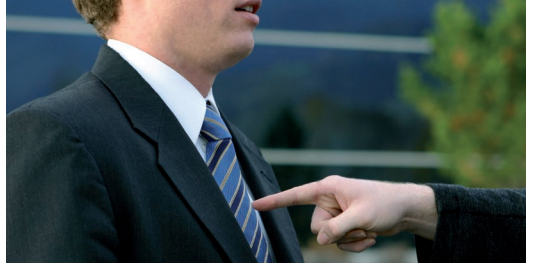
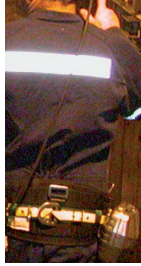


Guideline



Dealing with bullying at work



Department of Consumer
and Employment Protection
Government of Western Australia

Resources Safety

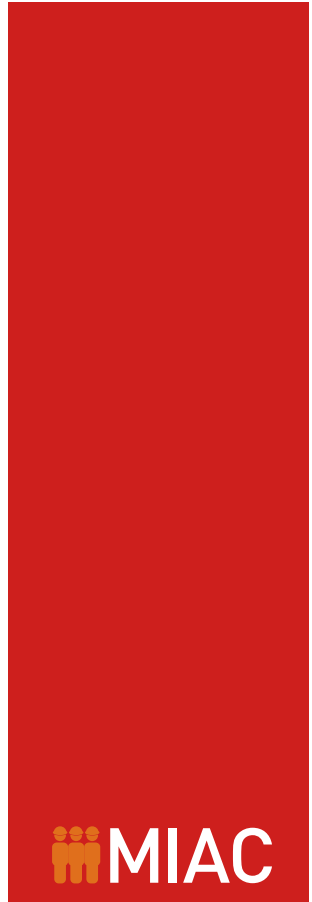


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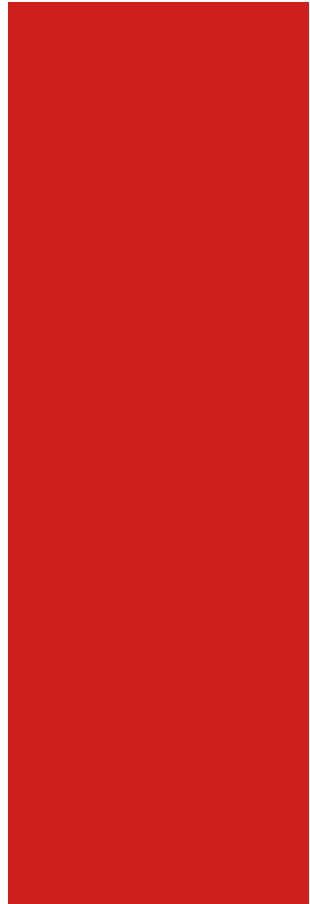
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GUIDELINES

A guideline is an explanatory document that provides more information on the requirements of legislation, details good practice, and may explain means of compliance with standards prescribed in the legislation. The government, unions or employer groups may issue guidance material.

Compliance with guidelines is not mandatory but they could have legal standing if it were demonstrated that the guideline is the industry norm.

WHO SHOULD USE THIS GUIDELINE?

This guideline should be used by anyone engaged in mining operations in Western Australia. All parties have responsibilities for health and safety at work. This includes employers, employees and other workers, self-employed persons and others such as people who design and construct buildings or manufacture and supply plant or substances.

Foreword

This guideline is issued by Resources Safety under the *Mines Safety and Inspection Act 1994*, and has been endorsed by the Mining Industry Advisory Committee.

It is adapted from a guidance note of the same title published by the Commission for Occupational Safety and Health in 2006.

The Act

The *Mines Safety and Inspection Act 1994* (the Act) sets objectives to promote and improve occupational safety and health standards within the minerals industry.

The Act sets out broad duties, and is supported by regulations, together with codes of practice and guidelines.

Regulations

The Mines Safety and Inspection Regulations 1995 (the regulations) provide more specific requirements for a range of activities. Like the Act, regulations are enforceable and breaches may result in prosecution, fines, or directions to cease operations and undertake remedial action.

Application

The provisions of this guideline apply to all mines as defined in section 4(1) of the Act.

1 What is workplace 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.

Because it can adversely affect the safety and health of employees, bullying is unlawful under the *Mines Safety and Inspection Act 1994* (the Act).

While some workplace bullying may involve verbal abuse and physical violence, bullying can also involve subtle intimidation. Workplace bullying can be carried out indirectly, for example via letters, emails or telephone text messages. 'Initiation' practices are also a form of bullying.

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 include 'upward' bullying, where a group of workers exhibits bullying behaviour towards a manager or person in authority. The intent is usually to try and drive a worker from the workplace. Workplace bullying can take place between workers and other workers, managers or supervisors, customers or clients, trainees, contractors or visitors.

2 Workplace culture

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. Even one-off bullying incidents are unacceptable because, unless addressed, they can develop into a repeated pattern that becomes part of the culture at the workplace.

There are bound to be occasional differences of opinion, conflicts and problems in working relationships — these are part of working life. But when treatment of another person is unreasonable or offensive, then workplace bullying exists and should not be tolerated.



3 Bullying behaviours

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

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, for example the Equal Opportunity Act 1984 covers sexual and racial harassment.

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

Examples of overt, or obvious, 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 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; and
- physical assault or threats.

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.

Covert or more subtle behaviour that undermines, treats less favourably or disempowers others is also bullying, for example:

- unreasonably overloading a person with work;
- setting timelines that are difficult to achieve or constantly changing deadlines;
- setting tasks that are beyond a person's skill level;
- ignoring or isolating a person;
- deliberately denying access to information, consultation or resources; or
- unfair treatment in relation to accessing entitlements such as leave or training.



4 What isn't 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 obvious 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. There should be grievance or complaint procedures that can be utilised to resolve such matters.

5 What are the possible effects of bullying?

The reactions of individual workers will vary according to the nature of the bullying. Workers who are bullied may experience some of the following effects:

- stress, anxiety, sleep disturbance;
- panic attacks or impaired ability to make decisions;
- incapacity to work, concentration problems, loss of self-confidence and reduced output and performance;

- depression or a sense of isolation and in extreme cases, risk of suicide;
- physical injury; and
- reduced quality of home and family life.

The costs to an organisation may include reduced efficiency, unsafe work environment, increased absenteeism, poor morale, increased workers' compensation claims and civil action.

6 What can you do about it?

Bullying can be stopped. How you handle bullying will depend on your particular work environment and the nature of the bullying.

Every situation is different. If you are being bullied, you could take action informally or follow a more formal approach.

Informal procedures

The following informal steps are recommended as a first approach in dealing with most bullying cases.

Check for a workplace bullying policy and a prevention and management plan

Check whether your employer has a bullying policy and a prevention and management plan or complaint procedure for dealing with bullying at work. It may be available in the organisation's induction package for new workers, included in in-house newsletters or displayed on notice boards. There may also be grievance or complaint procedures in your industrial award or employment agreement.

Seek advice

Seek advice from your contact or grievance officer, safety and health representative, safety and health officer, human resources officer or union official. Generally speaking, contact officers provide information, while grievance officers respond to incidents or complaints. The role of the officers is determined by the complaint procedure.

You should not make allegations about bullying behaviour or harassment to people who are not involved in the handling of complaints in your workplace complaint procedure. All people are entitled to natural justice, are protected by confidentiality provisions in law and may be able to take action if the complaint is not handled properly.



Keep a record

Make a detailed record of what happened — place, date, time, persons and what was said or done, date the matter was raised and with whom. Ensure that your records are accurate. This information may be useful later, particularly if more formal steps need to be taken. It may also help you to establish whether the behaviour is actually bullying and to keep things in perspective.

Consider approaching the bully

A decision should be made as to whether to approach the bully. You may want to discuss your approach with a contact or grievance officer before acting. Your records may assist in deciding which approach to take.

An informal approach can be used to attempt to resolve bullying issues with minimal stress to both parties. However, if the bullying continues, formal procedures should be used.

If any form of bullying happens to you, remaining silent allows people to continue intimidating you. If you don't say something, the harassment may get worse. Body language is also an effective way to communicate, especially when combined with a clear statement. Make it quite clear to the person involved that the behaviour is unwanted and unacceptable, and that if it doesn't stop you will take further action.

Another alternative to stop the behaviour is to ask someone else, such as the grievance officer or other appropriate support person, to approach the person with you.

Use a counselling service

Some workplaces offer counselling services to employees. This may be provided free of charge through your organisation's employee assistance program. Counselling

may help you to develop ways of dealing with a bully or the effects of bullying.

Your human resources officer should have information on an employee assistance program if there is one. Your union may also be able to provide information on sources of support, particularly if your workplace is a small organisation where formal procedures for dealing with complaints may not exist.

Formal procedures

Formal procedures may be required if the informal procedures are not successful or in situations where the allegations are more serious. The need for formal procedures would usually be confirmed by preliminary enquiries, before a formal investigation is undertaken.

Formal procedures involve lodging a written complaint with your employer. As part of a formal investigation, the officer completing the investigation should document your report and keep a record of information gathered in the course of the investigation.

As part of a formal procedure, the grievance officer may suggest mediated face-to-face discussions to find a resolution that is acceptable to everyone involved.

An officer who is not involved in the particular situation should carry out the investigation and you should be advised of the outcome.

7 Safety and health representatives and committees

Where there are safety and health representatives in your workplace they are able to assist you to deal with workplace bullying through the complaint procedure.

The functions of an elected safety and health representative include liaising with workers on safety and health matters, and reporting to the employer any hazard or potential hazard to which workers might be exposed. Where there is a safety and health committee, the safety and health representative may refer the matter to the committee. However, the safety and health

representative is not obliged to resolve bullying issues or mediate.

Consultation with safety and health representatives and committees should be part of the processes used to develop bullying prevention and response strategies, and for the ongoing monitoring and review of the effectiveness of the strategies.



8 End results

In situations where the employer concludes that the complaint of workplace bullying is justified, there may be disciplinary action, usually in accordance with workplace policy and with relevant legislation. The employer is also required to make changes to the workplace to ensure that any breach of occupational safety and health legislation is rectified and the bullying ceases. These changes may include counselling for the alleged bully to enable them to recognise and take action to change their behaviour.

9 Further action

If you are not satisfied with the action taken regarding your complaint, you should consult with the contact officer or grievance officer in your workplace or contact your union for further advice.

The Act requires employers to 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.

The Act also requires employers to attempt to resolve safety and health issues with the safety and health representative, safety and health committee 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.

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.

In accordance with Resources Safety's enforcement and prosecution policy, an investigation may result in:

- verbal advice from the inspector;
- an improvement or prohibition notice being issued; or
- advice and a notice.

10 Other legislation

Dealing with bullying at work may involve laws other than the *Mines Safety and Inspection Act 1994*. It may be necessary to seek advice to determine an appropriate course of action.

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*.

Appendix — Other sources of information

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 code of practice

Prevention and management of violence,
aggression and bullying at work

Commission for Occupational Safety and Health code of practice

Violence, aggression and bullying at work:
a code of practice for prevention and management

Contacts for further information

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West Perth WA 6872

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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

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

Chamber of Commerce and Industry Western Australia

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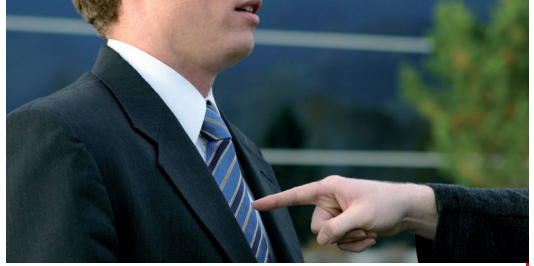
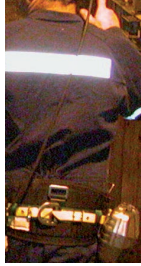
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