

Code of practice

Prevention and management of violence, aggression and bullying at work



Department of Consumer
and Employment Protection
Government of Western Australia

Resources Safety



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Foreword

Basis for code of practice

This code of practice is adapted from *Violence, Aggression and Bullying at Work: a Code of Practice for Prevention and Management*, published by the Commission for Occupational Safety and Health in 2006, which is a revised and updated version of the Commission for Occupational Safety and Health's *Workplace Violence Code of Practice* (1999) and *Dealing with Workplace Bullying: a Guidance Note for Employers* (2003).

Representatives from employer organisations, unions and government, and people with knowledge and expertise in occupational safety and health undertook the revision of the Commission's publication, ensuring that the interests of all parties at the workplace were considered.

This code of practice is issued by Resources Safety under the *Mines Safety and Inspection Act 1994*, and has been endorsed by the Mining Industry Advisory Committee and approved by the Minister for Employment Protection.

Scope

This code of practice provides guidance on meeting the requirements in the *Mines Safety and Inspection Act 1994* relating to the prevention and management of workplace violence, aggression and bullying.

It focuses on the general principles applying to the prevention and management of violence, aggression and bullying in the workplace. The intent is to provide practical guidance for workplaces where people may be exposed to various forms of workplace violence and aggression including physical assault, verbal abuse, threats, intimidation, harassment and bullying.

The guidance in this code of practice should be considered in conjunction with the general duties in the *Mines Safety and Inspection Act 1994*. A summary of the general duties is given in Appendix 1.

Who should use this code of practice?

Everyone who has a duty to prevent, as far as practicable, hazards at workplaces should use this code. This includes employers, employees, self-employed people, safety and health representatives and safety and health committees.

1 Introduction

1.1 The hazards

Violence, aggression and bullying are serious occupational safety and health issues. In Western Australia each year, on average over 600 workers' compensation claims for time off work arise from workplace violence and bullying. However, this figure is only the number of employees who have claimed workers' compensation. It is likely that many more incidents involving violence, aggression and bullying occur without being reported.

This code of practice is designed to help employers and employees identify and deal with violence, aggression and bullying in the workplace.

Workplace violence, aggression and bullying can be separated into three areas:

- **external:** perpetrated by someone from outside the organisation, such as during armed hold-ups;
- **client-initiated:** inflicted on workers by their customers or clients; and
- **internal:** occurs between workers within the same organisation.

As part of workplace hazard management, situations involving violence, aggression and bullying should be assessed for risks and steps taken to minimise the risk. This also applies to situations where the potential for these situations exists.

Employers should develop plans and policies in consultation with employees and other workers to manage and eliminate violence, aggression and bullying.

1.2 Using this code of practice

Part 1 deals with violence and aggression.

Workplace violence and aggression are actions or incidents that may physically or psychologically harm another person. Violence and aggression are present in situations where workers and other people are threatened, attacked or physically assaulted at work. Psychological aggression also falls under this definition.

This section includes information on hazard identification and risk assessment for incidents involving violence and aggression.

A checklist is provided that can be used to identify areas for improvement in the way your workplace manages violence and aggression.

Part 2 deals with bullying.

Bullying at work can be defined as repeated, unreasonable or inappropriate behaviour directed towards a worker, or group of workers, that creates a risk to health and safety.

Guidance is provided for developing prevention strategies and responding to incidents.

The checklist provided can be used as a guide when developing bullying complaint procedures or dealing with a bullying incident.

The appendices outline the general requirements of occupational safety and health laws, summarise relevant legislation and provide other sources of information.

PART 1

Violence and aggression at work

PREVENTION AND MANAGEMENT

2 What is violence and aggression?

2.1 Description

Workplace violence and aggression are actions or incidents that may physically or psychologically harm another person. Violence and aggression are present in situations where workers and other people are threatened, attacked or physically assaulted at work.

Due to the effect on the safety and health of employees and others at the workplace, violence, and aggression are unlawful under the *Mines Safety and Inspection Act 1994* (the Act).

Violence or aggression in the workplace can be harmful to organisations as well as individuals, resulting in:

- reduced efficiency, productivity and profitability;
- increased absenteeism;
- increased staff turnover;
- increased counselling and mediation costs;
- increased workers' compensation claims; or
- possible legal action.

2.2 Who is at risk?

All workers and other people at workplaces are potentially at risk of experiencing some form of violence or aggression.

Internal violence can occur between staff members and may involve managers and supervisors or co-workers. People from different cultural backgrounds, people with different religious or political views, and apprentices or trainees may be particularly at risk.

New workers and those whose work involves servicing the mining industry are examples of workers at risk of external and client-initiated violence and aggression.

2.3 Why is it important to reduce the risk of violence and aggression?

Violence and aggression are workplace hazards. They may cause physical and psychological injury or harm and may result in permanent disability or death. There can also be considerable direct and indirect costs for the organisation, including lost productivity while people are not working, repairing property damage, and medical and legal expenses.

Employers have a responsibility to protect workers and other people in the workplace from situations that may cause injury or harm.

The Act contains general duties and responsibilities placed upon people to ensure their own safety at work, and that of others who are at the workplace or who might be injured by the work.

The Act should be read in conjunction with this code of practice. The general requirements of the Act are set out in Appendix 1. Appendix 2 overviews relevant legislation.

Violent or aggressive behaviour can attract criminal charges. Violence can also be unlawful under State and Federal equal opportunity legislation.

3 What should employers do?

Because it can affect the safety and health of workers, violence and aggression should be treated like any other hazard.

Senior management should provide positive role models and strong leadership to address violence

and aggression.

A preventative approach can be adopted towards violence and aggression in the workplace. However, it is equally important to establish a systematic response to violence and aggression that does occur.

Table 1 Action employers should take to prevent and respond to incidents involving violence and aggression

Prevention	Responding to incidents
Consult with workers and safety and representatives	Response planning
Develop a prevention plan	Immediate response
Manage the hazard	Recovery and review
Provide information and training	Emergency procedures
Monitor effectiveness of action taken	

4 Prevention

4.1 Consult with workers and safety and health representatives

Discussion between employers, workers and their representatives is a key element in the successful implementation of violence and aggression prevention policies and programs.

The methods of consultation may vary from one workplace to another. Where safety and health representatives and/or safety and health committees exist in the workplace, they are a formal means to exchange information and ideas. A more informal approach can be employed where no formal structures exist. This may involve workplace meetings, surveys, and direct discussion with employees. It may also be necessary to consult with specialists in security or violence prevention.

More information can be found in the Commission for Occupational Safety and Health’s guidance note on formal consultative processes at the workplace.

4.2 Develop a prevention plan

A violence and aggression prevention plan, developed by employers in consultation with workers and safety and health representatives, should aim to eliminate

any existing workplace violence and aggression and prevent it in the future.

The plan should include a violence and aggression prevention and management policy. The policy can be developed on its own, or may be included in an occupational safety and health policy. Workplace violence and aggression could also be addressed in the equal employment opportunity (EEO) policy or workplace behaviour policy.

Workers should be aware of policies and the need to follow them in performing their jobs.

The approach may vary but the following steps should be included in the prevention plan to ensure that the organisation systematically works through problems that may exist:

- consult with workers and safety and health representatives and committees;
- manage the hazard;
- provide procedures for responding to incidents;
- provide information and training; and
- monitor the effectiveness of action taken.

4.3 Manage the hazard

Employers have a duty to ensure, as far as practicable, that employees and other people at the workplace are not exposed to hazards. They can do this by identifying hazards and assessing and controlling risks.

More information can be found in the WorkSafe publication *The First Step – Managing Hazards in the Workplace* (2006).

Figure 1 shows that hazard management is a continual process that does not end with the implementation of controls. The following sections describe each step.



Figure 1 Hazard management

Identify the hazard

The first step in the hazard management process is to identify hazards. Employers should establish whether violence or aggression exists in their workplace or whether there is the potential for them to occur. The aim is to identify situations where workers and other people at the workplace may be physically or psychologically harmed by violent or aggressive behaviour.

There are a number of ways to identify potential situations that may cause an injury or harm. Choosing an appropriate process or procedure for identifying hazards will depend on the nature of the work environment and the specific hazards involved. Examples include:

- talk to people who have experience with workplace violence and aggression;
- encourage workers to communicate their feelings concerning workplace violence and aggression;
- conduct surveys (in confidence) — ask about incidents that have caused discomfort and situations that had the potential to become more violent;

- establish an incident reporting system if there is not one already in place;
- review incidents, disputes and grievances;
- identify potential triggers for violence and aggression;
- check accident reports, injury records or client histories to find out about previous incidents;
- conduct workplace inspections;
- review working arrangements, e.g. working alone, contact with public, working after hours;
- review absenteeism and sick leave records; and
- if appropriate, seek advice from people with security knowledge.

A hazard identification worksheet may assist in identifying violence and aggression problems.

The example hazard identification worksheet in Section 6 shows how one hazard identification exercise can cover workers and other people who may be at a workplace. The example is a video store and the people involved are employees and customers. However, the same worksheet format could be used for any workplace.

A checklist is also provided to assist in identifying the potential for violence and aggression in the workplace.

Assess the risk

The second step in the hazard management process is to assess the risks of injury or harm occurring. The risk assessment is a way of prioritising the hazards to be addressed. This involves looking at the chance or likelihood of violence or aggression occurring and, if it does occur, the extent of any harm or injury (i.e. the consequences).

At this stage, it is necessary to make decisions about whether something should be done and if so, the type of action to be taken. If there is something obvious that can be done to fix a problem, it should be dealt with immediately, and the relevant people should be informed of any action taken.

To determine the level of risk, use the following steps:

1. Gather information about each identified hazard.
2. Work out the likelihood of injury or harm occurring — consider how many people are likely to be exposed to each hazard and for how long. Take into account different situations or conditions that may exist in the workplace and could increase risk.
3. Assess the consequences. Use the information you have gathered to assess the potential consequences of each hazard.

Table 2 Risk rating table

LIKELIHOOD OF INJURY OR HARM TO HEALTH	Consequences of any injury or harm to health			
	Insignificant: e.g. no injuries	Moderate: e.g. first aid or medical treatment	Major: e.g. extensive injuries	Catastrophic: e.g. fatalities
Very likely	High	Extreme	Extreme	Extreme
Likely	Moderate	High	Extreme	Extreme
Moderate	Low	High	Extreme	Extreme
Unlikely	Low	Moderate	High	Extreme
Highly unlikely (rare)	Low	Moderate	High	High

Extreme = immediate action

4. Rate the risk using the risk rating table in Table 2 to work out the level of risk associated with each hazard. This table is a generic model and can be used for all hazards, including violence or aggression. It shows how consequences and likelihood of injury are compared to derive the level of risk.

monitored and reviewed on an ongoing basis.

This means taking action to prevent the injuries and psychological harm that may result from workplace violence or aggression.


There is a preferred order of control measures ranging from the most effective to the least effective in eliminating or reducing the risks of injury or harm. This is outlined in Table 3.

Control the risk

The third step is to implement control measures to eliminate or reduce the risk of a person being injured or harmed, and to ensure those measures are

A range of controls may be used together to reduce risk to an acceptable level.

Table 3 Preferred order of control measures to eliminate or reduce the risk of injury or harm. Refer to Appendix 3 for more information

<p>Elimination - removing the hazard or hazardous work practice from the workplace. This is the most effective way to make the workplace safer. Always try to get rid of the hazard completely by changing the system of work. Example: Direct payment of money into an account to reduce the amount of cash on the premises.</p>	<p>Most effective control measure</p> 
<p>Substitution - substituting or replacing a hazard or hazardous work practice with a less hazardous one. If you cannot eliminate the hazard, try to replace the work process with something less hazardous. Example: Accepting non cash payments.</p>	
<p>Isolation - isolating or separating the hazard or hazardous work practice from people involved in the work or people in the general work area. Where appropriate, make changes to the workplace or to equipment to reduce the risk of injury or harm. Example: Physical barriers or administrative procedures to protect staff.</p>	
<p>Engineering control - if the hazard cannot be eliminated, substituted or isolated, an engineering control is the next preferred measure. Design the building or structure to provide for safe systems of work. Example: Install security or redesign waiting areas.</p>	
<p>Administrative control - make changes to the way work is organised to reduce the risk of injury or harm. Example: Train staff in dealing with conflict, establish communication channels.</p>	
<p>Personal protective equipment - personal protective equipment (PPE) should be used to provide greater protection for the worker or as a temporary measure whilst other risk controls are being organised. PPE should not be the only control as it is the least effective way of dealing with hazards. PPE should be used in combination with other methods to reduce risk. Example: Personal alarms.</p>	<p>Least effective control measure</p>

4.4 Provide information and training

Employers, in collaboration with safety and health representatives where they exist in the workplace, should make information on workplace violence and aggression available to all workers, supervisors and managers. This information should also be included in induction training for new employees.

If necessary, information should be provided in languages other than English.

Information does not have to be technical or overly detailed — its main purpose is to raise awareness of the issues associated with workplace violence and aggression.

Training may be formal, informal or on the job.

Workers should be trained to follow the safety procedures that are in place to reduce the risk of workplace violence and aggression. Training is essential if each job is to be done safely, taking into account the duties and functions of each worker so they are provided with the necessary skills and knowledge to work safely.

There may be times when workers will have to assess the level of risk in a particular situation and choose the most appropriate procedure. Training should equip workers with the ability to make reasonable decisions in the circumstances and to balance the actions needed to maintain their own safety and the safety of others who may be in their care.

It is not sufficient to train workers in how to behave if a violent incident occurs and hope the workers apply it when they return to their workplaces. The training should be evaluated to ensure workers have acquired the skills they need to work safely.

Supervisory and management personnel should receive appropriate training so that supervision can be provided on the job to reinforce the new skills learned in the training courses and to ensure each worker continues to put them into practice. Managers and supervisors should analyse reported incidents to work out whether additional training or information should be provided to workers.

Appendix 4 lists further sources of information.

Information to staff could include:

- the nature and causes of workplace violence and aggression in their organisation or industry sector, including potential triggers;
- suggested measures to prevent such problems occurring, and best practices for their reduction and elimination;
- gender, cultural diversity and discrimination issues;
- the laws and regulations covering violence and aggression, both specifically and generally;
- how to raise concerns and how they will be addressed; and
- the services available to assist victims of workplace violence and aggression.

4.5 Monitor the effectiveness of action taken

The violence prevention plan and hazard management procedures should be regularly evaluated to ensure that they remain appropriate and actually prevent violence and aggression at the workplace. Monitoring and evaluation should be carried out in consultation with employees and their representatives.

Workplaces are usually constantly changing environments with new hazards being introduced. Hazard management should be conducted as an ongoing process, using information gained from reviews.

Once the prevention plans are established they should be periodically reviewed, either to specifically monitor violence and aggression, or as part of the overall process of reviewing safety management and risk assessments.

There should also be ongoing analysis of reported incidents to work out whether additional measures such as training or information should be provided to workers.

5 Responding to incidents

5.1 Response phases

The management of workplace violence and aggression can be separated into three phases — before, during and after — as outlined in Table 4.

5.2 Response planning and implementation

A systematic approach is needed to establish safe systems of work so workplace violence and aggression is well controlled if it occurs. Preventing violence and aggression in the workplace is the best way of ensuring workers and others at the workplace are not harmed. However, it may not be possible to completely eliminate or reduce risk associated with all situations where violence and aggression could occur.

When aggression or a violent incident occurs in a workplace, ideally the planning should result in a well-coordinated response, with agreed procedures followed in accordance with the training provided. The response plan should also include reporting and investigation procedures.

5.3 Immediate response

Individual reactions to workplace violence and aggression can continue for a long time after the incident. If the incident and workers' reactions are not actively managed, the impact of the incident on the organisation and the individual can be more damaging. It is essential that there are procedures to be followed for an effective immediate response that controls and defuses the situation.

When violent incidents occur, workers should know who has the authority to take charge of the situation. That person should have had training in how to coordinate the response, including taking care of workers who may be injured, in shock or affected by the incident in other ways.

The main focus of worker assistance is to provide immediate psychological first-aid and support. General arrangements, such as allocating a safe place to retreat to, controlling media access to workers, providing communication with families and arranging transport home are also important to relieve the immediate pressure on workers.

Assistance should be available as part of the immediate response and the recovery phase of violent or aggressive incidents to minimise the effects of trauma. While support services should be available to people who are affected by workplace violence or aggression, people vary in the way they react to certain situations and may not require these services.

Physical assault or the threat of physical harm of any form is a criminal act. If a criminal act has been committed, the only appropriate response is a direct complaint to the police.

5.4 Recovery and review

The recovery phase deals with returning the workplace to normal operations after the immediate impact of the violent incident has passed.

At this point;

- the workplace should have been made safe;
- first aid and medical assistance arranged as necessary;
- immediate support provided for affected workers; and
- the situation should be under control.

In this phase, plans previously agreed should be implemented as quickly and efficiently as possible to reduce the risk of long-term problems. Actions during the recovery phase may include:

- providing clear information to all workers about the action that will be taken;
- providing ongoing psychological first-aid and support services for workers and their families;
- allowing workers time to recover and manage early return to work (where possible) as part of the recovery process;
- providing advice on reporting and workers compensation arrangements as appropriate;
- investigating the incident and review safety management to reduce the risk of injury or harm in the future; and
- ensuring reporting and investigation procedures are carried out in consultation with safety and health representatives.

Table 4 Responding to incidents

BEFORE	Planning and implementation	<ul style="list-style-type: none"> • Plan to eliminate or reduce the impact of workplace violence • Introduce measures to reduce risk
DURING	Immediate response	<ul style="list-style-type: none"> • Follow the plans and procedures that are in place • Take action to contain violent incidents
AFTER	Recovery and review	<ul style="list-style-type: none"> • Restart the work processes • Return things to normal as soon as possible • Provide support and counselling to workers to minimise the impact of the incident • Review violent or aggressive incidents to identify areas in need of improvement

5.5 Emergency procedures

An emergency management system should be in place. The management of an incident that results in workplace violence and aggression should be a part of a response system set up to deal with emergencies of all kinds.

Emergency planning should aim to:

- reduce the level of risk to lives, property and the environment;

- control any incident and reduce its impact on the workplace;
- provide information on emergency procedures; and
- provide induction and training in the emergency procedures.

Set up effective communication systems to be used in an emergency. This is especially important for people who work alone and those requiring rapid assistance.

6 Hazard management example

HAZARD IDENTIFICATION AND RISK ASSESSMENT NOTE: this is an example only and may not address all the hazards for these work activities at a specific site. A combination of controls may be required, depending on the circumstances of individual workplaces.						
Name of organisation: Late Night Video Store		Information collected by: Joe Smith - Staff Supervisor			Date: 2 April 2006	
Task and location		Hazards	People affected	How often	Comments	Level of risk (record when risk assessment complete, refer to Table 2)
1	Handling cash at the counter	Robbery	All workers and customers who may be there	All times	Check cash handling and alert procedures	Extreme
2	Serving customers at front counter	Counter staff and customers nearby may be verbally abused and suffer physical violence from customers	All employees and customers who may be there	All times		Extreme
3	Handling drunken customers from pub next door	Verbal abuse and physical violence from customers	As above	Sometimes around pub closing time		High
4	Maintaining rosters and managing customer service staff	Customer service too slow resulting in unreasonable pressure on staff and irritated customers	Counter staff and customers waiting for service	Peak times	Need to move staff to front counter when a worker is off sick	High
5	One person rostered at night	Robbery	Night shift workers	After dark		Extreme
6	Handling cash in the office	Robbery	As above	Especially in quiet times	Need to review procedures	Extreme
7	Shoplifting	Physical violence if offenders are caught in the act	Worker who apprehends offender	At irregular times		Extreme

This form covers all workers and customers who may be affected by work in the video store.

CONTROLLING THE RISK The following risk profile summarises the risk assessment and controls for the hazard 'handling cash at the counter'.

Location: Late Night Video Store - North Perth branch		Prepared by: Mr Brown		Position: Manager	Date prepared: 24/06/06
Task #: 1, Handling cash at the counter		Hazard: Robbery	Risk level: Extreme	Task frequency: Very frequently	Comment: Weapons may be used in attempts to steal cash
Preferred order of controls	Risk control What can be done to make the job safe?			Person responsible Who makes sure it happens?	Completion
				Date	Sign off
Elimination	Do not handle cash — use EFTPOS, credit cards or 'store cards'			Don Brown (Manager)	
Substitution	n/a				
Isolation	Install screens or barriers, such as anti-jump guards			Don Brown (Manager)	
	Raise counter height to make jumping over more difficult and increase distance between staff and customers by placing confectionery stands in front of the counter			Don Brown (Manager)	
	Install two sets of electronic doors controlled by staff			Don Brown (Manager)	
Engineering	Consider the location of the shop in relation to surrounds and factors such as external lighting, other buildings etc.			Don Brown (Manager)	
	Lay out shop so staff can see out into car park and staff can easily be seen from outside; e.g. raise work area for staff			Don Brown (Manager)	
	Fit closed-circuit TV cameras			Don Brown (Manager)	
	Restrict 'straight through' access by customers; e.g. using planters, displays			Don Brown (Manager)	
	Use time-delay drop safes			Don Brown (Manager)	
Administration	Watch for and report all suspicious circumstances for further action as necessary			Joe Smith (Supervisor)	
	Employ security staff to visit branches at regular intervals to gauge security consciousness and offer advice			Don Brown (Manager)	
	Appoint a staff member to maintain liaison with the local crime prevention officer			Joe Smith (Supervisor) and staff member	
	Train staff in procedures to be followed if a robbery occurs			Joe Smith (Supervisor)	
Personal protective equipment (PPE)	PPE not appropriate for video store staff				

7 Checklist – violence and aggression

This checklist can be used to find problem areas in the way your workplace manages violence and aggression. The more 'yes' answers you have in Section 2 and 'no'

answers you have in sections 3-7, the higher the risk of violence and aggression. You may need to adapt this checklist to your workplace.

1. THE WORKPLACE (Each YES answer indicates a risk of violence)	
Are money/valuables/drugs kept at the workplace?	YES / NO
Has violence or aggression been an issue in the past?	YES / NO
Are people affected by alcohol or other drugs?	YES / NO
Are customers likely to be angry or disgruntled?	YES / NO
Are there any other obvious reasons why workers or clients may become violent?	YES / NO
2. WORKERS (Each YES answer indicates a risk of violence)	
Do staff work alone or at night?	YES / NO
Do inexperienced staff deal with customers?	YES / NO
3. IDENTIFY, ASSESS AND CONTROL (Each NO answer indicates a risk of violence)	
Are all workplace violence reports analysed?	YES / NO
Are workers asked about risk of violence	YES / NO
Are potentially violent people identified?	YES / NO
Are causes of potential violence identified?	YES / NO
Have risks of injury or harm been assessed?	YES / NO
Are there controls for averting violence?	YES / NO
Have they been used successfully?	YES / NO
Are workers consulted when developing the controls?	YES / NO
Is the safety of public/clients considered?	YES / NO
4. CONSULTATION AND CO-OPERATION (Each NO answer indicates a risk of violence)	
Is there a forum for violence and aggression to be discussed?	YES / NO
Does the safety and health representative check hazards?	YES / NO
Is there a procedure for reporting incidents?	YES / NO
Are all changes discussed with workers?	YES / NO
Are workers consulted?	YES / NO
5. VIOLENCE PREVENTION PLAN (Each NO answer indicates a risk of violence)	
Does your workplace have a violence prevention plan?	YES / NO
Was it drawn up in consultation with workers?	YES / NO
Does it cover identification, assessment and control?	YES / NO

Does it cover induction and training?	YES / NO
Does it set safe procedures for hazardous tasks?	YES / NO
Is there a security system in the workplace?	YES / NO

6. VIOLENCE RESPONSE PLAN (Each NO answer indicates a risk of violence)	
Does your workplace have a violence response plan?	YES / NO
Does it include first aid and medical support?	YES / NO
Does it include backup from police and emergency services?	YES / NO
Does it include prompt de-briefing and counselling?	YES / NO
Is an employee assistance service provided?	YES / NO
Is the plan reviewed after each violent situation?	YES / NO

7. TRAINING AND INFORMATION (Each NO answer indicates a risk of violence)	
Have staff been provided with relevant information about violence and aggression?	YES / NO
Have staff been trained to recognise and avoid potential violence, and defuse violence and aggression?	YES / NO
Do staff have interpersonal skills training?	YES / NO
Are there safe procedures for violent situations?	YES / NO
Do staff understand violence management procedures?	YES / NO
Are staff trained to report violent incidents?	YES / NO

A checklist for armed hold-up risk factors is included in the WorkSafe publication *Armed Hold-Ups and Cash Handling: a Guide to Protecting People from Armed Hold-Ups* (2003)

PART 2

Bullying at work

PREVENTION AND MANAGEMENT

8 What is bullying?

8.1 Description

Bullying at work can be defined as repeated unreasonable or inappropriate behaviour directed towards a worker, or group of workers, that creates a risk to health and safety.

Due to the effect on the safety and health of employees and others at the workplace, bullying is unlawful under the Act.

Any behaviour that has the potential to harm or offend someone should be identified as a hazard and assessed for its risk to safety and health. Unless addressed, bullying can develop into a repeated pattern that becomes part of the culture at the workplace.

Not every bullying incident has a reason that can be easily identified, and sometimes there are multiple reasons with a combination of factors working together. Reasons for bullying may include:

- the general culture of the workplace that tolerates or condones behaviour such as intimidation, harassment, initiation ceremonies or the use of strong abusive language;
- changes at the workplace;
- workloads;
- bias against minority groups;
- prejudice because of cultural, religious or political differences between groups in society;
- poor interpersonal skills;
- poor communication skills;
- mental health problems;
- the influence of alcohol or other drugs;
- a build up of feelings of rage or anger; and
- feelings of loss of control.

8.2 Sources of bullying

Workplace bullying can take place between staff members or between workers and the customers, patients, students, contractors or visitors that they are dealing with. It may involve managers and supervisors or other workers. Young workers may be particularly vulnerable to bullying, especially in workplaces where older workers exert inappropriate power and influence.

An individual or a group may instigate bullying. The term 'workplace mobbing' is sometimes used to refer to abusive group behaviour that is prolonged

or systematic in nature, and may apply to 'upward' bullying, such as where a group of workers exhibit bullying behaviour towards a manager or person in authority. The intent is usually to try and drive a worker from the workplace.

8.3 Bullying behaviours

There are bound to be occasional differences of opinion, conflicts and problems in working relationships — these are part of working life.

Bullying is defined by the effect of the behaviour, even though there may not be a specific intent to bully.

Bullying may include one or more behaviours. Bullying may also include violence and aggression. Where bullying involves assault or threat of assault it may become a police matter. Some bullying behaviours may also be unlawful under other legislation (e.g. the *Equal Opportunity Act 1984* covers sexual and racial harassment).

There are two main types of bullying behaviour — overt and covert.

Examples of overt bullying include:

- abusive, insulting or offensive language;
- behaviour or language that frightens, humiliates, belittles or degrades, including criticism that is delivered with yelling and screaming;
- inappropriate comments about a person's appearance, lifestyle, or their family;
- teasing or regularly making someone the brunt of pranks or practical jokes;
- interfering with a person's personal effects or work equipment;
- harmful or offensive initiation practices;
- isolation of workers from others; and
- physical assault or threats.

Covert behaviour that undermines, treats less favourably or disempowers others is also bullying, including:

- overloading a person with work or not providing enough work;
- setting timelines that are difficult to achieve or constantly changing deadlines;
- constantly setting tasks that are below or beyond a person's skill level;
- ignoring or isolating a person;

- deliberately denying access to information, consultation or resources; and
- unfair treatment in relation to accessing workplace entitlements such as leave or training.

In situations where employees complain of seemingly trivial examples of bullying behaviours, employers should be aware that this might be indicative of more complex bullying behaviours at the workplace.

While some workplace bullying involves verbal abuse and physical violence, bullying can also be subtle intimidation. Workplace bullying can be carried out indirectly via letters, emails and telephone text messages.

8.4 What isn't bullying?

It is important to differentiate between a person's legitimate authority at work 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.

If a worker has performance problems, these should be identified and dealt with in a constructive and objective way that does not involve personal insults or derogatory remarks. In situations where a worker is dissatisfied with management practices, the problems should also be raised in a manner that remains professional and objective.

8.5 Everyone is at risk

All workers and other people at workplaces are potentially at risk of experiencing some form of bullying.

Different researchers have found examples of victims who are younger, weaker, smaller, less skilled and those with less social skills, as well as those who are highly skilled, competent and high achievers, who are trusting, creative and politically inept and have a high degree of loyalty to the organisation.¹

8.6 Why is bullying a problem?

The effects of bullying on individual workers will vary according to the nature of the individual and the nature of the bullying behaviour. There can be also considerable direct and indirect costs for organisations that do not manage bullying effectively. There may be a high staff turnover or low morale in areas where bullying occurs. In addition to the direct cost of recruiting and training new staff or remediation to resolve the problem, there can be lost productivity that occurs when people are absent from work or not working to full capacity, as well as costs associated with counselling, mediation, and compensation claims. It may be more difficult to recruit staff and the business may be affected by a poor public image.

An organisation may have to deal with formal grievance proceedings and litigation initiated by workers who feel they have suffered physical or psychological harm as a result of workplace bullying. Complaints may also lead to investigations and enforcement action by authorities responsible for the administration of equal employment opportunity and occupational safety and health legislation.

There are significant cost savings for organisations that maintain a bullying-free workplace.

It is possible that workers who are bullied will experience some of the following effects:

- stress, anxiety or sleep disturbance;
- panic attacks or impaired ability to make decisions;
- incapacity to work, concentration problems, loss of self-confidence and self-esteem or reduced output and performance;
- depression or a sense of isolation;
- physical injury;
- reduced quality of home and family life; or
- in extreme cases, risk of suicide.

¹ OMARI, M., 2003, *Towards Dignity and Respect: an Exploration of Antecedents and Consequences of Bullying Behaviour in the Workplace: Working Paper*, Institute for Research into International Competitiveness, Curtin University of Technology, Perth, 88 pp.

8.7 Why bullying goes unreported

There are many reasons why workers may not report bullying or cooperate in inquiries. These include:

- lack of response by employer;
- lack of knowledge about bullying behaviours and their effects;
- uncertainty about the correct procedure;
- uncertainty about where to seek help;
- fear of retribution from the bully or bullies;
- feelings of intimidation or embarrassment;

- belief that the behaviour is part of the workplace culture;
- feeling that nothing will change; and
- feeling that their opportunities for promotion in the organisation or the industry will be affected.

Some workers may not be aware that the organisation they work for has established bullying prevention and management procedures and that their reports will be dealt with in a proper manner.

9 What should employers do to prevent bullying?

It is easier to prevent bullying than it is to intervene after an event or mediate during an established pattern of bullying.

Workplace bullying should be treated like any other hazard because it can affect the safety and health of workers. Table 5 lists actions to prevent and respond to bullying incidents.

An inclusive, supportive and open workplace encourages tolerance, and should involve the acknowledgement and inclusion of all different groups and cultural issues in all work practices and procedures.

Senior management should provide positive role models and strong leadership to address bullying.

Table 5 Actions that employers should take to prevent and respond to bullying incidents

Prevention	Responding to incidents
Consult with workers and safety & health representatives	Develop a response plan
Develop a prevention plan	Develop complaint handling and investigation procedures
Manage the hazard	Where possible provide contact and grievance officers
Provide information and training	Ensure the rights of persons accused of bullying are respected
Monitor effectiveness of action taken	Deal with unresolved issues

10 Prevention

10.1 Consult with workers and safety and health representatives

Employers should establish whether bullying exists in their workplaces or whether there is the potential for bullying to occur.

Employers may seek the cooperation of workers to identify bullying behaviour. Bullying is more likely to be reported and cooperation achieved if managers, supervisors and other workers have been involved in the process from the beginning.

It may be useful to consult with workers who have experienced bullying at work and talk to people who have experience with managing workplace bullying within industry.

Consultation with safety and health representatives and committees, where they exist in the workplace, should also be part of the processes used to develop bullying prevention and management plans and the ongoing monitoring and review of their effectiveness.

10.2 Develop a prevention plan and policy

It is important that bullying prevention procedures focus on bullying behaviour rather than on personalities and/or status of individuals involved in the bullying.

A bullying prevention plan, developed by employers in consultation with workers and safety and health representatives, should aim to eliminate existing workplace bullying, if any and prevent it in the future.

The plan should include a bullying prevention policy, directed at promoting principles of decency and mutual respect and combating discrimination in the workplace. The policy can be developed on its own, or may be included in an occupational safety and health policy or code of conduct.

Workers should be aware of policies and the need to follow them in performing their jobs.

Preventative measures may involve an organisation-wide response as well as addressing symptoms in a

specific area. A combination of measures may need to be implemented, such as:

- reviewing systems of work;
- appointing a person to receive complaint reports;
- providing appropriate training about bullying policies and procedures, particularly to those with supervisory responsibilities;
- consulting with workers and health and safety representatives prior to and during organisational change;
- redesigning jobs;
- clarifying workers' roles and responsibilities;
- developing a conflict management process;
- reviewing staffing levels;
- reviewing working hours and/or shift arrangements;
- introducing a 'buddy' system for new workers;
- monitoring relationships in the workplace;
- training in workplace diversity; and
- specific training for supervisors and managers dealing with workers at higher risk.²

Suggestions for developing a bullying prevention policy

A bullying prevention policy should cover the following:

- a statement from top management to all workers that bullying is inappropriate and will not be tolerated
- describe bullying and the types of behaviour that constitute bullying;
- a statement of risks to the organisation and individuals;
- identify the person(s) to receive complaints;
- encourage workers who experience or witness bullying to report it;
- clearly state that retaliation against or victimisation of workers who report workplace bullying will not be tolerated;
- state the process that will be followed if a complaint is received; and
- state a commitment to prompt action if workplace bullying occurs.

² WORKSAFE VICTORIA, 2003, *Prevention of Bullying and Violence at Work – Guidance Note*: Victorian WorkCover Authority, Melbourne, 32 pp. For further information on and updates to this guidance note, refer to the Victorian WorkCover Authority website (www.workcover.vic.gov.au)

A bullying policy may include the statements such as the following:

- Workplace bullying is behaviour that harms, intimidates, offends, degrades or humiliates an employee, possibly in front of other employees, clients or customers.
- Workplace bullying may cause the loss of trained and talented employees, reduce productivity and morale and create legal risks.
- ... *Company Name*...believes all employees should be able to work in an environment free of bullying. Managers and supervisors must ensure employees are not bullied.
- ...*Company Name*...has grievance and investigation procedures to deal with workplace bullying. Any reports of workplace bullying will be treated seriously and investigated promptly, confidentially and impartially.
- ...*Company Name*...encourages all employees to report workplace bullying. Managers and supervisors must ensure employees who make complaints, or witnesses, are not victimised.
- Disciplinary action will be taken against anyone who bullies a co-employee. Discipline may involve a warning, transfer, counselling, demotion or dismissal, depending on the circumstances.
- The contact person for bullying at this workplace is ...

10.3 Provide information and training

Employers, in collaboration with workers' representatives, should make information on workplace bullying available to all workers, supervisors and managers. If necessary, the information should be provided in languages other than English.

Information on the bullying prevention and management plan can be widely promoted in the organisation through information sessions, staff meetings, newsletters, etc. The plan should be included in the induction package for all new workers.

Workers should also be provided with information on points of contact within the organisation, such as contact officers or grievance officers.

Workers, safety and health representatives, contact officers and grievance officers, managers and supervisors should be trained to follow the procedures that are in place to reduce the risk of workplace bullying. There should be prior consultation with all relevant parties regarding the training delivered.

When providing information and training about bullying, individual rights must be respected. It is not appropriate to include specific examples of workplace bullying or details of the outcomes of investigations.

Further sources of information are given in Appendix 4.

10.4 Monitor the effectiveness of action taken

The bullying prevention plan should be regularly evaluated to ensure that it remains appropriate and it prevents bullying at the workplace.

There are a number of ways to collect information that indicates the effectiveness of prevention and management plans, including:

- monitoring patterns of sick leave, staff turnover, injury reports and workers' compensation data;
- monitoring feedback from sources such as surveys, exit interviews and worker assistance programs, and from union representatives, mentors, managers and supervisors;
- organisational performance and employee satisfaction surveys;
- suggestion boxes to enable workers to provide feedback anonymously; and
- consulting with safety and health representatives and committees.

There should also be ongoing analysis of reported bullying incidents and investigations to work out whether additional training or information should be provided to workers.

11 Responding to incidents

11.1 Bullying response plan complaint and investigation procedures

As part of workplace hazard management procedures required under the *Mines Safety and Inspection Act 1994*, unreasonable or inappropriate behaviour should be identified and investigated.

A bullying response plan, developed by employers in consultation with workers and safety and health representatives, should provide a clear process to deal with workplace bullying incidents that may occur. This includes complaint handling, investigation, issue resolution and grievance procedures.

Procedures for the handling of complaints about workplace bullying may be incorporated into general complaint handling procedures. The procedures should nominate the officers with responsibility for receiving and investigating complaints, such as contact officers and grievance officers.

A checklist that can be used when developing complaint handling and investigation procedures is provided at the end of this section.

Confidentiality

Because of the sensitivity of most bullying incidents, employers are strongly advised, wherever possible, to address bullying incidents as promptly as possible and in confidence to minimise stress and trauma to those involved.

Maintenance of confidentiality of both the complainant and the person accused of bullying is of primary importance throughout the conduct of any investigation. If the complainant does not wish to proceed or be identified, indirect action can be taken, such as training sessions or information provided to all employees.

If a specific incident involves unsafe behaviour, criminal behaviour such as threat or assault, or other unlawful behaviour the employer may have a legal duty to act.

Suggestions for developing complaint handling and investigation procedures

Procedures should:

- be in plain English and, if necessary, other languages;

- ensure natural justice principles are upheld;
- ensure privacy and confidentiality;
- be designed to resolve the problem as quickly as possible.
- provide the option to make an informal (verbal) complaint or a formal (written) complaint and the mechanisms available within the organisation to address these;
- outline what is involved in the complaint handling process, both formal and informal.
- include methods for ensuring people are not victimised as a result of lodging a complaint
- clearly state the roles of responsible individuals such as contact officers, grievance officers, managers, supervisors roles
- contain review procedures and a process for appeal of outcomes; and
- identify external avenues available to workers where grievances have been unable to be resolved internally.

Formal procedures may be dictated by the relevant procedures contained in legislation, awards and agreements listed at Appendix 2.

Resolving issues

Determine the nature and the severity of the problem. Problems may range from a minor concern through to serious complaints and/or criminal activity. A proper assessment will help to establish the most appropriate course of action.

Informal complaint handling can be used to attempt to resolve issues with minimal stress to both parties. If they are successful, the behaviour will cease and the normal pattern of work will be restored.

Following discussions with a contact or grievance officer, complainants may decide to attempt to resolve the problem themselves. They could approach the alleged bully and ask them to stop bullying or make them aware that their behaviour is causing distress.

The complainant may seek the assistance of a third party to mediate or facilitate face-to-face discussions and to find a resolution that is acceptable to both parties.

More formal procedures may be required if the informal procedures are not successful or in situations where the allegations are more serious and the complainant can demonstrate less favourable treatment or there is actual physical or psychological harm.

If a formal investigation is warranted, a neutral person should undertake the investigation. The person undertaking the investigation should also ideally not have participated in any informal procedures.

There should also be mechanisms to ensure that both parties are appropriately supported during this process.

Consideration should be given to working arrangements of both the complainant and respondents where complaint is being investigated, however alternative working arrangements should not be seen as a permanent solution in the first instance.

11.2 Contact officers and grievance officers

Generally speaking, contact officers provide information, while grievance officers respond to incidents or complaints. The role of the officers is to be determined by the employer and their roles defined in the bullying response plan.

Contact and grievance officers should be appointed in writing with written confirmation of the duties they are required to perform and the responsibilities they have in their roles.

It is very important that contact and grievance officers are trained and have the skills to carry out their legal obligations and responsibilities.

Appointed contact and grievance officers who carry out their duties according to established policy and procedure and protected by qualified privilege. This is a concept that comes from common law. It protects an individual from a possible defamation charge where a person makes a statement or receives information from another as part of carrying out public duties.

Some workplaces may have an employee assistance provider who may be able to advise or mediate between workers involved in alleged bullying cases. Counselling and assistance should be provided to both the workers being bullied and the workers who are bullying.

11.3 Rights of any person accused of workplace bullying

Natural justice must be observed in all dealings with persons accused of workplace bullying.

It is essential that people be protected against false and malicious accusations. People may be falsely accused of workplace bullying because of a desire on the part of others to harm them or an over-reaction to a trivial or isolated incident.

If a person accused of bullying is denied natural justice, then any formal action taken against them may be overturned should they appeal against it.

Natural justice is generally considered to include the rights to:

- be fully informed of the complaint;
- be fully informed about the complaint process;
- reply in full to the complaint;
- be considered innocent until proven guilty;
- representation by a person of his or her choice;
- maintenance of confidentiality; and
- be informed of any rights of appeal.

11.4 Unresolved issues

The Act requires employers to investigate reports made by employees, and attempt to resolve occupational safety and health issues with safety and health representatives, safety and health committees or workers, according to the relevant procedures for the workplace. If these procedures do not succeed, the Act sets out steps to resolve the issue.

If an issue remains unresolved either the employer, a safety and health representative, or where none exist, a worker, may ask for a mines inspector to come to the workplace.

Generally, Resources Safety will only investigate when the bullying is still occurring and the aggrieved person has exhausted all avenues to stop the bullying, such as reporting the hazard to the employer and trying to resolve the issue.

It is the inspector's role to investigate and determine whether all parties have met their obligations under the Act. It is not the inspector's role to become involved in the specific details of the alleged bullying activities or to mediate between the aggrieved person and the alleged bully.

An investigation may result in verbal advice from the inspector and/or improvement or prohibition notices being issued, in accordance with Resources Safety's enforcement policy.

12 Other legal considerations

Physical and sexual assault are criminal matters and should be referred to the police.

Where bullying involves sexual or racial harassment or discrimination, the worker may lodge a claim under the *Equal Opportunity Act 1984*.

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*.

The *Public Sector Management Act 1994* governs the behaviour of public sector employees, and bullying can be a breach of the *Western Australian Public Sector Code of Ethics*.

In addition, common law cases are setting precedents for workplace bullying to be dealt with under contract and personal injury claims. There may be significant financial implications for employers who do not seek to prevent and resolve complaints.

For more information, refer to Appendix 2.

13 Checklist – bullying

13.1 Developing bullying prevention procedures

Use this checklist as a guide when developing bullying complaint procedures or dealing with a bullying incident.

(Each NO answer indicates that a review of your procedures may be necessary)	
Are they incorporated into existing grievance procedures?	YES / NO
Are they in plain English and, if necessary, other languages?	YES / NO
Are they fair and equitable?	YES / NO
Are they designed to resolve the problem as quickly as possible?	YES / NO
Do they ensure that natural justice principles are upheld?	YES / NO
Do they ensure that the alleged bully has an opportunity to answer allegations?	YES / NO
Do they ensure privacy and confidentiality?	YES / NO
Do they include informal and formal procedures?	YES / NO
Do they promptly and properly deal with complaints?	YES / NO
Do they include disciplinary action if warranted?	YES / NO
Do they include methods for ensuring people are not victimised as a result of lodging a complaint?	YES / NO
Do they include provision for the employer to make changes to the workplace to ensure that any breach of occupational safety and health legislation is rectified and the bullying ceases?	YES / NO
Do they include provision for counselling for the alleged bully to enable them to recognise and take action to change their behaviour?	YES / NO

13.2 Responding to bullying complaints

The following points should be considered when responding to bullying complaints.

Is the problem actually bullying?	
Is the behaviour inappropriate or unreasonable?	YES / NO
Does the behaviour create a risk to safety or health?	YES / NO
Does the behaviour harm or offend?	YES / NO
Is the behaviour unreasonable work-related direction, feedback or discipline?	YES / NO
Informal complaint handling	
Are all parties aware of their obligations and rights?	YES / NO
Has the complainant sought the assistance of a third party to mediate or facilitate face-to-face discussions and to find a resolution that is acceptable to both parties?	YES / NO
Is there a need for a contact or grievance officer?	YES / NO
Is the complainant aware of complaint handling procedures available to them?	YES / NO
Does the complainant have support within the workplace, e.g. safety and health representatives, other appropriate workers and/or union representatives?	YES / NO
Are professional development programs available to assist complainants in developing resilience, self-esteem, assertiveness etc.?	YES / NO
Formal complaint handling	
Have the details of allegation been recorded, i.e. specific incidents with places, dates, times, what was said, done, etc.?	YES / NO
Is a formal investigation warranted?	YES / NO
Is a person not involved in that particular incident undertaking the investigation?	YES / NO
Is it appropriate to offer alternative working arrangements to avoid further conflict while the bullying complaint is being investigated?	YES / NO
Do affected workers require access to counselling?	YES / NO
Are the outcomes of the investigation documented?	YES / NO
Is there a time frame for actions to be completed?	YES / NO
Has confidentiality been maintained?	YES / NO
Have all parties been provided with information as to the progress of the investigation and the final outcome on a 'need to know' basis?	YES / NO
Should the matter be reported to authorities? If the matter has not been resolved satisfactorily or could not be resolved internally, the complainant may consider the following points.	
Does the complainant feel they could not report the workplace bullying to anyone at the workplace?	YES / NO
If reported at the workplace, after formal procedures have been completed, does the matter remain unresolved?	YES / NO
Has there been a notifiable injury or illness under the <i>Act</i> that should be reported to Resources Safety?	YES / NO
Does the complaint involve physical, sexual assault or other potentially criminal activities?	YES / NO
Does the complainant allege behaviour based on individual attributes covered by equal employment opportunity legislation, e.g. religion or race?	YES / NO

APPENDICES

Violence, aggression and bullying at work

PREVENTION AND MANAGEMENT

Appendix 1

General requirements of occupational safety and health laws

'General duty of care' and 'general duties' describe duties that the *Mines Safety and Inspection Act 1994* (the Act) places upon people to ensure their own safety at work and that of others who are at the workplace. The general duty obligations extend beyond the traditional employer–employee relationship to take into account other types of work relationships such as contractors and labour hire arrangements.

Employers

Employers must provide safe and healthy systems of work with adequate information, instruction, training and supervision for employees.

Employers must consult and cooperate with safety and health representatives, if they exist in the workplace, and other workers on safety and health matters.

Employers must investigate matters reported to them by employees, determine the action to be taken (if any), and notify the employee who made the report of the action to be taken.

As part of the hazard management process, employers should identify hazards in their workplaces and assess and control risks associated with those hazards.

Workers

Workers should take reasonable care for their own safety and health at work. They should also avoid adversely affecting the safety and health of other workers and visitors in the workplace.

Every worker must be made aware of their duty not to place the safety and health of others at risk by engaging in unsafe behaviours and work practices. Where workers are in a position of authority, they should take steps to unsafe behaviour and work practices if and when it happens.

Workers must follow the employer's safety instructions, cooperate with their employer on work related safety and health matters, use the protective clothing and equipment provided, and tell their employer about any work-related injuries or anything that they consider to be hazardous in their workplace.

In many cases, the Act also applies to volunteers. However, coverage is limited to situations where there is a connection with work for gain or reward. Volunteers *are not* employees. Therefore, major sections of the Act that focus on providing protection to employees do not apply to volunteers. In particular, Section 9 of the Act, which details broad, wide ranging duties of an employer to employees, is not relevant when considering volunteers.

The meaning of 'practicable'

The Act defines 'practicable' as follows:

'practicable' means reasonably practicable having regard, where the context permits, to —

- a. the severity of any potential injury or harm to health that may be involved, and the degree of risk of such injury or harm occurring; and
- b. the state of knowledge about —
 - i. the injury or harm to health referred to in paragraph (a);
 - ii. the risk of that injury or harm to health occurring; and
 - iii. means of removing or mitigating the potential injury or harm to health; and
- c. the availability, suitability, and cost of the means referred to in paragraph (b)(iii).

The action must be capable of being done (practicable), it must also be reasonable (reasonably practicable) and, in assessing what is reasonable, the Act further specifies the matters that must be taken into account. The risk and severity of injury must be weighed up against the overall cost and feasibility of the safeguards needed to remove the risk, in the context of what is known about the hazard.

While the cost of putting safeguards in place is a factor, it must be measured against the consequences of failing to do so. Cost is not an excuse for failing to provide appropriate safeguards, particularly where there is risk of serious, or frequent but less severe, injury.

Common practice and knowledge throughout the relevant industry are taken into account when judging whether a safeguard is 'reasonably practicable'. Individual employers could not claim that they did not know what to do about certain hazards if those hazards were widely known by others in the same industry, and safeguards were in place elsewhere.

Appendix 2

Overview of relevant legislation

Legislation	Situation
<i>Mines Safety and Inspection Act 1994</i>	The Act includes general duties for employers and others at the workplace who might be injured by the work, requirements for the resolution of issues and the functions of safety and health representatives and committees.
<i>Equal Opportunity Act 1984</i> <i>Spent Convictions Act 1988</i> <i>Racial Discrimination Act 1975</i> <i>Sex Discrimination Act 1984</i> <i>Disability Act 1992</i> <i>Human Right and Equal Opportunity Commission Act 1986 (Commonwealth)</i>	Where bullying involves acts of discrimination or sexual or racial harassment a complaint may be lodged under this legislation. Discrimination occurs when someone is treated less favourably due to family status, family responsibilities, religious belief, political belief, marital status, sex, race, age, impairment, pregnancy, gender history or sexual orientation. It is also unlawful for anyone to victimise a person because they have made, or intend to make, a complaint.
<i>Workplace Agreements Act 1995</i> <i>Industrial Relations Act 1979</i> <i>Minimum Conditions of Employment Act 1993</i>	Where a worker is dismissed or forced to resign as a result of workplace bullying, the worker may be entitled to make a claim under the unfair dismissal provisions.
<i>Workers' Compensation and Injury Management Act 1981</i>	A worker who suffers an injury or disease as a result of workplace violence, aggression or bullying may submit a claim for workers' compensation. However, they have to demonstrate that it was caused by the employment, that the employment was the major significant factor causing injury or disease, and circumstances do not meet the exclusions documented in the Act.
<i>Public Sector Management Act 1994</i> (State Government Departments)	A public sector employee can lodge a complaint to Public Sector Standards when not satisfied with the outcome of an investigation. The Western Australian Public Sector Code of Ethics governs the behaviour of public sector employees.
<i>Public Interest Disclosure Act 2003</i>	Where an employee alleges victimisation as a result of a disclosure under the <i>Public Interest Disclosure Act 2003</i> , the employee may either lodge a complaint with the Commissioner for Equal Opportunity or commence proceedings in tort against the perpetrator of an act of victimisation or, in certain circumstances, the employer of the perpetrator.
<i>Surveillance Devices Act 1998</i>	Regulates the use of listening devices, optical surveillance devices and tracking devices. Affects workplaces where surveillance devices such as security cameras, closed circuit TV, telephone monitoring and global positioning systems (GPS) are used.
<i>Criminal Code</i>	When workplace violence, aggression or bullying involves physical assault or threat of assault, the incident becomes a police matter and is dealt with under the criminal code.

Common Law

An employer has a duty to protect workers from workplace violence, aggression or bullying. This duty exists in tort and as an implied term in the employment contract. Under common law, an employer who does not take suitable precautions may be liable for any physical or psychological injury suffered by the victim.

Appendix 3

Hierarchy of controls relating to violence and aggression

Eliminate the hazard — change the system of work

In some situations, it is possible to pinpoint the exact reason or 'trigger' for workplace violence and aggression. If this 'trigger' could be completely eliminated, the work could be carried out without the threat of violence, robbery or attack.

Example

- use electronic payment of wages directly into employees' bank accounts to eliminate the need for cash delivery.

Substitution — use a safer alternative

Replace a hazardous procedure with a less hazardous one.

Examples

- use credit facilities instead of cash;
- for delivery people who receive cash payments as part of their day-to-day activities, consider non-cash payments; and
- in situations where people are waiting for a service, it may not be possible to avoid delays. However, the people waiting would be less likely to confront staff if there was a good client communication system and they knew what was happening.

Isolation — separate workers from the hazard

If possible, workers should move away from violent or aggressive situations to a safe area.

In other situations, it may be possible to move the violent or aggressive person to another location.

Administrative barriers could also be used to separate workers from customers, clients or members of the public who may cause them harm. Effective barriers could be in the form of procedures that isolate workers from hazards.

Examples

Physical barriers:

- electronically controlled doors that allow full view of visitors to workplaces before the doors are opened from the inside; and

- security doors where access is via a security card or code.

Administrative barriers:

- agreements that staff will only provide a service when clients are not being violent or aggressive; and
- using procedures that prevent clients from contacting staff out of business hours, such as refusing to provide workers' home phone numbers and addresses.

Use engineering solutions

Examples

- building layout;
- allow for 'escape routes' and avoid dead ends where employees are unable to retreat to a safer place when necessary;
- bollards outside entry points to the workplace;
- security doors;
- permanent screens;
- security lighting;
- alarm systems; and
- communication systems.

Where the workplace is in an existing structure or building, structural changes can be made in addition to the features described above.

Examples

- improving security and lighting;
- redesigning waiting areas to provide comfortable surroundings;
- duress alarms; and
- video monitoring.

Administrative control

When administrative procedures are used to protect workers, it is up to each employer to decide on what approach is appropriate for the workplace.

Examples

- training workers in appropriate systems of work, dealing with difficult clients and conflict management skills (e.g. in situations where cleaners work alone at night, there would be less risk of attack if cleaners worked together, cleaning one building after the other, rather than working alone in different buildings);
- job rotation to reduce the amount of time workers are in stressful situations, especially when they are new to the job;
- in an organisation with client contact, ensure new workers are not required to work alone until they have the competencies to do so — assistance from more experienced staff should be available when it is needed;
- rostering to provide support for situations where it is known that the situation may be difficult;
- establishing communication channels for sharing information and facilitating the solution of problems related to service delivery;
- establishing special communication channels in periods of reform and organisational change;
- implementing feedback procedures; and
- ensuring time is available for dialogue, sharing information and problem solving.

Personal protective clothing and equipment

Personal protective clothing and equipment (PPE) should not be the only control that is used, as it is the least effective way of dealing with workplace violence and aggression. PPE should be provided as a temporary measure while other risk controls are being considered, or in conjunction with other controls.

Examples

- PPE for protection from contact with body fluids; and
- personal duress alarms.

Appendix 4

Other sources of information

This code of practice should be read in conjunction with other relevant publications produced by Resources Safety, the Commission for Occupational Safety and Health and WorkSafe.

Mines Safety and Inspection Act 1994

Copies may be purchased from the State Law Publisher, 10 William Street, Perth WA 6000. Electronic versions are available from the website at www.slp.wa.gov.au

Resources Safety guidelines

- General duty of care in Western Australian mines
- Dealing with bullying at work

Resources Safety MSIA brochures

- General duty of care — employees and employers
- Duty of care — labour hire industry
- Election and health representatives
- How to establish a safety and health committee
- Issue of provisional improvement notices by safety and health representatives
- Improvement and prohibition notices

Commission for Occupational Safety and Health codes of practice and guidance notes

- General duty of care
- Dealing with bullying at work — a guide for workers
- Working alone
- Alcohol and other drugs
- Formal consultative processes at the workplace: safety and health representatives, safety and health committees and resolution of safety and health including consultation on PINs

WorkSafe publications

- The first step — managing hazards in the workplace
- Preparing for emergency evacuation in the workplace

WorkSafe bulletins and fact sheets

- General duty of care
- Labour hire industry and duty of care
- Electing safety and health representatives
- Establishing safety and health committees
- Provisional improvement notices

Government agencies and organisations that may be contacted for further information are:

Department of Consumer and Employment Protection

Resources Safety Division

100 Plain Street
East Perth WA 6004

Postal address:

Locked Bag 14
Cloisters Square WA 6850

Telephone: 08 9222 3229

Facsimile: 08 9325 2280

Email: ResourcesSafety@docep.wa.gov.au

Website: www.docep.wa.gov.au/ResourcesSafety

WorkSafe Division

1260 Hay Street
West Perth WA 6005

Postal address:

PO Box 294
West Perth WA 6872

Telephone: 08 9327 8777

TTY: 08 9327 8838

Facsimile: 08 9321 8973

Email: safety@docep.wa.gov.au

Website: www.worksafe.wa.gov.au

Office of Multicultural Interests

Level 26, 197 St Georges Terrace
Perth WA 6000

Telephone: 08 9222 8800

Facsimile: 08 9222 8801

Email: harmony@dpc.wa.gov.au

Website: www.omi.wa.gov.au

Equal Opportunity Commission

Level 2 Westralia Square
141 St George's Terrace
Perth WA 6000

Telephone: 08 9216 3900 (General enquiries)
TTY: 08 9216 3936
Toll free: 1800 198 149
Facsimile: 08 9216 3960
Email: eoc@eoc.wa.gov.au
Website: www.eoc.wa.gov.au

Western Australian Police Headquarters

2 Adelaide Terrace
East Perth WA 6004

Telephone: 131 444
Website: www.police.wa.gov.au

The Chamber of Minerals and Energy Western Australia

Level 7, 12 St George's Terrace
Perth WA 6000

Telephone: 08 9325 2955
Facsimile: 08 9221 3701
Email: chamber@cmewa.com
Website: www.cmewa.com

Chamber of Commerce and Industry Western Australia

180 Hay Street
East Perth WA 6004

Telephone: 08 9365 7415
Facsimile: 08 9365 7550
Email: osh@cciwa.com
Website: www.cciwa.com

UnionsWA

Level 4, 79 Stirling Street
PERTH WA 6000

Telephone: 08 9328 7877
Facsimile: 08 9328 8132
Email: unionswa@tlcwa.org.au
Website: www.unionswa.com.au



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