that are very difficult to achieve, or constantly changing deadlines;
- Setting tasks that are unreasonably beyond a person's ability;
- Ignoring or isolating a person;
- Deliberately denying access to information, consultation or resources;
- Unfair treatment in relation to accessing workplace entitlements, such as leave or training.

WHAT CAN YOU DO IF YOU ARE BEING BULLIED AT WORK?

If you believe you are being bullied, there are a number of ways you may handle the problem. Which option is better for you will depend on your individual situation. The steps outlined below are taken, in part, from the Interagency Roundtable on Workplace Bullying website, located at www.stopbullyingsa.com.au.

Check for a workplace bullying policy and complaint procedure

A good place to start is to check whether or not your workplace has a bullying policy and/or complaints procedure in place. You might be able to find out by checking your employer's website, the materials you were given when you started work or by checking your work notice boards or newsletters.

If your employer does have a bullying policy and/or procedure for dealing with complaints, you can follow those guidelines in order to attempt to solve your problem.

Seek advice

Some workplaces will have an appointed person who can provide you with advice on dealing with workplace bullying. They might be called a Contact or Grievance Officer, Health and Safety Representative or Human Resources Officer. You could also try speaking to your Union Representative.

Keep a record

It is also a good idea to record the details of any bullying that you are subjected to in the workplace. The place, date, time, people involved, any witnesses and what was said or done should be recorded.

This information could prove useful later, particularly if you choose to take formal action against the person(s) bullying you.

Lodge a complaint with SafeWork SA

If you find that your problem cannot be solved through your workplace's internal procedures or you believe that the problem is too serious to deal with in this way, you can choose to lodge a bullying complaint with SafeWork SA.

Any complaint made to SafeWork SA must be in writing. You can begin by contacting SafeWork SA's Help and Early Intervention Centre. SafeWork SA will then send complaint forms out to you. Once you have submitted your complaint, SafeWork SA will appoint an Inspector to deal with your problem. That person will have the ability to investigate the matter.

Making a complaint to SafeWork SA can lead to a meeting being held between yourself, the SafeWork SA Inspector and the person(s) bullying you or your employer to try and resolve the issue. If this does not work, the complaint can be referred to the SA Industrial Relations Commission where a meeting will be run by an Industrial commissioner.

You can contact SafeWork SA's Help and Early Intervention Centre on 1300 365 255 or visit SafeWork SA's website at www.safework.sa.gov.au.

Make a complaint to the Equal Opportunity Commission

If you believe you are being bullied on the basis of your race, sex, age, sexuality or marital status or because of a disability or pregnancy then this behaviour is also discriminatory. In such cases, you can also make a complaint to the Equal Opportunity Commission.

The Equal Opportunity Commission will seek to resolve your problem by organising a conciliation meeting between yourself and your employer or person(s) bullying you. If this does not lead to a successful outcome, your case may be referred by the Commission to the Equal Opportunity Tribunal for a public hearing and decision.

You can contact the Equal Opportunity Commission on 8207 1977 or visit their website at www.eoc.sa.gov.au.

Seek workers' compensation

If you have been diagnosed with a recognised disability, like anxiety or depression, because you have been bullied, you may also make a claim for workers' compensation. In order for your claim to be successful, it must be accepted that your employment has been a substantial cause of your disability.

A compensation claim can be made through WorkCover SA or Employers Mutual. You will also need to speak to your doctor about your claim.

It is important that you contact WorkCover SA or Employers Mutual as soon as possible if you believe you may be eligible for workers' compensation. This is because compensation claims are limited by strict timeframes. Submitting your claim too late may cause it to be unsuccessful.

You can contact WorkCover SA on 13 18 55 or visit their website at www.workcover.com. You can contact Employers Mutual on 1300 365 105 or visit their website at www.employersmutual.com.au.

Contact police

In some circumstances bullying may also amount to criminal behaviour. Examples of bullying behaviours that are also criminal include assault and the issue of unlawful threats.

If you believe that the bullying you have or are being subjected to could be in the nature of a criminal offence then you should also make contact with the police.

SEXUAL HARASSMENT

Sexual harassment is a particular type of bullying. It is believed to occur commonly throughout workplaces but, like other forms of bullying, many cases of sexual harassment are not reported due to embarrassment and a fear of not being believed.

What is sexual harassment?

In legal terms, sexual harassment is defined as behaviour of a sexual nature that is unwelcome and likely to offend, humiliate or intimidate others.

Sexual harassment occurs in many forms. It can range from unwelcome sexual teasing or comments to sexual assault. Repeated comments about sexual orientation and body shape can also amount sexual harassment.

Sexual harassment doesn't have to involve direct physical contact or direct verbal contact. Behaviours like the spreading of rumours and workplace gossip can be sexual harassment if the conduct is unwelcome.

What can you do if you are being sexually harassed at work?

Sexual harassment can be dealt with in many of the same ways as bullying.

If you believe you are being sexually harassed, you can seek to solve the problem through your workplace's internal processes. You can seek to find out if your workplace has a sexual harassment complaint procedure or ask for advice from your Contact or Grievance Officer, Health and Safety Representative or Human Resources Officer.

Your union or union representative can also provide you with advice on how to deal with sexual harassment.

Because sexual harassment is a form of discrimination, the Equal Opportunity Commission can also deal with such behaviour. In the first instance, the Equal Opportunity Commission will seek to solve your problem by organizing a conciliation meeting to assist you to reach a solution with your employer. If this avenue is unsuccessful, the Commission may refer your case to the Equal Opportunity Commission for a public hearing and decision.

You can contact the Equal Opportunity Commission on 8207 1977 or visit their website at www.eoc.sa.gov.au.

Like bullying, sexual harassment may also give rise to a workers' compensation claim. You can make such a claim either by contacting WorkCover SA on 13 18 55 (www.workcover.com) or Employers Mutual on 1300 365 105 www.employersmutual.com.au.

Finally, sexual harassment behaviours may also be criminal in nature. If you suspect this to be the case then you should also contact the police.

The Young Workers Legal Service can assist you in dealing with workplace bullying and sexual harassment. The advice we offer is free and confidential. You can contact us on:

Young Workers Legal Service

Phone: 8279 2233

Website: www.ywls.org.au

FURTHER HELP

The following agencies can assist you in dealing with workplace bullying or sexual harassment:

SafeWork SA

Phone: 1300 365 255

Website: www.safeworksa.gov.au

Equal Opportunity Commission

Phone: 8207 1977

Website: www.eoc.sa.gov.au

WorkCover SA

Phone: 13 18 55

Website: www.workcover.com

Employers Mutual

Phone: 1300 365 105

Website: www.employersmutual.com.au

Your union can also be of assistance. There is a union for every worker in Australia. If you are not a member of your union or would like to find out which union is applicable to you, contact:

Unions Australia

Phone: 1300 4 UNION or 1300 486 466

Website: www.unionsaustralia.com.au