

Workplace bullying factsheet

Marrickville Legal Centre employment solicitors answer your questions about your rights against bullying at work and worker's compensation.

What is bullying at work?

The *Fair Work Act 2009* (Cth) defines bullying occurs when:

- a person or a group of people behaves unreasonably and **repeatedly** towards a worker or a group of workers while at work, **and**
- the behaviour creates **a risk to health and safety**

A risk to your health and safety can include any effects that the bullying has on your mental health or physical health. Sometimes it is difficult to identify bullying behaviour in the workplace. Some examples are:

- Aggressive or intimidating conduct
- Belittling or humiliating comments
- Spreading malicious rumours
- Teasing, practical jokes or 'inflation ceremonies'
- Exclusion from work-related activities
- Unreasonable work expectations, including too much or too little work, or work below or beyond a worker's skill level
- Displaying offensive material
- Pressure to behave in an inappropriate manner

Bullying can occur between workers, or between an employer and a worker. It can also happen face-to-face, over the phone, social media, e-mail or by SMS. Things that your employer can do that may be bullying are:

- Deliberately changing your schedule to inconvenience you;
- Overloading you with work continually, or not providing enough work for you to do; and/or
- Setting impossible deadlines to meet, or continually changing the deadline.

What's not workplace bullying?

Bullying does not include reasonable management action carried out in a reasonable manner.

Your employer can:

- Give you feedback about your performance;
- Transfer, demote, discipline, counsel, retrench or dismiss you (if your employer is acting reasonably **AND** in accordance with your employment contract and any modern award or enterprise agreement that applies to your employment);
- Decide not to promote you; and/or
- Have occasional one-off incidents in the workplace, for example if someone loses their temper or swears.

Some of these behaviours may feel humiliating, threatening, intimidating or demeaning but it is not against the law. If you are unsure, you should always seek legal advice.

What's the difference between bullying and discrimination?

Workplace discrimination is when someone treats you differently (not just in a mean way) at work based on a particular **personal characteristic**, such as your gender, race, religion, whether you're pregnant or if you have a disability. For instance, it would be discrimination if you don't get a promotion just because you have family or carer's responsibilities.

Bullying can also be discrimination if you have been treated less favourably because of a personal characteristic that is protected under anti-discrimination laws.

What does my employer have to do about bullying?

The *Work Health and Safety Act 2011* sets out the duty of care that your employer has to ensure, as reasonably practicable, that the health and safety of other persons is not put at risk from work carried out as part of the conduct of the business or undertaking.

The law maintains that employers must protect the health, safety and welfare of their employees. This means your employer has a duty to stop the bullying. If the bullying persists, you have the right to speak up by following the next steps discussed below.

What can you do about bullying at work?

1. Check to see if your work has a workplace bullying policy. This policy may be in the form of a process which to follow, a person to report bullying incidents to, or a list of people to talk to inside and outside of the workplace.
2. If you are comfortable, you can raise the issue with your supervisor and/or manager, health and safety representative, or human resources department.
3. You can lodge an application with the Fair Work Commission for an order to stop bullying at work. To find out if you are covered by the national law on bullying visit the [Fair Work Commission Stop Bullying Eligibility Quiz](#).
 - a. An overview of making an application with the Fair Work Commission:
 - i. **Application is lodged using Form F72** – a worker lodges an application for an order to stop workplace bullying.
 - ii. **Response from the employer or business** – The Commission sends a copy of the application to the employer and the person/s alleged to be engaging in bullying behaviour, and they are given an opportunity to respond.
 - iii. **Application is dealt with by the Commission** – by mediation, conference or hearing, depending on the circumstances of the case.
 - iv. **Application is resolved or determined** – the matter may be resolved by agreement between the parties, or the Commission may issue a decision and/or an order to stop the workplace bullying.

If you feel you are experiencing workplace bullying, employment solicitors at Marrickville Legal Centre can help you identify your rights around workplace bullying and worker's compensation.

[Submit an enquiry online](#) or call us on 02 9559 2899