Prevention of workplace bullying in the WA public sector

A guide for agencies
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Proper courtesy, consideration and sensitivity are essential components of a high integrity culture and a public sector which is productive and effective.

Bullying—defined as repeated, unreasonable or inappropriate behaviour directed towards a worker or group of workers, that creates a risk to health and safety—causes damage to people and organisations. It can occur in all types of workplaces and can take many different forms ranging from subtle to aggressive, violent behaviour. It can occur across all levels of employment and be experienced by anyone.

Because of its potentially adverse impacts the Public Sector Commission monitors perceptions of bullying through its employee perceptions survey (EPS). Results show that similar to other public sector jurisdictions in Australia some WA public sector employees believe they have experienced bullying. Bullying is not acceptable behavior and should not be tolerated in the workplace.
Overview

Purpose

The purpose of these guidelines is to highlight the impacts of bullying in the workplace and to encourage public sector agencies to ensure they have appropriate systems and processes in place to prevent and deal with it. The guidelines provide general information about the nature and effects of bullying and the avenues for raising concerns and reporting allegations. Further guidance on processes to manage incidents of bullying in the WA public sector context is found in the Commission’s and the Department of Commerce’s publications referred to in these guidelines. These guidelines apply only to alleged bullying by a WA public sector employee or employees in relation to another WA public sector employee.

The legal framework for dealing with bullying

Bullying is well recognised as a health and safety matter which constitutes a risk to the health, safety and wellbeing of individual employees and can lead to serious psychological, and even physical, injury. The primary regulation of workplace bullying (within Australia) occurs within the work health and safety framework.

**Occupational Safety and Health Act 1984**

Section 19 of the *Occupational Safety and Health Act 1984* (OSH Act) requires all employers to provide a safe, hazard-free work environment as far as is reasonably practicable. Workplace bullying should be treated as any other hazard at the workplace and as such is unlawful under the OSH Act. If there is unreasonable or inappropriate behaviour, or the potential for such behaviour, there is a high risk of psychological and/or physical harm and steps should be taken to stop the behaviour. Both employers and employees have obligations under that legislation. WorkSafe (within the Department of Commerce’s publications referred to in these guidelines. These guidelines apply only to alleged bullying by a WA public sector employee or employees in relation to another WA public sector employee.

1 Other processes, such as the ‘Whole of government complaints system’, apply where the matter relates to a service delivery issue. See [wa.gov.au/content/complaints](http://wa.gov.au/content/complaints) for further information.

2 House of Representatives Standing Committee on Education and Employment Inquiry - *We just want it to stop.*
Commerce) provides guidelines for reporting, investigating and acting on specific matters.³

**The Public Sector Management Act 1994**

Section 9(a) of the PSM Act requires all public sector bodies and employees to observe the principles of conduct and to comply with the provisions of: the PSM Act and any other act governing their conduct; the Commissioner’s instructions, public sector standards and codes of ethics; and any code of conduct applicable to the public sector body or employee concerned.

The Code of Ethics⁴ sets out the minimum standards of conduct and integrity to be complied with by all public sector bodies. Agencies also have their own code of conduct, which gives practical guidance on the principles included in the Code of Ethics. Behaviours which can be characterised as bullying may constitute a breach of the Code of Ethics and/or agency codes of conduct, and fall within the scope of disciplinary provisions under the PSM Act⁵ or other awards and industrial instruments.

Part 5 of the PSM Act provides chief executive officers (CEOs) – as employers – the capacity to investigate allegations and to take action where a breach of the Code of Ethics is found.

*Commissioner’s Circular 2012-05 - Code of Practice: Occupational Safety and Health in the Western Australian Public Sector* promotes practical preventative strategies to assist public sector CEOs to ensure compliance with the OSH Act and regulations.

**Other acts**

Bullying may constitute misconduct under the *Corruption, Crime and Misconduct Act 2003* or be unlawful under other legislation, such as the *Equal Opportunity Act 1984 (EO Act)*. When bullying involves direct or indirect discrimination on the grounds of race, sex, marital status, pregnancy, impairment, religious or political conviction, age, gender history, sexual orientation, family responsibility or family status, sexual or racial harassment, or spent conviction in accordance with the EO Act, the employee may lodge a complaint with the Equal Opportunity Commissioner.

Should an employee consider he or she has been dismissed as a result of making a complaint in relation to bullying, or is forced to resign due to the effects of bullying the employee may be entitled to lodge a claim under the unfair dismissal provisions in the *Industrial Relations Act 1979*. Any physical assault and sexual assault are criminal matters and should be referred to the Western Australia Police.


⁴ The *Code of Ethics* applies to all public sector employees, including CEOs, chief employees and ministerial staff, and public sector bodies covered by the PSM Act, which includes boards established under their own legislation.

⁵ A breach of the *Code of Ethics* constitutes a breach of discipline under section 80(b) of the PSM Act.
Responsibilities of agencies and employees

What are the responsibilities of employees?
All employees should support and comply with behavioural standards set out in the Code of Ethics and their agency’s code of conduct. Under the OSH Act, employees must take reasonable care for their own safety and health at work and avoid adversely affecting the safety or health of any person in the workplace through any act or omission.

Employees should follow the employer’s safety instructions, cooperate with their employer on work-related safety and health matters and report to their employer any work-related injuries or anything that they consider to be a hazard in their workplace (which could include bullying)\(^6\). Each agency will have its individual mechanism for reporting acts of bullying.

What are the responsibilities of agencies?
Public sector CEOs and agencies must comply with specific obligations set out in legislation to ensure a safe working environment and to take action on allegations of bullying as required. Preventing bullying from occurring, and dealing with it when it does occur, is the responsibility of all public sector agencies.

Guidance and support relevant to bullying are provided by agencies with specific responsibilities under the OSH Act and PSM Act.

These general responsibilities are outlined below and referred to throughout this publication.

\(^{6}\) The OSH Act defines a hazard, in relation to a person, as ‘anything that may result in—

(a) injury to the person; or

(b) harm to the health of the person;’
Table 1: Agency responsibilities in relation to preventing and dealing with bullying

<table>
<thead>
<tr>
<th>Agency</th>
<th>Role</th>
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</thead>
<tbody>
<tr>
<td>WorkSafe, Department of Commerce</td>
<td>Administer the OSH Act.</td>
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<tr>
<td></td>
<td>Issue guidelines to assist the public sector to prevent and deal with occurrences of bullying.</td>
</tr>
<tr>
<td></td>
<td>In some circumstances, investigate and issue improvement notices.</td>
</tr>
<tr>
<td>Public Sector Commission</td>
<td>Establish the Code of Ethics and other instruments concerning ethical behaviour and integrity.</td>
</tr>
<tr>
<td></td>
<td>Assist public sector agencies through the provision of information and advice in the areas of public sector leadership and integrity.</td>
</tr>
<tr>
<td></td>
<td>Evaluate and report on issues relevant to the Public Sector Commissioner’s role and functions.</td>
</tr>
<tr>
<td>WA public sector CEOs and bodies</td>
<td>Implement and monitor policies and procedures to prevent and manage occurrences of bullying.</td>
</tr>
<tr>
<td></td>
<td>Provide leadership and foster a culture which does not tolerate bullying.</td>
</tr>
<tr>
<td></td>
<td>Ensure employees are aware of their obligations in relation to the prevention of bullying.</td>
</tr>
<tr>
<td></td>
<td>Ensure managers are trained and supported to prevent and deal with occurrences of bullying.</td>
</tr>
<tr>
<td></td>
<td>Comply with legislation, including the PSM Act and OSH Act.</td>
</tr>
<tr>
<td>RiskCover</td>
<td>Manage the self-insurance and risk management arrangements of Western Australian government agencies.</td>
</tr>
<tr>
<td></td>
<td>Work with agencies to focus on their operational, project and strategic business risks.</td>
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</tbody>
</table>
Defining bullying

What is bullying behaviour?

Bullying in the workplace can be defined as unsolicited or unwelcome ‘repeated, unreasonable or inappropriate behaviour directed towards a worker or group of workers, that creates a risk to health and safety’.  

Bullying can happen in any workplace. It is not limited to a particular position or status within an organisation and can be carried out at all employment levels. It may be instigated by an individual or group and involve overt behaviour, such as verbal abuse or physical violence, or involve subtle intimidation, and be carried out either directly or indirectly. Bullying can happen face to face, over the telephone, online (e.g. via social networking forums), via email or during daily work activities.

Bullying is defined by the effect of the behaviour even though there may not be a specific intent to bully (i.e. bullying is often not always intentional or conscious). The repeated nature of the bullying behaviour is often a pattern of incidents that escalate over time.

For example, verbal abuse on one occasion, personal property intentionally damaged on another occasion, and subsequently being unreasonably threatened with termination, may constitute bullying by a sum of single incidents directed at one or several workers. In situations where workers complain of seemingly isolated or trivial examples of bullying behaviours, employers should be aware that this might be indicative of a more complex pattern of bullying behaviours at the workplace.

A single incident of bullying behaviour, while not falling within the definition of repeated bullying, may escalate into bullying and must be responded to appropriately.

There are two main types of bullying behaviour – ‘direct’ (overt or obvious) and ‘indirect’ (subtle or covert). Examples are provided in the table below.


8 Public Sector Commission, State of the sector 2012 report.
Table 2: Examples of direct or indirect bullying behaviours

<table>
<thead>
<tr>
<th>Direct bullying behaviours</th>
<th>Indirect bullying behaviours</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abusive, insulting or offensive language</td>
<td>Overloading a person with work or not providing enough work</td>
</tr>
<tr>
<td>Behaviour or language that frightens, humiliates, belittles or degrades, including abuse, sarcasm or criticism</td>
<td>Unfair treatment in relation to accessing workplace entitlements such as leave or training</td>
</tr>
<tr>
<td>Inappropriate comments about a person’s appearance, lifestyle or their family</td>
<td>Setting timelines that are difficult to achieve or constantly changing deadlines</td>
</tr>
<tr>
<td>Teasing or regularly making someone the brunt of pranks or practical jokes</td>
<td>Repeatedly setting tasks that are below or beyond a person’s skill level</td>
</tr>
<tr>
<td>Interfering with a person’s personal effects or work equipment</td>
<td>Ignoring or isolating a person</td>
</tr>
<tr>
<td>Harmful or offensive initiation practices</td>
<td>Deliberately denying access to information, consultation or resources</td>
</tr>
<tr>
<td>Isolation or marginalisation of workers from others</td>
<td>Spreading rumours or innuendo about someone</td>
</tr>
<tr>
<td>Physical assault or threats.</td>
<td>Unnecessarily changing work arrangements such as rosters and leave to the detriment of a worker or workers.</td>
</tr>
</tbody>
</table>

What is not bullying behaviour?

Many things that happen at work are generally not considered to be bullying, although some experiences can be uncomfortable for those involved. It is important to understand that there are bound to be occasional differences of opinion, conflicts and problems in working relationships – these are part of working life.

Examples of behaviours that are not bullying include:

- carrying out legitimate or reasonable management decisions or actions
- expressing differences of opinion
- providing constructive and courteous feedback, counselling or advice about work-related behaviour
- making a complaint about a manager or employee’s conduct in a reasonable way.
**Legitimate management action**

It is important to differentiate between a person's legitimate authority at work and bullying. 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 accordance with section 29(1) of the PSM Act, CEOs and chief employees also have responsibility to 'manage and direct employees' and 'evaluate the performances of employees'.

Management action taken in a reasonable manner and conducted fairly, transparently and in line with approved processes is not bullying. Some examples include:

- allocating and monitoring work and setting reasonable goals and deadlines
- implementing organisational change, restructuring or downsizing, changing job roles or location
- managing performance or poor performance issues
- providing appropriate feedback with the intention of assisting an employee to improve their work performance
- talking to an employee about inappropriate behaviour
- making justifiable and reasonable decisions related to recruitment, selection, promotion and other development opportunities
- taking disciplinary action.

**Why prevent bullying?**

**Effect on organisations**

There are considerable direct and indirect costs for organisations that do not address bullying effectively. An organisation may have to deal with formal grievance proceedings initiated by workers who feel they have suffered physical or psychological harm as a result of bullying. Complaints may lead to investigations and enforcement action by authorities responsible for the administration of equal employment opportunity and occupational safety and health legislation.

There could be costs associated with counselling, mediation and workers' compensation claims. There may also be instances where organisations could be liable for the unlawful actions of their employees unless they can show they have taken all reasonable steps to prevent inappropriate behaviour occurring and manage incidents promptly.

Bullying can also have a detrimental effect on an organisation's performance. It can lead to low morale and diminishment of workplace culture, resulting in high staff turnover (which leads to additional recruitment and training costs), increased absenteeism,

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9 See specifically subsections 29(1)(g), (i) and (m) of the PSM Act.
Defining bullying

Reduced participation and loss of productivity. It could also lead to a poor public image or negative reputation for the organisation, adversely impacting on the ability to recruit staff.

Figures provided by RiskCover reveal that in 2012/13 there were 73 workers’ compensation claims for bullying and harassment that were lodged by WA public sector employees, with an estimated cost of just over $3.5 million. The Productivity Commission estimates that bullying costs the Australian economy between $6 billion and $36 billion annually.

**Effect on people**

Each person who experiences bullying will react differently. Reactions may include any combination of the following:

- psychological issues, including depression, anxiety and stress
- impaired concentration or ability to make decisions
- reduced work performance
- incapacity for work resulting in workers’ compensation claims or reduced output and performance
- reduced quality of home and family life, and social withdrawal
- loss of self-confidence and self-esteem
- increased risk of physical injuries or illness and, in extreme cases, a risk of suicide.

The effects of bullying are not confined to the victim. Other employees who see what is happening may know it is wrong but feel guilty because they do not think they can do anything. They may be afraid to support or help the victim in case they get bullied too and can feel angry or unhappy about the workplace culture.

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10 Source: RiskCover data as at 23 September 2013. Includes claims pertaining to sexual, racial or other verbal harassment. Claims may have originated from some government entities that are not part of the public sector as defined in the Commission’s SOTS report.

Preventing bullying

An integrated approach

Bullying is best dealt with by taking steps to prevent it before it becomes a health and safety issue. Like all workplace behaviour issues, effectively preventing and dealing with incidences of workplace bullying requires a comprehensive and strategic approach.

Leaders who role model clearly articulated standards of behaviour set the tone for the organisation and provide a strong foundation on which to build a positive culture where bullying is not tolerated. Systems and policies provide the foundation for an integrated, organisation wide approach to preventing bullying. Understanding the risks of workplace bullying enables a proactive approach to address factors that may contribute to workplace bullying, before they escalate into serious problems which can be costly and damaging to organisations and employees. Whole of organisation involvement ensures that there is a clear and consistent understanding of what is, and what is not, bullying and how the organisation will address such behaviour.

An integrated approach involves four distinct elements working together.

**Figure 1: an integrated approach to preventing bullying.**
This approach enables an organisation to:
- articulate, communicate and support ethical standards of behaviour
- consider and reduce the risk of bullying
- monitor workplace culture in general and be alert to signs of bullying
- enable appropriate action to be taken if it occurs
- review allegations and incidences with the aim of improving workplace systems and culture.

Leadership and culture

Preventing bullying involves more than merely complying with the Code of Ethics or other agency codes. The PSM Act outlines expectations for the behaviour and actions of public sector employees. These are supported and enacted by organisational leadership, culture and values.

Employers want a productive workforce that manages its performance and achieves results. Employees want to work in a place where they know what is expected of them, they are treated fairly and their skills and contribution are recognised and valued. Both employers and employees seek a harmonious work environment.

Leaders as role models

Leaders and managers contribute to the culture of a workplace, not just by what they say but also by what they do. Effective leaders model their organisation’s values and standards for workplace behaviour and employees take their cues from their managers and the immediate environment. Leaders need to model appropriate behaviours in how they conduct themselves and have the courage to deal with inappropriate behaviour when they become aware of it.

Leaders and managers should ensure that performance management systems and processes operate effectively within their agencies, to enhance understanding of work performance and expectations and ensure giving and receiving constructive feedback on work performance is routine.

Values driven culture

The culture and tone of an organisation will either encourage a positive work environment or inhibit it. The presence of bullying in the workplace can be the result of a workplace culture and environment that tolerates or condones behaviour such as intimidation, harassment, initiation ceremonies or the use of strong abusive language.

Having a formal policy to address bullying is ineffective if the workplace culture tolerates or condones the behaviour. This creates low expectations that bullying will be adequately addressed when it occurs and thus passively supports such bullying behaviour.
Maintaining a culture where reports of unacceptable behaviour are taken seriously, dealt with confidentially, fairly and in a timely manner is intrinsic to eradicating bullying and its negative consequences.

Clearly articulated organisational values and expected standards of behaviour should reflect a no-tolerance approach to bullying and be regularly reinforced through messages from leaders and managers. Messages need to be supported by appropriate action, especially by leaders and managers, to ensure that the behaviours underpinned by these messages are valued and become part of the prevailing culture.

Staff perception surveys, exit interviews, performance management discussions and managers being alert to signs of negative cultures, attitudes and risk factors which might encourage negative behaviours may provide early warning signs that efforts are required to address potential workplace problems.

**Whole of organisation involvement**

All employees play a role in actively fostering a workplace culture which encourages respectful, professional working relationships and responds promptly and fairly to allegations and incidences of bullying. While it is accepted that anyone can have a bad day, it is not acceptable to use this as an excuse to behave badly towards others.

All persons employed within public sector bodies, in accordance with section 9(c) of the PSM Act, are expected to ‘exercise proper courtesy, consideration and sensitivity in their dealings with members of the public and employees’. While an action may be reasonable, it also needs to be carried out in a respectful manner.

For example, if an employee has performance problems, they should be identified and dealt with in a confidential, constructive and objective way that does not involve personal insults or derogatory remarks. Where an employee is dissatisfied with management practices, the problems should also be raised in a manner that remains professional and objective.

Exercising proper courtesy, consideration and sensitivity in dealings with colleagues or employees will help to maintain a positive work culture where bullying behaviour does not flourish.
Identify and minimise risk

Bullying is often subtle or hidden and although there may be no obvious signs, it does not mean that it does not exist. CEOs have obligations under OSH legislation to provide employees with a safe working environment. Identifying and addressing the risk factors that may contribute to an environment where bullying flourishes, enables them to be addressed before they escalate into an occupational safety and health issue.

Identify the risks

Risk management systems and activities should consider the risk of bullying and the potentially adverse impact on working relationships, productivity and organisational reputation. In order to fully assess risk, consultation should be undertaken at all levels of the organisation and with specialist areas such as human resources and occupational safety and health. The factors which present a risk of bullying behaviours occurring may be grouped into (See 'Figure 2'):

- organisational factors
- leadership styles
- work systems
- workplace relationships
- workforce characteristics.

These factors do not indicate that bullying will occur or even that it is likely. They do, however, represent factors which, if not properly managed, may create an environment where bullying behaviours can occur. As such, these factors should be given consideration by managers as part of good management practice.

The list is not exhaustive and agencies should consider whether other factors are relevant to their workforce and business context. Note also that not every bullying incident has a reason that can be easily identified: sometimes there are multiple reasons with a combination of factors working together.

Implement appropriate management actions

Strategies and plans to minimise and ‘control’ (i.e. to eliminate or reduce the likelihood or impact of) the risks relating to workplace bullying should be implemented ('Figure 2'). These need to suit the size and structure of the workplace, as well as be realistic and achievable. They should be designed to create long-term change and not used simply as a quick fix for a specific incident.

Recognising, removing or minimising the risk is not a one-off process. A regular review and evaluation of the strategies and plans that have been implemented to prevent and control workplace bullying should also be undertaken.
Factors that may contribute to workplace bullying

<table>
<thead>
<tr>
<th>Organisational issues</th>
<th>Leadership styles</th>
<th>Work systems</th>
<th>Workplace relationships</th>
<th>Workforce characteristics</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Organisational change, involving major internal restructuring or downsizing</td>
<td>- Autocratic leadership, strict and directive styles; employees are not involved in decision making; no flexibility</td>
<td>- Lack of policies, procedures or support systems</td>
<td>- Poor interpersonal or communication skills</td>
<td>- Young or new workers or workers compressed at lower levels</td>
</tr>
<tr>
<td>- Technological change</td>
<td>- Laissez-faire leadership; inadequate or absent supervision: responsibilities inappropriately or informally delegated; little or no guidance provided to subordinates</td>
<td>- High workloads, staff shortages, inexperienced staff</td>
<td>- Criticism or other negative interactions</td>
<td>- Injured workers or those on return to work plans</td>
</tr>
<tr>
<td>- Change in manager or work methods</td>
<td>- Leadership and management supervision, support, training, mentoring, coaching, especially for new managers</td>
<td>- Lack of resources training, role clarity</td>
<td>- Interpersonal conflict</td>
<td>- Those belonging to a minority group for reasons of age, gender, ethnicity, disability, parental status, religion or political views, sexual preference</td>
</tr>
<tr>
<td>- Job insecurity</td>
<td>- Regular performance development plans and 360° feedback for managers</td>
<td>- Poorly designed rostering</td>
<td>- Workers excluded</td>
<td>-</td>
</tr>
<tr>
<td>- Inadequate support or training</td>
<td>- Include questions about leaders’ conduct and performance in exit interviews and employee opinion surveys</td>
<td>- Unreasonable performance measures or timeframes</td>
<td>- Individual circumstances including mental health, influence of alcohol or other drugs</td>
<td>-</td>
</tr>
</tbody>
</table>

Management actions that may be considered to address these factors

<table>
<thead>
<tr>
<th>Organisational issues</th>
<th>Leadership styles</th>
<th>Work systems</th>
<th>Workplace relationships</th>
<th>Workforce characteristics</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Plan all change</td>
<td>- Accountability for positive leadership styles</td>
<td>- Implement standard operating procedures</td>
<td>- A conflict management process</td>
<td>- Systems to support and protect vulnerable staff</td>
</tr>
<tr>
<td>- Identify risks and establish a plan to manage them</td>
<td>- Leadership and management supervision, support, training, mentoring, coaching, especially for new managers</td>
<td>- Review and monitor workloads and staffing levels</td>
<td>- Provide training addressing conflict in the workplace (e.g. diversity, tolerance, interpersonal communication and interaction)</td>
<td>- Effective induction</td>
</tr>
<tr>
<td>- Consult affected employees as early as possible</td>
<td>- Regular performance development plans and 360° feedback for managers</td>
<td>- Review resource availability</td>
<td>- Ensure supervisors act on inappropriate behaviour</td>
<td>- Train workers (e.g. in diversity, tolerance and communication skills)</td>
</tr>
<tr>
<td>- Maintain effective communication throughout the change</td>
<td>- Include questions about leaders’ conduct and performance in exit interviews and employee opinion surveys</td>
<td>- Redesign and clearly define jobs</td>
<td>- Provide access to peer support or trained grievance officers</td>
<td>- Train managers to support higher risk workers</td>
</tr>
<tr>
<td>- Seek and act on feedback throughout the change</td>
<td></td>
<td></td>
<td>- Implement a system to provide support and advice</td>
<td>- Implement a ‘buddy’ system for new workers</td>
</tr>
<tr>
<td>- Review and evaluate change processes and associated risk management plan</td>
<td></td>
<td></td>
<td>- Monitor workplace relationships</td>
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Figure 2: Identifying and addressing the factors that may contribute to workplace bullying.
Policies and ethical standards

To support sector-wide standards of ethical behaviour, agencies should establish clear expectations of workplace behaviour in their own business context in their code of conduct and other policies. The consequences of behaviour that is not aligned with those behavioural standards should also be clearly articulated.

Policies can influence organisational culture. Without a policy which articulates a no-tolerance approach to bullying, there may be ambiguity as to the organisation’s approach to it and employees may not be clear on how, or from whom to seek help.

All public sector agencies should have a policy which refers to the prevention and management of bullying. Depending on circumstances, this policy might be a standalone policy or be incorporated into other policies which relate to behaviour and working relationships. Employee input should be sought in developing the policy.

When developing a policy, consideration should be given to the inclusion of:

- a statement that the agency is committed to a no-tolerance approach to bullying
- the expected standards of appropriate behaviour
- a definition or description of bullying
- the difference between bullying behaviour and legitimate management action
- the legal obligations of employer and employees in relation to bullying
- the process for reporting, including contact points such as managers or grievance officers
- a clear and confidential process for dealing with allegations of bullying, including indicative timeframes if necessary
- a commitment to the principles of natural justice
- define the responsibilities of all employees in the process, including the CEO, managers and employees, as well as specialist support areas, such as HR, IR, legal services
- relevant legislation, awards and other industrial instruments applicable to the agency’s employees
- clearly state the consequences of not complying with the policy.

Policies should be regularly reviewed and updated to be responsive to organisational need and consistent with any change to relevant legislation. They should be well promoted and easily accessible to all managers and employees.
Communicate and educate

Raising awareness of bullying as an unacceptable behaviour is an important step in preventing its occurrence. CEOs, executive staff and managers have a particular role to play in ensuring that all employees understand the nature of bullying, support its prevention and feel confident in reporting it if it occurs.

Bullying can be hard to detect

Bullying behaviour can sometimes be hard to detect. There are many reasons why employees may not report bullying or cooperate in inquiries. They may not know the correct procedure to report or where to find help. There may be a belief that the behaviour is part of the workplace culture and is tolerated or will not be acted upon by the employer. Some may fear retribution from the bully or have feelings of intimidation or embarrassment. The perception that employment opportunities will be affected may also be a factor.

It is therefore essential that all employees have a common understanding of what is and is not bullying and how the agency deals with bullying behaviour. In particular, all employees should be aware that bullying will not be tolerated. A shared understanding will also assist in preventing frivolous claims of bullying.

Agencies should proactively communicate to employees expectations of behaviour and highlight the impacts of workplace bullying. This communication should be regular and ongoing, for example during induction, refresher programs on workplace behaviour or in team meetings.

Raising awareness and ensuring a common understanding of what does and does not constitute bullying is an important step in preventing its occurrence and avoiding frivolous or vexatious claims. Some strategies for this include:

- running agency-wide awareness programs
- communication skills training
- diversity awareness training
- interpersonal skills training
- training on how to comply with policy and how to report incidences of bullying.
Training to deal with bullying

CEOs, executive staff and managers have a particular role to play in ensuring that all employees understand the nature of workplace bullying, support its prevention and feel confident in reporting it if it occurs.

Managers and relevant specialist areas within agencies should be equipped with the skills and knowledge to deal effectively with these allegations. This includes building capacity in relation to identifying unreported bullying, dealing with allegations of bullying, encouraging reporting of bullying and fostering positive workplace behaviours which inhibit bullying behaviours.

Building employee resilience

Perceptions of and reactions to bullying behaviours can vary. Some employees may experience bullying to a greater degree than others or may be more likely to perceive behaviours as constituting bullying than others. Someone might perceive a colleague’s or supervisor’s approach as assertive while another may find the behaviour rude or belittling. Differing perceptions may be due to personal and cultural values, attitudes and expectations, including belonging to minority groups, religious, cultural or political differences or personal coping styles.

Sometimes behaviour may cause distress when there was no intention to do so and some people may perceive this to be bullying behaviour. Being open to another person’s perspective and genuinely listening may assist in defusing a potentially difficult situation.

Employees who are, or who perceive they are, the subject of bullying can minimise their vulnerability to such behaviours by being encouraged to:

- speak to their manager or another trusted manager, human resources branch or workplace grievance officer
- seek assistance from workplace employee assistance programs or other professional help, such as psychological counselling or medical advice
- build and sustain personal support systems provided by co-workers, family and friends.

These support systems may assist the employee to better understand the causes of the workplace behaviour and their reaction to it and consider and make informed choices about how to best deal with the situation.

Agencies should also ensure that staff understand their role and have the appropriate skills to do their job, for example providing supervisors with management training.
CEOs have a responsibility under section 29(1)(l) of the PSM Act to ‘resolve or redress the grievances of their employees’ and under section 29(1)(m) to ‘implement any health and safety standards and programs adopted with respect to employment in the public sector’.

When bullying is identified or reported steps must be taken to deal with the immediate incident, to determine the factors that may have contributed to the incident, and to develop strategies to minimise a recurrence and address the workplace culture.

**How is bullying identified and reported?**

Depending on the circumstances of the case, bullying behaviour may be identified or be reported in a number of ways, which may include:

- an employee lodging a formal grievance
- a public interest disclosure (PID) alleging bullying behaviour
- an allegation of misconduct involving bullying either directly to an agency or to the Corruption and Crime Commission or Public Sector Commission
- an employee reporting bullying behaviour during a performance management process
- allegations of bullying being made in a breach of public sector standards claim
- a manager may directly observe bullying behaviour by an employee or colleague
- an OSH incident or hazard report being lodged by an employee
- a stress related workers’ compensation claim being made
- an employee observing bullying behaviour and reporting it to a manager
- a complaint may be lodged via a complaints management system.

The diversity of these avenues of reporting should be recognised in organisational policies for the prevention and management of bullying.
Responding to the immediate incident

When an allegation of bullying arises, organisational policy and OSH legal requirements will dictate what action is to be taken. Regardless of the process there are some general principles that should be considered to ensure the matter is appropriately dealt with:

- Treat all incidents or reports seriously and deal with them fairly and within established timelines. Timely and decisive action sends a clear message to all that bullying behaviour will not be tolerated.
- Maintain confidentiality, with details known only by those who need to be directly involved in the process.
- Assess whether there is a health or safety risk that must be immediately addressed and determine what action may need be taken to ensure the safety and welfare of those involved.
- Carefully consider the principles of procedural fairness to ensure a fair and reasonable process is applied.
- Deal with frivolous or vexatious claims quickly, firmly and fairly but take care to ensure there has been sufficient inquiry to establish that the complaint is either frivolous or vexatious.
- Ensure that the person managing the issue is impartial and not directly involved in the incident that is being addressed.
- Be clear with all involved as to the process to be undertaken, how long it is expected to take and how they will be kept informed of what is happening.
- Provide information about the support that is available to all parties (e.g. Employee Assistance Program, safety and health representatives, grievance officer).
- Consider whether further action (e.g. disciplinary action) is necessary if bullying behaviour is substantiated.
- Maintain a factual record, including any investigations, interviews, outcomes etc.

Sometimes the allegation can be one component of a more complex workplace behaviour case and may require a multi-faceted approach.

Agencies can access support to assist in managing complex workplace behaviour cases by:

- calling the Commission's advisory line (6552 8888)
- downloading the Commission’s publication *Managing workplace behaviour: a guide for agencies*. 


Breaking the cycle

Investigations of bullying should not end when an individual case is resolved. It is imperative that action is taken beyond the immediate incident to adequately address the broader risks and prevent future injury or harm.

If a complaint of bullying is sustained, a review should be conducted and strategies implemented to ensure future risk is minimised. A single bullying incident could have been caused by systemic issues that may have existed for some time and which, if not addressed, could lead to a recurrence.

In all cases, whether sustained or not, it is important to consider broader issues which may have contributed to the allegations or the behaviour and take action to address underlying issues at an organisational level.

Agencies should seek to understand the underlying factors that may be contributing to the bullying behaviour and what it says about the workplace culture. ‘Figure 2: Identifying and addressing the factors that may contribute to workplace bullying’ provides a starting point.

A review could involve a facilitated conversation with the leadership and management team or within the team where the behaviour has occurred, or a structured process of individual interviews and group discussions.

The review should be identify what actions need to be taken at the individual, group and organisational levels to effect a cultural change. It may also be necessary to review risk control measures to ensure they are effective in preventing bullying.
Appendix 1 Legislation and resources

Legislation, standards and ethical codes

- Corruption, Crime and Misconduct Act 2003
- Criminal Code
- Equal Opportunity Act 1984
- Industrial Relations Act 1979
- Occupational Safety and Health Act 1984
- Occupational Safety and Health Regulations 1996
- Public Interest Disclosure Act 2003
- Public Sector Management Act 1994
- Public Sector Management (Breaches of Public Sector Standards) Regulations 2005
- Public Sector Management (General) Regulations 1994
- Public Sector Standards in Human Resource Management
- WA public sector Code of Ethics
- Worker’s Compensation and Injury Management Act 1981

Guidelines and codes of practice

- Code of Practice – Violence, aggression and bullying at work
- Code of Practice: Occupational Safety and Health in the WA Public Sector
  Dealing with bullying at work: A guide for workers

Available at www.commerce.wa.gov.au/worksafe


Bullying and violence website
http://www.commerce.wa.gov.au/worksafe/content/safety_topics/Bullying/

Further resources

For a full list of resources visit the Commission’s website at www.publicsector.wa.gov.au