



## **Policy No. 2015- 33**

### **Bullying Policy**

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## 1. INTRODUCTION

In line with the WorkSafe Tasmania guide for preventing and responding to workplace bullying, this policy outlines Central Highlands Council process regarding bullying within the workplace. Council's goal is to provide prompt and reasonable management of workplace issues to assist our workers and enable them to enjoy a healthy and safe work environment.

This policy should be read in conjunction with applicable, appropriate and associated policies, procedures, legislation, codes of practice, guidelines and best practice models.

## 2. WHO THIS POLICY APPLIES TO

This policy applies to all Councillors, Committee Members, workers, consultants, contractors, subcontractors, labour hire employees, outworkers, apprentices, volunteers, and work placement/work experience participants of Central Highlands Council.

Places of work include attending training, work related events, 'off site', and other worksites of which you are undertaking Central Highlands Council business.

## 3. WHAT IS NOT WORKPLACE BULLYING?

A single incident of unreasonable behaviour is not workplace bullying, however it may be repeated or escalate and so should not be ignored.

### **Reasonable management action taken in a reasonable way**

A PCBU may take reasonable management action to effectively direct and control the way work is carried out. It is reasonable for managers and supervisors to allocate work and give feedback on a worker's performance. These actions are not workplace bullying if they are carried out in a lawful and reasonable way, taking the particular circumstances into account.

A manager exercising their legitimate authority at work may result in some discomfort for a worker. The question of whether management action is reasonable is determined by considering the actual management action rather than a worker's perception of it, and where management action involves a significant departure from established policies or procedures, whether the departure was reasonable in the circumstances.

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What is reasonable would be determined by an objective test through a court of law. However, a court could consider the following examples as reasonable management action:

- setting realistic and achievable performance goals, standards and deadlines;
- fair and appropriate rostering and allocation of working hours;
- transferring a worker to another area or role for operational reasons;
- deciding not to select a worker for a promotion where a fair and transparent process is followed;
- informing a worker about unsatisfactory work performance in an honest, fair and constructive way;
- informing a worker about unreasonable behaviour in an objective and confidential way;
- implementing organisational changes or restructuring, and
- taking disciplinary action, including suspension or terminating employment where appropriate or justified in the circumstances.

#### **4. HOW CAN WORKPLACE BULLYING OCCUR**

Workplace bullying can be carried out in a variety of ways including through verbal or physical abuse, through email, text messages, internet chat rooms, instant messaging or other social media channels. In some cases workplace bullying can continue outside of the workplace.

Workplace bullying can be directed at a single worker or group of workers and be carried out by one or more workers. It can occur:

- sideways between workers;
- downwards from supervisors or managers to workers, or
- upwards from workers to supervisors or managers.

Workplace bullying can also be directed at or perpetrated by other people at the workplace such as clients, patients, students, customers and members of the public.

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## 5. IMPACT OF WORKPLACE BULLYING

Workplace bullying can be harmful to the person experiencing it and to those who witness it. The effects will vary depending on individual characteristics as well as the specific situation and may include one or more of the following:

- distress, anxiety, panic attacks or sleep disturbance;
- physical illness, for example muscular tension, headaches, fatigue and digestive problems;
- loss of self-esteem and self-confidence;
- feelings of isolation;
- deteriorating relationships with colleagues, family and friends;
- negative impact on work performance, concentration and decision making ability;
- depression; and
- thoughts of suicide.

Workplace bullying can also have a negative impact on the work environment and incur direct and indirect costs for a business, including:

- high staff turnover and associated recruitment and training costs;
- low morale and motivation;
- increased absenteeism;
- lost productivity;
- disruption to work when complex complaints are being investigated;
- costs associated with counselling, mediation and support;
- costly workers' compensation claims or legal action; and
- damage to the reputation of the business.

## 6. WHOS HAS DUTIES IN RELATION TO WORKPLACE BULLYING?

Everyone at the workplace has a work health and safety duty and can usually help prevent workplace bullying. The table on page 5 sets out the various duties in relation to workplace bullying.

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Table 1 - Duties in relation to workplace bullying as outlined by WorkSafe Tasmania and the Work Health and Safety Act:

Who	Duties
Person conducting a business or undertaking (section 19)	<p>A Person conducting a business or undertaking (PCBU) has the primary duty of care under the Work Health and Safety Act to ensure, so far as is reasonably practicable, that workers and other persons are not exposed to health and safety risks arising from work carried out as part of the business or undertaking.</p> <p>This duty includes, so far as is reasonably practicable:</p> <ul style="list-style-type: none"> <li>• providing and maintaining a work environment that is without risks to health and safety;</li> <li>• providing and maintaining safe systems of work;</li> <li>• monitoring the health and safety of workers and the conditions at the workplace to ensure that work related illnesses and injuries are prevented; and</li> <li>• providing appropriate information, instruction, training or supervision to workers and other persons at the workplace to allow work to be carried out safely.</li> </ul>
Officers (section 27)	<p>Officers, such as company directors, must exercise due diligence to ensure the business or undertaking complies with the Work Health and Safety Act and Regulations. This includes taking reasonable steps to ensure the business or undertaking has and uses appropriate resources and processes to eliminate or minimise risks associated with workplace bullying.</p>
Workers (section 28)	<p>Workers including employees, contractors, subcontractors, labour hire employees, outworkers, apprentices or volunteers have a duty to:</p> <ul style="list-style-type: none"> <li>• take reasonable care for their own health and safety while at work;</li> <li>• take reasonable care that their acts or omissions do not adversely affect the health and safety of other persons;</li> <li>• comply, so far as the worker is reasonably able, with any reasonable instruction given by the PCBU; and</li> <li>• co-operate with any reasonable policies and procedures of the PCBU, for example a workplace bullying policy.</li> </ul>
Others (section 29)	<p>Other persons at a workplace, such as visitors and clients, have similar duties to that of a worker and must:</p> <ul style="list-style-type: none"> <li>• take reasonable care for their own health and safety while at work;</li> <li>• take reasonable care that their acts or omissions do not adversely affect the health and safety of workers or other persons; and</li> <li>• comply, so far as the person is reasonably able, with any reasonable instruction given by the PCBU.</li> </ul>

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## 7. CONTROLLING THE RISKS

The risk of workplace bullying can be minimised so far as is reasonably practicable by creating and promoting a positive work environment where everyone is treated fairly and with respect. A combination of control measures aimed at the organisational level and at individual behaviours should be considered.

### Management Commitment

Demonstrated senior management commitment in identifying, preventing and responding to workplace bullying is one of the key factors for preventing unreasonable behaviour and managing psychological risks. Effective leaders model their organisation's values and standards for workplace behaviour through their own conduct. This can send a clear message to workers that the organisation is serious about preventing workplace bullying and contribute to a positive workplace culture where unreasonable behaviour is not tolerated.

Managers can demonstrate commitment in various ways including by:

- modelling respectful behaviours at all times;
- implementing the bullying policy which clearly identifies the expected behaviours and consequences of not complying;
- dealing with unreasonable behaviour as soon as they become aware of it;
- ensuring that reports of bullying are taken seriously and properly investigated; and
- consulting with workers.

### Set the standard of workplace behaviour

A workplace can set and enforce clear standards of behaviour through a code of conduct or a workplace policy that outlines what is and is not appropriate behaviour and what action will be taken to deal with unacceptable behaviour. It can apply to all behaviours that occur in connection with work, even if they occur outside normal working hours. The standards of behaviour should also include a reference to reasonable management action.

The advantage of this approach is that unreasonable behaviours can be addressed before they escalate into workplace bullying.

Implement and review this workplace bullying policy to ensure it meets the outcomes of the organisations goals and objectives.

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## **Develop productive and respectful workplace relationships**

Good management practices and effective communication are important in creating a workplace environment that discourages workplace bullying. Examples include:

- promote positive leadership styles by providing training for managers and supervisors;
- mentor and support new and poor performing managers and workers;
- facilitate teamwork, consultation and co-operation;
- ensure that reasonable management actions are clearly defined, articulated and understood by workers and supervisors; and
- ensure supervisors act in a timely manner on unreasonable behaviour they see or become aware of.

### Dealing with external parties

Where there is a risk of workplace bullying by other people, for example clients, the following control measures may be considered:

- communicate the expected standard of behaviour through a code of conduct or in contracts and agreements;
- empower workers to refuse or suspend service if other people fail to comply with the expected standard of behaviour;
- provide support to workers who are exposed to unreasonable behaviour; and
- implement control measures to eliminate or minimise the risk of workplace violence.

## **Design safe systems of work**

The following work design control measures may reduce the risk of workplace bullying:

- clearly define jobs and seek regular feedback from workers about their role and responsibilities;
- provide workers with the resources, information and training they need to carry out their tasks safely and effectively;
- review and monitor workloads and staffing levels to reduce excessive working hours;
- provide access to support mechanisms, such as employee assistance programs, particularly during busy and stressful work periods; and
- provide effective communication throughout workplace change, including restructuring or downsizing

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## 8. REPORTING PROCEDURE

Workplace bullying behaviours should not be tolerated and early reporting of these behaviours to your manager or the General Manager is encouraged.

Workplace bullying may be identified and reported by those subject to the behaviour or by witnesses. A person can raise or report workplace bullying verbally or in writing by:

- informing a supervisor, manager or General Manager;
- informing their health and safety representative or union representative and asking them to make a report on your behalf; or
- using Council's 'Accident / Incident Report Form' and provide the completed form to their manager or the General Manager.

A manager or supervisor may also identify a risk of workplace bullying through changes in the workplace, for example increased absences, changes in workers' performance or low staff morale.

### **How management will respond to a report of workplace bullying**

Workplace bullying is best managed by responding as soon as possible after suspecting or becoming aware there is a problem. Responses to reports of workplace bullying will vary depending on the situation and the number of parties involved.

In the first instance, attempts will be made to resolve the situation within the workplace, regardless of whether or not workplace bullying has occurred. Where internal processes are not effective, complainants may refer the complaint to external agencies.

Managers and the General Manager will consider following when responding to workplace bullying:

- **Is the behaviour bullying or not?**

The type of behaviour occurring may need to be determined to develop an appropriate response. For example, if the behaviour involves physical violence or what appears to be unlawful discrimination or sexual harassment, whether it is repeated or not, it will require a different response to workplace bullying.

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- **Does the situation warrant measures to minimise the risk of ongoing harm?**

If necessary interim measures should be taken to minimise the risk to health or safety. This may involve temporarily reassigning tasks, separating the parties involved or granting leave.

- **Do I have a clear understanding of the issues?**

Seek additional information to ensure a clear understanding of the parties involved and the specific behaviour or behaviours thought to be unreasonable. This may be achieved by speaking to others who may have observed or participated in the behaviour.

- **Do I need additional information or assistance?**

People with specialist roles in the organisation or external specialists may be able to provide information, help identify the issues and develop potential responses to address the behaviour. Additionally, an individual may wish to seek information or assistance that allows for objectivity and affords all parties due process.

- **Can the matter be safely resolved between the parties or at a team level?**

In some situations it may be possible to use a no-blame conciliatory approach to help individuals reach an outcome that will ensure the unreasonable behaviour ceases. A proposed resolution should be discussed with the person who reported the behaviour to check they are comfortable with it.

- **Should the matter be progressed to an investigation?**

Depending on the severity or complexity, some matters may need to be investigated.

A person may choose to resolve issues by self-managing the situation. This usually involves telling the other person the unreasonable behaviour is not welcome and asking for it to stop. If an individual does not feel safe or confident with approaching the other person they can seek the assistance of a supervisor or manager, union representative or General Manager.

Anyone asked to act on behalf of an individual should use a confidential and non-confrontational approach.

In most circumstances, the person who is alleged to have perpetrated the bullying behaviour must be notified as soon as possible of the report and be given a chance to explain his or her version of events. They should be treated as innocent until the reports are proven to be true.

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The General Manager will consider if providing training to workers about appropriate standards, expected behaviours and workplace bullying may help workers understand how to deal with issues such as conflict, confidentiality and related issues.

### **The role of managers**

Managers should intervene when they observe unreasonable behaviour in their work teams or if they are requested to intervene by a member of their team. If a manager approaches an individual directly about their behaviour they should record the actions taken. Managers should know how and when it is appropriate to seek advice or to escalate an issue to the General Manager.

Effectively responding to issues when they are raised can stop the situation happening again and reinforce to workers that workplace bullying is treated seriously and consistently by Council.

### **If the matter is not resolved**

Where a matter may appear to remain unresolved the General Manager may initiate mediation or undertake an investigation.

## **9. INVESTIGATION**

The investigator appointed by the General Manager has the task to work out what happened, whether or not an allegation of workplace bullying is substantiated (or whether there is insufficient information to decide either way) and provide a recommendation on what appropriate course of action should be taken (if any).

## **10. GRIEVANCE PROCESS FOR DEALING WITH COMPLAINTS**

If a worker has an issue at work, there are a number of options available for resolving their complaint. Workers are required to work with the General Manager to progress through the options and respond to any questions personally and honestly.

To assist in the resolution of issues the following process should be undertaken:

- 1) Speak to the person(s) involved directly to see if you can settle the issue;

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- 2) Seek assistance from your Manager/Supervisor – a written statement often assists in clarifying issues alternatively your Manager/Supervisor will take notes of your meeting;
- 3) Seek assistance from the General Manager if you have not received a response from the Manager/Supervisor in 10 business days;
- 4) Notify your Manager/Supervisor or the General Manager if you would like conciliation and/or mediation (appointed in consultation between Management and the worker);

Workers may request a support person to attend meetings during the grievance process.

At any discussions or meetings the worker is required to discuss the issues and personally answer any questions raised by the employer or their representative.

All parties are able to take actions through Fair Work avenues or other jurisdictions as determined.

If the behaviour is likely to amount to a criminal act or is serious in nature, the complaint should be referred to the General Manager who will decide if the matter is to be referred to the police or other entity. The worker against whom the complaint is made may be suspended at the General Manager’s discretion during the investigation and decision making processes.

Where a workplace matter is a criminal matter, the investigations may be managed separately and a decision relating to employment will be made separate to any criminal prosecution.

For further information you may refer to the Worksafe guides at:

[https://worksafe.tas.gov.au/\\_data/assets/pdf\\_file/0009/540828/How-to-prevent-and-respond-to-workplace-bullying.pdf](https://worksafe.tas.gov.au/_data/assets/pdf_file/0009/540828/How-to-prevent-and-respond-to-workplace-bullying.pdf)

<https://www.safeworkaustralia.gov.au/system/files/documents/1702/guide-preventing-responding-workplace-bullying.pdf>

<https://worksafe.tas.gov.au/home>

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