

## Factsheet Fourteen

# WORKPLACE BULLYING

### What is workplace bullying?

Workplace bullying is a form of repeated unreasonable behaviour, which threatens, intimidates or humiliates a person or a group of people in the workplace and creates a risk to their health and safety. The bully can be anyone within the workplace including a manager, a supervisor or a co-worker. Bullying can affect anyone at all levels of employment.

Bullying behaviour may be subtle and not easily observed by other people, or it may be overt and noticeable to others. It may include verbal abuse, constant 'put-downs' and aggression. Persistent, unreasonable criticism of work performance or unreasonable work demands are also common bullying behaviours. Inappropriate comments about personal appearance, work performance and verbal abuse can also be bullying. Assault, both physical and threatened can be a factor. Workplace bullying is inappropriate and unacceptable behaviour in the workplace, and should not be tolerated. Workplace bullying is sometimes also called workplace harassment or mobbing.

#### Examples of workplace bullying can include:

- constant nit-picking, fault-finding and criticism of a trivial nature. Often the criticism is based on distortion, misrepresentation or fabrication;
- simultaneous with the criticism, a refusal to acknowledge you and your contributions and achievements;
- ongoing attempts to undermine you;
- being singled out and treated differently from co-workers;
- being isolated and separated from co-workers;
- being belittled, demeaned and patronised, especially in front of others;
- being humiliated, shouted at and threatened, often in front of others;
- being overloaded with work, or having all your work taken away and replaced with either simple menial tasks or with no work at all;
- finding that your work – and the credit for it – is stolen and plagiarised;
- having your responsibility increased but your authority taken away;
- having annual leave, sick leave, and especially compassionate leave refused;

- being denied training necessary for you to fulfil your duties;
- having unrealistic goals set, which change as you approach them; or
- being subjected to inappropriate disciplinary procedures.

## What is not workplace bullying?

It is important to understand the difference between a person's legitimate authority at work and abuse and bullying. All employers have a legal right to direct and control how work is done and managers have a responsibility to monitor workflow and give feedback on performance in a respectful and fair way. If an employee has obvious performance problems, these should be identified and dealt with in a constructive and supportive way that does not involve personal insults or derogatory remarks. In situations where an employee is dissatisfied with management practices, the problem should be raised in a manner that does not involve personal abuse.

## How does it affect an employee?

Workplace bullying is very subjective, and therefore the impact may vary greatly. The most commonly reported effects are:

- stress and anxiety;
- feelings of isolation at work;
- loss of self esteem;
- loss of financial security;
- loss of or damage to personal relationships; and
- symptoms of stress such as headaches, backaches, stomach cramps, sleep disorders and depression.

Bullying can impact your health in many ways. Many women report the following symptoms:

- constant high levels of stress and anxiety;
- frequent illness such as viral infections especially flu and glandular fever, colds, coughs, chest, ear, nose and throat infections (stress plays havoc with your immune system);
- aches and pains in the joints and muscles with no obvious cause; also back pain with no obvious cause and which won't go away or respond to treatment;
- headaches and migraines;
- tiredness, exhaustion, constant fatigue;
- sleeplessness, nightmares, waking early, waking up more tired than when you went to bed;
- flashbacks and replays, not being able to get the bully out of your mind;
- irritable bowel syndrome;
- skin problems such as eczema, psoriasis, athlete's foot, ulcers, shingles;
- poor concentration, can't concentrate on anything for long;

- bad or intermittently-functioning memory, forgetfulness;
- sweating, trembling, shaking, palpitations, panic attacks;
- tearfulness, bursting into tears regularly over trivial things;
- uncharacteristic irritability and angry outbursts;
- hyper vigilance, being constantly on edge;
- hypersensitivity, fragility, isolation, withdrawal;
- shattered self-confidence, low self-worth, low self esteem;
- feeling suicidal; and
- reactive depression, lethargy, hopelessness, anger, futility.

## Is workplace bullying against the law?

There are a number of different laws that relate to workplace bullying. Understanding the laws and which one, if any, might apply to you as a worker can be very difficult. We recommend that you seek advice about this.

On January 1, 2014 the Federal government introduced new workplace bullying laws into the *Fair Work Act 2009*. These new laws give workers who believe they have been bullied at work the right to make an application to the Fair Work Commission for an order to stop the bullying. As the laws are new and largely untested the NT Working Women's Centre is uncertain as to exactly how they will be applied but is closely watching this space.

Under the *Fair Work Act 2009*, a worker will be found to be bullied at work if: an individual or group of individuals repeatedly behaves unreasonably towards the worker or a group of workers AND that behaviour creates a risk to health and safety.

The definition of worker is broad and includes: employees, a contractor or subcontractor, an employee of a contractor or subcontractor, an employee of a labour hire company assigned to work in the person's business or undertaking, an outworker, an apprentice, trainee or student gaining work experience, a volunteer (some exceptions apply), a member of the Australian Federal Police and a Commonwealth statutory office holder.

The Fair Work Commission can only make an order to stop bullying if bullying has occurred and there is a risk of further bullying. This means that if you have left the workplace, or the person who was bullying you has left the workplace, your claim may be dismissed by the Fair Work Commission. The laws do not apply to reasonable management action carried out in a reasonable manner.

The Fair Work Commission must start to deal with an application within 14 days after it is made. Once the Fair Work Commission has accepted your complaint they may refer the matter to mediation, conciliation or a hearing. The Fair Work Commission states that 'mediation in this context will mean a confidential and voluntary process in which the participants, with the assistance of an independent mediator, identify the issues in dispute and endeavour to reach an agreement to resolve the dispute'. (Source: [Anti-bullying jurisdiction, Summary of case management model](http://www.fwc.gov.au/documents/resources/Anti-bullying-case-mgmt-model.pdf), Fair Work Commission <http://www.fwc.gov.au/documents/resources/Anti-bullying-case-mgmt-model.pdf> )

The Fair Work Commission may make any order it considers appropriate but they cannot order a payment of financial compensation or reinstatement.

If bullying results in you being dismissed or leaves you no other alternative but to resign, you may be able to lodge a claim for adverse action, unfair dismissal or unlawful termination through the Fair Work Commission. If you feel forced to resign, it is important that you seek advice before doing so. See factsheet 7 on *Termination of employment* for more information.

Where bullying involves sexual harassment or discrimination on the basis of personal characteristics, such as disability, gender, race or age, a claim may be made to the NT Anti-Discrimination Commission or the Australian Human Rights Commission under discrimination law.

Where the bullying includes actions which alter your position, or otherwise injure you in your employment, and it is based on a personal characteristic (such as your gender, race, age or disability) or because you exercised a workplace right, then you may be able to make a complaint to the Fair Work Commission or Fair Work Ombudsman. Check factsheet 11 on *Discrimination and sexual harassment* and factsheet 12 on *General protections and adverse action* for more information.

Sometimes bullying includes physical assault. This is a criminal offence and should be reported to the police immediately.

If the effect of the bullying makes you so sick that you can't work, you may be able to lodge a claim for workers' compensation. Your employer has obligations under the *Work Health and Safety (National Uniform Legislation) Act 2011* to provide a safe work environment as well as under general law. Check factsheet 10 *Workers' compensation* for more information.

If you consider your workplace fails to meet these requirements a complaint may be lodged at NT WorkSafe. Generally, NT WorkSafe will only conduct enquiries when the bullying is still occurring and you have exhausted all avenues to stop the bullying, such as reporting the hazard to the employer and trying to resolve the issue. It is NT WorkSafe's role to enquire into and determine whether all parties have met their obligations under the Act, not to become involved in the specific details of the alleged bullying activities or to mediate between the aggrieved person and the alleged bully.

If you are being bullied at work and have been affected by a 'serious incident' of bullying, we recommend you contact NT WorkSafe and request an Incident Notification Form. An injury (physical or psychological) caused by workplace bullying that results in a hospital admission is likely to be a 'serious incident'. NT WorkSafe will record the incident and *may* investigate your claims of an unsafe workplace. NT WorkSafe can be contacted on 1800 019 115 or via email [ntworksafe@nt.gov.au](mailto:ntworksafe@nt.gov.au)

## What can I do if I'm being bullied?

### **Keep a diary of events**

Write down what bullying behaviours occurred and include dates, times and witnesses. This can be used at a later date if you choose to make a complaint. The act of writing down what has happened can have

therapeutic benefits also. Keep copies of any emails or letters that demonstrate the bullying behaviours.

**Seek support**

Severe workplace bullying is a traumatic experience and should be taken seriously. Talking to a professional counsellor or trusted friend can help you manage your stress whilst you consider your options.

**Don't blame yourself**

You are never to blame for bullying behaviours of another person.

**Avoid being alone with the bully**

It is important to ensure your safety as much as possible.

**Avoid justifying yourself to the bully**

When responding to deceptive, unfair or untrue criticisms and allegations avoid explaining, justifying, elaborating or apologising as such responses gives the criticism or allegation validity it does not have. Put the onus on the bully to provide substantive evidence to justify the accusation.

**Check grievance procedures in the workplace**

Your workplace should have appropriate policies and procedures that tell you who you complain to and how you do it. You should, if possible, follow these procedures.

**Talk to the Health and Safety Representative**

If there is a Health and Safety Representatives in your workplace, they may be able to assist you to deal with the bullying. If there is a safety and health committee, the Health and Safety Representative may refer the matter to the committee.

**Talk to a trusted colleague**

Bullying can be so subtle co-workers may not even notice it happening. If however you have spoken to a co-worker and asked them to pay particular attention, they may witness bullying behaviours and look out for you.

**Seek advice**

If you are a member of a union, you should contact them to help you make a complaint and advocate on your behalf. If you are not a union member, you may wish to contact the NT Working Women's Centre, a lawyer or an industrial advisor. Seeking advice is particularly important if you are thinking about making a complaint directly to your employer or to an authority such as NT WorkSafe, NT Anti-Discrimination Commission, the Australian Human Rights Commission, the Fair Work Ombudsman or the Fair Work Commission.

**Making an internal grievance**

Your workplace should have policies and procedures in place about workplace bullying. These policies and procedures should tell you who you complain to if you have been bullied and how you do it.

Deciding whether to write a letter of complaint or lodge a grievance directly to your employer can be a difficult decision. The NT Working Women's Centre recommends that you seek advice prior to writing a complaint so that you can be well prepared.

Two of the most important things when writing a complaint are to keep the letter brief and stick to the facts. This may be very difficult for you if you have experienced intense emotions during your experience of the bullying and feel a strong need to write your emotions down. If you are feeling this way, we recommend you start the process by writing a long letter for yourself that is filled with all the emotions you felt. Once you have done this you may find it easier to write a factual letter to your employer.

Here are some tips for writing a complaint letter:

- keep the letter brief (maximum 2 pages);
- confine your letter to facts;
- ensure that your letter follows the suggested processes in your workplace's policies and procedures for lodging a grievance;
- remind your employer that they have a statutory duty of care to ensure that your workplace is healthy and safe. Your employer might need to be provided with a copy of the *Work Health and Safety (National Uniform Legislation) Act 2011* or referred to the NT WorkSafe website.
- the letter should include a short description of the bullying behaviours. If you need more space to detail a whole series of events you should refer to them in your letter and attach them as a separate timeline;
- the letter should describe the impact the bullying has had on you but protect yourself by not giving information that is too personal;
- the letter should clearly state what outcome you are seeking within a suggested time frame e.g. you might request a written response to your letter that gives details of any investigation that will take place, an apology, that the bully is kept away from you etc;
- you should sign and date the letter and make sure you have written the address you would like your response to be sent to if you want one;
- finally, you should keep a copy of the letter for your records.

Unfortunately, in the experience of the NT Working Women's Centre, many employers who receive letters about workplace bullying do not respond. However by describing the bullying you have experienced you are a part of a movement of people all around the world who are working to expose the serious effects of workplace bullying.

**Where can I get more help?**

### **NT Working Women's Centre**

Freecall: 1800 817 055

Web: [www.ntwwc.com.au](http://www.ntwwc.com.au)

The NT Working Women's Centre is an excellent first port of call if you are a woman in the NT experiencing bullying. It can provide an initial appointment to give information on the

range of services available and discuss options. The NT Working Women's Centre may be able to assist or represent you if you choose to make a complaint.

### **Counselling services**

Severe workplace bullying can be a traumatic experience and should be taken seriously. Talking to a professional counsellor can help you manage your stress while you consider your options. If you need someone to talk to there are a range of confidential options that are available. If the cost of counselling is beyond your means please discuss payment options with the counselling service.

### **Lifeline**

Ph: 13 11 14

Web: [www.lifeline.org.au](http://www.lifeline.org.au)

This is a free confidential 24 hour telephone counselling service.

### **Relationships Australia**

Darwin Ph: 8923 4999

Local call: 1300 364 277

Alice Springs Ph: 8950 4100

Web: [www.relationships.com.au](http://www.relationships.com.au)

The cost of counselling is determined by the income you earn.

### **Employee Assistance Service Australia (EASA)**

Darwin Ph: 8941 1752

Freecall: 1800 193 123

Alice Springs Ph: 8953 4225

Katherine, Nhulunbuy and Jabiru: Telephone the Darwin number or freecall as listed above.

Web: [www.easa.org.au](http://www.easa.org.au)

Counselling is free for Government employees, employees whose workplaces have a contract with EASA and employees with drug and alcohol issues. It is also usually available for their family members. For other employees there is a fee for service.

### **Anglicare Resolve**

Darwin Ph: 8946 4800

Freecall: 1800 898 500

Nhulunbuy Ph: 8939 3400

Counselling is \$30 per session. If this cost is beyond your means discuss payment options with the counsellor.

### **Somerville Community Services**

Darwin Ph: 8920 4100

Palmerston Ph: 8935 1500

Katherine Ph: 8972 5100

Web: [www.somerville.org.au](http://www.somerville.org.au)

Counselling is free.

### **Holyoake**

Alice Springs Ph: 8952 5899

Provides individual and group counselling.

Counselling costs \$50 (negotiable).

### **Central Australian Aboriginal Congress – Social and Emotional Wellbeing Branch**

Alice Springs Ph: 8951 4457

Provides free counselling and support for Aboriginal people. Self-referrals accepted.

### **CatholicCare NT**

Darwin Ph: 8944 2000

Alice Springs Ph: 8958 2400

Katherine Ph: 8971 0777

Tennant Creek: 8962 3065



Web: [www.catholicparent.org.au](http://www.catholicparent.org.au)

The cost of counselling is determined by the income you earn. If you are concerned about the cost please discuss payment options with the counsellor.

### **Your GP**

You should keep your doctor informed as workplace bullying can have a significant impact on your stress levels and health.

Look under Counselling in the Yellow Pages for a list of private counsellors in your area.

### **Other agencies that can help**

#### **Your Union**

Unions NT

Ph: 8941 0001

Web: [www.unionsnt.com.au](http://www.unionsnt.com.au)

Contact your union directly. If you are not already a member you have the right to join. Unions can help you make a complaint and advocate on your behalf. If you are unsure which union you can join contact Unions NT.

#### **Your HR Department**

Check grievance procedures in the workplace. This will tell you who to complain to and how to do it.

#### **Office of the Commissioner of Public Employment (OCPE)**

Promotion Appeal and Grievance Reviews Unit

Ph: 8999 4129

Web: [www.ocpe.nt.gov.au](http://www.ocpe.nt.gov.au)

If you work for the NT public sector and have followed agency grievance procedures without success you can refer your grievance and request a Section 59 Review.

#### **NT WorkSafe**

Ph: 1800 019 115

Web: [www.worksafe.nt.gov.au](http://www.worksafe.nt.gov.au)

NT WorkSafe is responsible for the regulation of occupational health and safety, rehabilitation and workers' compensation. Worksafe assist with matters that fall under the Model Work Health and Safety Act such as ensuring that workplaces are healthy and safe and free from workplace bullying.

### **Australian Human Rights Commission**

Complaints Info line: 1300 656 419

Web: [www.humanrights.gov.au](http://www.humanrights.gov.au)

You can make a complaint to the Commission if the bullying involves acts of sexual harassment or discrimination on the grounds of an attribute such as race, age, sex, sexuality, marital status, pregnancy, disability, religion, criminal record, trade union activity, political opinion and social origin. Complaints need to be made within twelve months.

### **NT Anti Discrimination Commission**

Freecall: 1800 813 846

Web: [www.adc.nt.gov.au](http://www.adc.nt.gov.au)

You can make a complaint to the Commission if the bullying involves acts of sexual harassment or discrimination on the grounds of an attribute such as race, age, sex, sexuality, marital status, pregnancy, parenthood, breastfeeding, impairment, trade union or employer association activity, religions belief or activity, political opinion affiliation or activity, irrelevant criminal record or irrelevant medical record. Complaints need to be made within six months.

### **The Fair Work Ombudsman**

Fair Work Info line: 13 13 94

Web: [www.fairwork.gov.au](http://www.fairwork.gov.au)

### **NT Police**

Ph: (emergency) 000

If calling from a mobile: 112

For non-emergency crime incidents and general enquiries: 131 444

If the bullying involves physical assault this is a criminal offence and should be reported to the police immediately.

### **To access an interpreter**

Interpreting and Translating Service NT

Ph: 1800 676 254

Web: [www.itsnt.nt.gov.au/](http://www.itsnt.nt.gov.au/)

Aboriginal Interpreter Service

Ph: 8999 8353

Web: [www.ais.nt.gov.au/](http://www.ais.nt.gov.au/)

### **For people with a hearing and/or speech impairment**

National Relay Service

Ph: 133 677

Freecall: 1800 555 677

The NT Working Women's Centre provides free and confidential information, advice and assistance to women about work related matters.

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