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**BULLIES NOT WANTED**  
(Guidebook published by Sth Australian Ombudsman)

Recognising and Eliminating Bullying in the Workplace

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## BULLIES NOT WANTED

### Foreword

Workplace bullying has been identified as a major source of both employee discontent and lost productivity. It is therefore a threat to both employers and employees, both having an equal interest in its eradication.

Bullies have always existed. They occur at work, at school, in the armed forces, in the home and in the community, in fact anywhere where one person has power over another. Although there are many different definitions of bullying, all of them contain the element of power in one form or another.

The bully's power can come from several sources. In some cases a bully may use a position of authority in an organisation, such as that of a manager, to bully subordinates. In others people who control the supply of things that people want use that power to bully others.

Physical bullies rely upon their superior physical strength to bully those who are weaker while emotional bullies first make their victims feel guilty and then use guilt as the basis for bullying. In all cases the ability to bully depends upon the bully's power over the victim.

This guide is concerned with workplace bullying and our main interest here is in how to stop it. This means that we will be considering such matters as the reasons why some people in positions of power bully others and others do not and what needs to be done in order to take power away from those who misuse it. As will become clear in this guide, the whole issue of workplace bullying is concerned with power, depowering the bully and empowering the victim to resist him or her.

This guide aims to show how this can be achieved and, as such, is intended for everyone who may be affected by bullying, no matter in what way. It therefore should be read by employees, those concerned for their welfare such as partners and parents, those responsible for protecting their interests such as union and health and safety representatives, their supervisors and managers and anyone else involved with workers at work.

The guide will cover all aspects of workplace bullying, examining such issues as what it is and why it occurs as well as ways in which it can be stopped and, even better, prevented from occurring in the first place. To achieve this we must understand why it occurs and the factors that must be present for it to flourish.

The guide will also examine the legislation that applies to workplace bullying and demonstrate how that legislation can be used to prevent it. Ideally bullying should be eliminated through conciliation and mutual agreement but a willingness to use the legislation must always be present in case the issue is unable to be resolved by more reasonable means.

One must not underestimate the importance of legislation in putting to an end undesirable behaviour of any description. By legislating against something, the community expresses its disapproval of that behaviour and gives support to those who are prepared to make a stand against it. Education and conciliation may be

useful tools in dealing with problems such as workplace bullying but there are some people who will not respond to either. In such cases the full force of the law must be used. Allowing people to get away with bullying not only encourages them to continue but may also encourage others to start.

Equally important are the systems that should be in place to assist and support victims in dealing with the bullying, in terms of both putting an end to the practice and minimising the harm that is done by it. This guide will suggest various measures that can be taken and systems that can be put in place to achieve this. The underlying principle here is that there must always be someone in the organisation that the victim can turn to for help and support.

Finally the guide recognises that not all cases of workplace bullying are clear-cut, that the person accused may not be aware of the effect that his or her behaviour may be having or that he or she may deny the accusations made. It is therefore essential that we make sure that in helping and supporting the victim of bullying we do not deny natural justice to the person accused of being the bully.

I hope that this guide will be widely used by employees, their union and other representatives and employers so that they can take the steps necessary to create a "bully free" workplace. I also hope that it will provide assistance to the victims of workplace bullying in their efforts to prevent themselves being treated in this way. I also hope that it may be read by the bullies themselves and perhaps make them aware of what they are doing and the harm that it causes. I am convinced that, by making a contribution to the reduction or elimination of workplace bullying, it will also make a contribution to the creation of a more contented and satisfied, and therefore more productive, workforce.

So, read this guide, discuss it with your workmates, colleagues and family, bring it up at your consultative or occupational health and safety committee meetings and use it in any way you see fit to put a stop to bullying in your workplace.

If you require any further information or assistance do not hesitate to contact this Office or any of the other agencies listed in the back of this guide.

In conclusion I would like to acknowledge the contribution of the Working Women's Centre. Their work in this area, particularly the Workplace Bullying Project, undertaken by them and funded by WorkCover and what was previously the South Australian Commission Health Promotion Unit, provided much of the data on which this guide is based.

## CHAPTER 1

### WHAT IS WORKPLACE BULLYING?

Workplace bullying involves the persistent ill treatment of an individual at work by one or more other persons. To be recognised as bullying the ill-treatment must be continuous and directed against a particular person. Workplace bullying has many features in common with school bullying.

It need not involve physical ill-treatment, such as punching, kicking and other ways of inflicting physical pain. In fact the research that has been done on this issue suggests that only around 10% of bullying involves some form of physical assault. Most cases of bullying involve such treatment as verbal abuse, “nit-picking”, threats, sarcasm, ostracism, sabotage of a person’s work and so on.

Commonly reported forms of workplace bullying include:

- . Persistent and unjustified criticisms, usually of the nit-picking variety.
- . Threats of dismissal or other severe punishment for no reason.
- . Giving the victim a much greater proportion of unpleasant work than that given to others.
- . Humiliating the victim through sarcasm, criticism and insults, often in front of customers or other employees.
- . Constant checking the victim’s work or whereabouts to a much greater extent than with others of the same seniority.
- . Denying opportunities for training, promotion or interesting work.
- . Deliberately withholding information that is important to the victim.
- . Overloading the victim with work or requiring work to be done without there being sufficient time to do it. The victim is then criticised for taking too long over a job or for not doing it properly.
- . Abusing the victim loudly, usually when others are present.
- . Sabotaging the victim’s work, usually by hiding documents or equipment, by not passing on messages, by changing figures and, in other ways, getting him or her into trouble.
- . Excluding the victim from workplace social events (including conversations). In extreme cases this can involve the victim not being spoken to at all.
- . Spreading gossip or false rumours about the victim.
- . Not helping the victim when he or she is in difficulties but pointedly helping others in the same situation.

As indicated above, bullying that involves inflicting physical harm on another person is not commonly encountered but when it does occur its consequences are very severe and it is the form that has attracted the most publicity. Violent bullying often involves various kinds of dangerous “practical jokes” or rituals which involve subjecting the victim to considerable pain or humiliation. One example of this kind of bullying was provided by a Victorian Government television campaign against such practices. In this case some workers poured an inflammable chemical under the toilet door, while another worker was inside, and set fire to it. Another example concerns a case in New South Wales where a number of workers were charged with suspending a much younger worker from a beam and then applying various forms of torture to him.

Such practices are frequently dismissed as being “just a bit of fun” or justified as some kind of traditional ritual or rite of passage perhaps arising out of an apprentice coming out of his or her time.

There are such ceremonies, particularly in the more longer established trades, some of which go back hundreds of years. However none of the genuine ceremonies involve the infliction of physical harm or humiliation. Those that did were discontinued many years ago. Most of the so called ceremonies that have been reported on recently have nothing to do with tradition and in most cases appeared to have been made up on the spot by the bullies themselves.

It is important that we do not allow horror and outrage at these cruel and dangerous practices to divert attention from the vastly more frequent forms of bullying that do not involve physical violence. The “non-violent” forms of bullying can also be devastating to their victims, as the detailed case studies in the Working Women’s Centre report on the subject clearly show, and are often much harder to deal with. For example pouring paint thinners under a toilet door when someone is inside and setting fire to them is so obviously a criminal act that, provided that the culprit is clearly identified, it can be dealt with by both dismissal and legal prosecution. On the other hand a systematic campaign of criticism, victimisation, isolation, abuse etc. directed against one individual is less apparent, less obviously unlawful, much harder to prove and therefore harder to deal with. Under many circumstances these factors may make the bullying even harder for the victim to deal with than the physical kind.

## CHAPTER 2

### WHO ARE THE BULLIES AND WHO ARE THEIR VICTIMS?

There are no clear-cut answers to these questions. As can be seen from the examples in the previous chapter both managers and fellow employees can be guilty of bullying. Various research reports on this topic (such as that carried out by the Working Women's Centre) suggest that more workers are bullied by managers than by co-workers but this can be explained by the fact that managers will normally have more opportunities to bully subordinates than other workers. Also the sort of bullying that is carried out by managers is more easily recognised as such.

In some cases workers are bullied by both managers and their fellow workers, one starting and others following his or her example. It seems that once a person is seen to bully another and get away with it others are encouraged to do the same. Also a person who has already suffered at the hands of a bully tends to appear more vulnerable and therefore attracts the attention of other bullies in much the same way that an injured animal is more likely to be attacked by predators than a healthy one.

Put another way, the old saying about school bullies only picking on people weaker than themselves is equally true of the workplace bully.

Also both males and females are likely to be guilty of bullying although research suggests that males are more frequently guilty of bullying than females. It must be noted however that males are more likely to be in positions of authority than females and, as we have seen, people in authority are more likely to be guilty of bullying than people who are not.

Also it is possible that males may be more reluctant to report being bullied than females, particularly if the person doing the bullying is a female.

Consequently we can say that we are probably as likely to encounter a female bully in the workplace as a male one. Forms of bullying used by males and females may vary however.

It is hard to answer the question as to why some people are more likely to be victims of bullying than others. As a general rule it appears that some people are bullied because they seem more vulnerable than others. Perhaps they may be new to the workplace or may not appear to have many friends or perhaps they may be different in any of a number of ways from the rest of the work group.

On the other hand it seems that others are bullied because they are seen as a threat. Perhaps a fellow worker, concerned that the victim may gain promotion instead of him or her, may initiate a bullying campaign or maybe a manager, angry that the victim has successfully challenged his or her authority, bullies the victim in order to obtain revenge or to discourage others from doing the same. Victimisation of persons exercising their industrial rights has been reported as being a common form of bullying in workplaces.

Other than the above, there are no obvious reasons why one person should be a victim of bullying and another not. Put another way, it could happen to anyone.

## CHAPTER 3

### HOW WIDESPREAD IS WORKPLACE BULLYING?

This is another question to which there is no clear-cut answer. Many cases of workplace bullying are not reported by the victims so we cannot know its full extent.

What we do know is that there has been a marked increase in people reporting being bullied since the beginning of the 1990s. This is probably due to both an increase in the behaviour and also an increase in willingness to report it or otherwise take action against it. Amongst the important contributions of the various State and Federal Equal Opportunity Acts of the 1980s and early 1990s are that they encouraged a climate in which people were more prepared to speak out against the things that made them angry and that, at least in larger organisations, they encouraged the introduction of contact officers and various workplace procedures aimed at assisting people with problems of this sort.

However this change has not yet penetrated throughout the entire Australian workforce and there are many workplaces where the old school playground ethic of suffering in silence and of not “dobbing in” still exist. People in such an environment are often reluctant to complain and, even if they did, mechanisms to assist and support them were unlikely to exist.

Consequently the tendency for many cases not to be reported not only means that we do not know the full extent of the problem but also that we do not fully understand where the problem is occurring. For example the tendency revealed by one survey for the majority of reports concerning workplace bullying to come from permanent employees does not necessarily mean that permanent employees are more likely to be bullied than casuals. It is more likely to mean that permanent employees are much more likely to complain and much more likely to have a structure in place to support and assist them.

The extent of the workplace bullying problem is revealed by the number of complaints received in recent years by organisations whose responsibilities include that of dealing with such issues. For example the Office of the Employee Ombudsman is currently receiving more than 500 complaints a year on workplace bullying related issues, a figure that is increasing each year. Trade Unions and agencies such as the Working Women’s Centre and the Equal Opportunities Commission are reporting even more. One survey conducted in the United Kingdom found that more than half of all employees had been bullied at some time during their working lives.

A survey into the incidence of workplace bullying in South Australia conducted by the Working Women’s Centre involved sending out 346 questionnaires of which two thirds were returned. A weekend “phone-in” attracted 112 responses. These figures are remarkably high for surveys of this sort.

Of even greater importance however is that these responses tended to come from workplaces where one would expect a much higher proportion of people who are aware of their rights, more willing to complain about ill-treatment in any form and where mechanisms for dealing with such ill-treatment are more likely to be in place.

In other words the responses tended to come from permanent employees, those with a generally higher level of education, public servants and union members.

The above data suggests that if complaints concerning bullying are coming in such large volumes from areas where there are a range of mechanisms in place to prevent bullying what must the situation be like in workplaces where there are not? We can be reasonably confident that the information that we currently have regarding workplace bullying represents only the “tip of the iceberg”, that the practice is much more widespread than the current figures, however serious, reveal.

## CHAPTER 4

### REPORTING WORKPLACE BULLYING

The reasons why so much bullying is not reported are particularly important because bullies of all kinds rely on the silence of the victims to enable them to persist with their bullying. It follows therefore that the more people are prepared to report being bullied, the greater the likelihood of action being taken against it and consequently, the less likely it is that bullying will flourish.

Therefore any concerted action against workplace bullying must commence with efforts aimed at increasing the number of people prepared to report it, either as victims or observers. This must involve identifying the reasons why it is not reported.

The main reasons for the non-reporting of workplace bullying appear to be as follows:

1. The bullying is not recognised as such. Victims often believe that their treatment stems from their own shortcomings or that the treatment is in some way "normal". People who tend to be isolated, perhaps because of differences between them and other workers, are more likely not to recognise bullying when it occurs.
2. The victim fears retribution by the bully ie. that complaining will make the bullying worse.
3. That complaining is a sign of weakness ie. that the person cannot "take it". This is particularly common where bullying has become part of the workplace culture.
4. That there is no one to complain or report to or that people in authority are more likely to take the bully's side than that of the victim.

A common factor in all of the above is a feeling of isolation on the part of the victim, that he or she is on his or her own as far as this problem is concerned. Isolation is one of the main factors used by the bully when selecting his or her target, it is a state often sought by the bully for his or her victim and, as will be seen later, is one of the keys to overcoming the problem.

## CHAPTER 5

### WHAT CAUSES WORKPLACE BULLYING?

As pointed out in the foreword to this guide, bullying has always existed. The question that concerns us is why its incidence has so dramatically increased in recent years, an increase that cannot be entirely explained by an increased willingness and capacity on the part of some employees to report or complain about it when it occurs.

Research conducted in the United Kingdom, Scandinavia and other countries as well as in Australia, all point to the significant economic and industrial changes that have occurred, both here and overseas, during the 1990s as being the single most important cause of the recent explosion in the incidence of workplace bullying. These changes (which, like workplace bullying, tended to occur in Europe and North America before they occurred in Australia) can be summarised as follows:

- . reductions in job security, particularly the disappearance of the notion of a job for life.
- . reductions in the number of permanent employees and their replacement by casuals and outside contractors.
- . increases in average number of hours worked by employees in a week.
- . organisational restructuring leading to the adoption of new structures less responsive to employee needs and also to even greater pressures on both managers and employees to work even harder to cope with the consequences of that restructuring.
- . increased pressure on employees to achieve greater output with fewer resources.
- . a decline in consultation and other forms of employee involvement in decision making and the return of the managerial styles of the nineteenth century which emphasised concepts such as “the manager’s right to manage” and “employees not being paid to think”.
- . an increased emphasis placed by employees on income to the exclusion of other employment benefits.
- . the emergence of cost cutting as a priority for the enterprise rather than customer service.
- . increased emphasis on competition in the workplace rather than cooperation and communication.
- . reduction in trade union membership.
- . industrial deregulation

- . “economic rationalist” policies (including tariff cuts) which threaten the security of the employer as well as the employee.

All of the changes listed above have the effect of shifting power away from employees and towards employers thus reversing a trend that has been occurring for most of this century. Consequently such a shift means that managers now have more power to bully and employees have less power to resist it. These changes affect the incidence of bullying in the following ways:

- . Those in a position of authority that are inclined to bully now have more scope to do so. The increased emphasis on competition and short-term cost cutting and the increased tendency to measure the success of an organisation in purely financial terms, has resulted in the emergence of a workplace culture valuing the “tough”, “hard nosed”, “results driven” manager. These values not only provide the bully with a respectable cover for doing what he or she likes best (“I’m not being a bully, I’m being tough!”) but also lead others, who are not bullies, to the conclusion that they must behave in a bullying manner in order to be taken seriously as managers.
- . Employees not in a position of authority may try to demonstrate their suitability for such positions by behaving in a bullying manner to their fellow workers.
- . Competition for promotion, or even to keep ones present job, turns workers at all levels into rivals rather than colleagues. Consequently a manager, worried that a competent subordinate may take his or her job, will seek to prevent this happening by either destroying that employee’s confidence, making him or her look incompetent in the eyes of senior management or forcing him or her to resign (or often a combination of all three).

Such managers will therefore tend to criticise everything that the employee does, trivialise his or her achievements, magnify mistakes, deny access to training, set excessive workloads and impossible deadlines, abuse and intimidate him or her and do anything else necessary to make his or her life a misery.

Other employees will endeavour to remove potential rivals for present or future positions by sabotaging their work, spreading false rumours, excluding them from group activities and ganging up on them in a number of different ways.

- . Managers, insecure in their positions, will try to maintain their authority and an impression of being in control by victimising any subordinate who questions their decisions.
- . Other managers, stressed by excessive workloads, impossible deadlines and lack of sleep may react to the slightest upset by abusing subordinates and by generally overreacting to the slightest incident. They may not intend to bully but that is the effect of what they do.
- . Meanwhile victims of this treatment are powerless to prevent it. They dare not complain for fear of losing their jobs, they cannot turn to their colleagues for support because competition has created a climate of everyone for him or herself. Senior managers know what is happening but are reluctant to intervene, perhaps because they too are suffering from excessive work loads

and impossible deadlines or perhaps they feel that in challenging a subordinate manager's authority they are undermining their own.

- . A growing perception amongst some managers that industrial deregulation means that they can do what they like. Although this is not true (the legislation making workplace bullying unlawful has not been changed) many believe it and therefore believe that they can get away with such practices. The decline in union membership over the past 10 years or so further reinforces this perception even though unions in many workplaces retain the capacity to take effective action against bullying.

To make matters worse the victims of bullying tend to come to the same conclusions and therefore see little point in taking any action even though means of doing so are still in place.

- . The growth in the use of contractors and casual employees at the expense of permanent staff further ensures that bullies will get away with it. What is worse there are now indications that the more control oriented managers (who are most likely to engage in bullying) are choosing to replace permanent employees with contractors not because the latter are more productive or efficient but because they are more easily controlled (and hence more easily bullied).
- . The general loss of power and control over their lives that many employees (including lower level managers) have experienced as a result of the changes outlined above have resulted in some employees seeking to compensate for that loss of power through the exercise of increased power over others even weaker than themselves.

In other words a senior manager bullies a junior manager, a junior manager then bullies an employee, the employee then bullies another employee who may be of lower status or seniority and so it goes on.

Furthermore increased stress on the employee caused by overwork, fatigue, loss in job security etc. can sometimes result in explosions of anger that can lead not only to workplace bullying but also such phenomena as road rage and domestic violence, both of which are forms of bullying.

- . Much of the organisational restructuring that has occurred in recent years has involved the concentration of corporate decision making power, including human resource decisions, in their corporate headquarters, usually located in Sydney or Melbourne. This restructuring may also have contributed to increased bullying in several ways including:
  - . increased scope for bullying by local management no longer subject to close scrutiny of their behaviour by their seniors.
  - . reduced human resource expertise at the local level resulting in an absence of systems that can be used to prevent bullying.

- . increased difficulties experienced by employees in obtaining support and assistance from people in authority remote from the workplace.
- . senior decision makers in other states being less subject to pressure from local unions and government regulatory bodies. In some cases these decision makers may not even be aware of South Australian legislation relevant to bullying as such legislation may not exist in the state where they are located.
- . Increased tensions and frustrations resulting from remote decision making. For example local managers may attempt to compensate for inefficiencies in the new structure by imposing even greater demands on employees. Senior management interstate may be unaware of this because local managers may prefer to achieve their targets through increasing pressure on employees rather than advise their superiors of these inefficiencies.
- . Tensions caused by the sort of changes outlined above are not left at work when the employee goes home. They are taken home with him or her and consequently workplace tension tends to create domestic and community tension. One reason for this is that the workers lack of job security also impacts on his or her dependants. Another is that the long hours that are currently worked means that there is less time available to deal with family issues. This is often resented. Therefore instead of home being a place where the worker recovers from the pressures of work it becomes a place where they are magnified.

It is in this way that bullying in the workplace becomes linked with bullying at home and bullying in the community, the most obvious examples including "road rage", spectator violence at sporting events and so on. For example a person bullied at work may try to take it out on other motorists on the way home or upon members of his or her family at home.

The fact that the recent increase in bullying at work is part of a worldwide trend and arises from far reaching economic and industrial changes should not cause people to believe that nothing can be done about it. Mechanisms are already in place to deal with workplace bullying, the problem is that they are not being used. Nor is workplace bullying an inevitable consequence of change. There are many firms which are performing well in the new economic environment without having recourse to the sort of managerial style that leads to workplace bullying. All the evidence indicates that organisations without workplace bullying are performing much better than those with. We will examine the reasons for this shortly.

What is now needed is for people who are the victims of bullying, together with their friends, family, representatives and managers to say firmly "no more!".

This is occurring already in schools and there is no reason why it can't also occur at work. As we will see, those who do so will not just be helping themselves but also their workmates and employers.

## CHAPTER 6

### CONSEQUENCES OF WORKPLACE BULLYING

Workplace bullying does not just affect the victim. Other people also suffer including:

- . other people in the workplace.
- . the employer.
- . members of the victim's family.
- . sometimes the bully him or herself.

We will look at the impact of bullying on each of these in turn, beginning with the victim.

#### (a) CONSEQUENCES OF WORKPLACE BULLYING FOR THE VICTIM:

Numerous studies in Australia, United Kingdom, Canada and Western Europe report that victims of workplace bullying often suffer the following:

- . A range of stress related illnesses, from headaches and nausea at one end, to a greater vulnerability to much more serious illnesses at the other. One of the more common consequences of prolonged stress is a weakened immune system which means that the person concerned is more likely to contract serious illnesses or diseases.
- . Psychological illnesses such as depression which in some circumstances can lead to contemplation of suicide, perhaps even suicide itself.
- . A loss of confidence, on the part of victim, in his or her own abilities.
- . A withdrawal from social contact with people outside of work as well as at work.
- . Reduced performance at work including increased absenteeism and lateness as well as a lower quality of work output.
- . Increased risk of work related injury.
- . Resigning from a job that was previously enjoyed.
- . Deteriorating relationships with family and friends.
- . Unable to sleep and therefore constant tiredness.

#### (b) CONSEQUENCES OF WORKPLACE BULLYING FOR OTHERS IN THE WORKPLACE:

Bullies usually target individuals or very small groups as their victims. This means that in most cases, for every victim of bullying there are a number of others who can see what is happening but who are not directly affected by it.

The effects of bullying on these people can also be severe, although not usually as severe as that on the actual victim. Examples of such effects include:

1. Fear that the next victim might be him or herself.

This fear is, of course, very important to the bully as he or she relies on it to further isolate the victim by, for example, making other workers fearful of giving the victim support.

2. Anger and resentment at having been intimidated.

Being frightened of someone causes humiliation and feelings of helplessness.

3. Guilt.

Often other employees know that the bullying is wrong and that they should be doing something about it. However they are afraid to do so. This can create strong feelings of guilt in the employees concerned leading to symptoms similar to those experienced by the victim.

4. Withdrawal.

Seeing what has happened to the victim, other workers may try to avoid being the next victim by “keeping themselves to themselves”, not doing anything to draw attention to themselves, keeping away from the workplace as much as possible and so on.

5. Imitation.

In many cases, people react to bullying in their workplace by becoming bullies themselves. This may be done to avoid being the next victim or because they see the bully prosper and are thus encouraged to follow his or her example. For example workers may see a bullying manager and form the opinion that becoming a bully is the only way in which to obtain promotion.

Where the bullying is being done by other workers, the willingness of others to participate in the bullying is essential as the bully relies on the support of others to achieve his or her ends.

A combination of dissatisfaction with a workplace where bullying is commonplace together with fear of becoming the next victim can result in those who are not victims reacting to bullying in a similar manner to those who are. In other words their work performance drops, absenteeism and lateness increases, stress levels are higher, they are more likely to leave their job and so on.

#### (c) CONSEQUENCES OF WORKPLACE BULLYING FOR THE EMPLOYER:

The consequences of workplace bullying for the employer are in some respects as severe for the employer as for the victim. Unfortunately many employers are not aware of this, still believing that it is only by bullying people that one gets the best work out of them. Such employers therefore not only fail to prevent bullying, they

actually encourage it by, for example, employing bullies as supervisors and managers.

However they are wrong! Fear of dismissal does not make employees work harder for the enterprise, it only makes them work harder at ensuring that, if anyone is going to be sacked, its not going to be them. Unfortunately their efforts to protect their jobs invariably cause increased costs to their employer.

For example, in the sort of workplaces where bullying is rife, an employee who makes a mistake will not immediately report it so that it can be immediately rectified. Rather he or she will try to cover it up hoping that, by the time the mistake is discovered, it can no longer be traced back to the person who made it. Unfortunately, by that time, the original mistake may have caused significant damage.

The consequences of bullying for the employer can be summarised as follows:

- . deterioration in the quality of work performed.
- . increased absenteeism and lateness.
- . highly trained and experienced employees resigning.
- . mistakes being made by employees suffering fatigue and lack of concentration as a result of the bullying.
- . poor customer relations due both to mistakes and delays on the part of stressed employees and also to such employees taking their anger out on customers.
- . increased workers compensation claims resulting both directly (eg. stress claims) and indirectly (injuries resulting from fatigue and poor concentration) from bullying.
- . poor communication and cooperation within the organisation because competition between employees and the general climate of fear and intimidation forces employees to withdraw in on themselves. Team work then becomes impossible.
- . employees not showing initiative or performing above expectations because such behaviour attracts bullying from fellow employees concerned that, by showing initiative, the employee concerned gains a competitive advantage over the others. Also showing initiative increases the likelihood of mistakes which can trigger bullying behaviour on the part of managers and supervisors.
- . inefficiencies, shortcomings in customer service, unnecessary costs etc. are not dealt with because employees are afraid to report them in case they are blamed and thus attract further bullying.

However increased inefficiencies, rising costs and declining output puts further pressure on management which then results in further bullying leading to an escalating spiral of bullying and declining productivity.

- . workers resigning from the organisation as a result of bullying will often criticise their former employer increasing that employer's problems in attracting both customers and suitably qualified staff.
- . industrial disputes tend to be more frequent and more prolonged due to bullied employees seeing the dispute as a means of "getting back" at the organisation seen as being at the root of their problems.
- . employees who spend their time thinking about how to make their fellow employees' lives a misery and their victims worrying about how to prevent it are not devoting their energies and abilities to the service of their employer. Moreover some of the most common forms of bullying such as sabotaging the work of the victim and shutting him or her out of the stream of communication, also have immediate and direct consequences for the employer's productivity. Errors, sometimes costing millions of dollars, frequently result from the victim not being given information or having key documents removed from his or her desk or computer.
- . increased incidence of alcohol and drug abuse at work.
- . reduced respect for the employer and reduced commitment to organisational goals. This is often manifested in such ways as failure to observe safe working procedures, failure to abide by administrative procedures (eg. reporting of incidents etc.) taking prolonged rest breaks, not working when supervisor is absent, leaving work early, allowing substandard work to go out to customers, denigration of the firm's product or service, lack of respect for the employer's property, increased pilfering and minor fraud, deliberate damping of the enthusiasm of new employees, encouraging others to disobey rules and procedures and so on.

Much of what is listed above is an immediate consequence of a belief, commonly encountered in management, that people only work hard if they are bullied into it, rather than a deliberate decision to bully. As we have just seen, bullying does not achieve a productive, efficient workforce only one that is demoralised, intimidated, insecure, hostile and ridden with resentment, stress and conflict. Such a workforce cannot be productive. It follows therefore that bullying and the problems it causes are at least as much the result of corporate or enterprise culture as of individual behaviour.

(d) CONSEQUENCES OF BULLYING FOR THE VICTIMS FAMILY:

Although the advice to "leave work problems at work" is undoubtedly sound, we all know that such advice is much easier to give than to follow. No matter how much he or she may try, the victim will find that what happens at work will almost certainly have an impact on his or her home life.

All the research that has been conducted into this subject shows that the consequences for the victim can include physical illness, depression, alcohol and drug abuse and, possibly, suicide. Behaviour demonstrated by victims of bullying has included overreaction to trivial events, extreme sensitivity, low tolerance levels,

needing continued reassurance that they are of worth and a tendency to blame everyone else for all their problems. The victim's immediate family are those who suffer most from such behaviour.

Added to the above are the financial problems that often result from bullying. These include loss of income as a result of resigning from work or working less hours, increased expenditure on alcohol and drugs, neglect of financial and business affairs and so on.

All the above have an immediate and devastating impact on family relationships, resulting in divorce, behaviour disturbances and delinquency on the part of the children and so on. This means that bullying not only results in increased costs for the victim and his or her employer but also to the community as a whole.

One estimate of the financial cost to industry and the community of workplace bullying is \$4 billion directly and as much as \$20 billion indirectly. These figures, provided by a specialist in this subject at a recent Adelaide conference, are consistent with overseas findings and indicate exactly just how much workplace bullying is costing.

#### (e) CONSEQUENCES OF BULLYING FOR THE BULLY:

Although, after reading through the above, it may be difficult to generate much sympathy for the people who actually carry out the bullying, the point must be remembered that few of those who participate in this behaviour are "natural" bullies. Their reasons for engaging in this behaviour can include the fear of becoming victims themselves if they don't, a belief that such practices are a normal part of working life or, in the case of managers, a belief that this is the only way of managing effectively. Many are not aware of the consequences of what they are doing.

When they do become aware of these consequences or when the victim finally retaliates, the impact on those doing the bullying can be similar to the impact on the victim. Feelings of guilt and remorse can have as severe an effect on the productivity of the bully as can any penalties imposed on the bully as a result of action taken by the victim. What is more, the whole atmosphere in the sort of workplaces in which bullying tends to flourish, typified by conflict, fear, intimidation and suspicion must have an impact on everyone there irrespective of the role played in the bullying process. People who behave badly, not because they want to but because they believe that they have no choice, often experience similar mental reactions to those of the victim including drug and alcohol abuse, inability to sleep, anxiety and so on. In a way, therefore the bullies themselves may also be victims.

## CHAPTER 7

### LEGISLATION THAT MAY BE USED TO CURB WORKPLACE BULLYING

Because there are different forms of workplace bullying, not all legislation is equally effective in dealing with it. Those wishing to take action against it must select the form of legislation that is most appropriate to the form of bullying that is occurring.

The areas of South Australian law most relevant to workplace bullying are:

#### 1. THE CRIMINAL LAWS RELATING TO ASSAULT, THREATENING BEHAVIOUR ETC.

These laws apply where the bullying involves the infliction of physical harm on the victim such as some of the so-called "initiation ceremonies" sometimes perpetrated on apprentices or other young workers mentioned in Chapter 1. They also apply where a victim is subjected to any other form of physical assault or threats of physical assault.

The only appropriate response to this form of bullying is to report it immediately to the police. Where prosecution for such offences occurs and the alleged perpetrators are convicted heavy fines and/or prison sentences can be awarded as was the case with the New South Wales incident mentioned above.

In such cases management must encourage the victim to make a formal complaint to the police and provide all the support the victim requires during the subsequent proceedings. If the perpetrators are convicted their instant dismissal should follow irrespective of the penalties imposed by the Court.

If the victim chooses not to complain to the police, management should still take disciplinary action against the perpetrators if it is satisfied that bullying involving physical harm to the victim has taken place.

Immediate action of this nature is essential if bullying of this nature is to be stamped out. The longer that it is allowed to continue the more it tends to become part of corporate culture, the less likely it is to be reported and the greater the risk of something going wrong resulting in serious injury or even death.

In such cases management representatives or the company itself may be subject to severe penalties as well as the actual perpetrators.

#### 2. EQUAL OPPORTUNITY ACT (1984)

This Act, together with its Commonwealth counterparts such as the Race Discrimination Act, the Disability Discrimination Act and so on, makes it unlawful to treat any employee less favourably on the grounds of his or her sex, race or ethnic background, disability, sexual preference, age, marital status and pregnancy. Therefore where the bullying is based on any of the above grounds this legislation is breached. For example bullying which has any form of sexual component could be classified as sexual harassment and action under this legislation can be taken, not

only against the harasser but also an employer who fails to take reasonable action to prevent it.

The main problem with the use of both State and Commonwealth Equal Opportunity legislation is that such legislation can only be used where it can clearly be shown that the bullying occurred solely because of the victim's race, gender, disability etc. In other words a victim of bullying who is of a non-English speaking background would find it difficult to sustain a claim of race discrimination if other workers of an English speaking background were treated similarly by the alleged bully.

Also, as we have seen, the bullying is often so subtle that it is a while before the victim becomes aware that he or she is being bullied, let alone the grounds for the bullying. Indeed the victim not knowing the reasons for the treatment is an important part of the bullying process and contributes significantly to its effectiveness.

Moreover, the evidence currently available suggests that there are many reasons why a person might be singled out to be the victim of bullying, most of them unrelated to equal opportunities. For example the survey conducted by the Working Women's Centre into this subject indicated that people were more likely to be bullied by persons of the same sex as themselves than by members of the opposite sex.

So, unless the bullying is particularly focussed on the victim's race, gender, disability etc. (eg. Placing obstacles in the path of a visually impaired worker or excluding a worker from social activities at work because of his or her race) or, unless only people from a particular target group are subject to bullying, Equal Opportunities legislation cannot be effectively used.

### 3. OCCUPATIONAL HEALTH, SAFETY AND WELFARE ACT (1986)

This legislation is by far the most effective weapon against workplace bullying. This Act defines anything that affects the worker's well being at work as an occupational health and safety matter (section 4(4)). Consequently, as workplace bullying clearly affects a worker's well being, anything the legislation says about occupational health and safety and risks to health also applies to workplace bullying. In other words workplace bullying is an offence under this Act.

Section 19 of the Occupational Health, Safety and Welfare Act (1986) requires all employers to do "all that is reasonably practicable" to ensure that the "employee is, while at work, safe from injury and risks to health" and to "provide such information, instruction, training and supervision as are reasonably necessary to ensure that each employee is safe from injury and risks to health". The same applies to contractors whom the legislation defines as employees of the employer for the purposes of this legislation.

Section 20 of that Act also requires employers to develop policies relating to occupational health, safety and welfare at the workplace and to prepare a written statement of the arrangements, practices and procedures in place at the workplace to protect the health and safety of employees which must be brought to the attention of those employees.

Section 21 requires all employees to take reasonable care to protect their own safety at work and to “avoid adversely affecting the health and safety of any other person through any act or omission at work”.

Other sections of the Act impose similar requirements on contractors, self-employed persons and visitors to the workplace.

As section 4(4) of the Act has defined workplace bullying as a risk to the victim’s health at work it follows that the Act requires:

- (i) all employers to take immediate action to stop workplace bullying when it occurs and to take reasonable steps to prevent it from occurring.
- (ii) all employers to ensure that all employees (including supervisors) are fully informed about workplace bullying and how to deal with it and that supervisors, in particular, prevent bullying from occurring in their area of responsibility.
- (iii) all employers have in place policies, procedures etc. aimed at preventing workplace bullying. These must be brought to the attention of all employees.
- (iv) all employees (including managers and supervisors) to refrain from committing acts of bullying themselves and also to take reasonable action to prevent others from doing so.

The penalties for failing to meet any of the above requirements are severe. For example an employer who fails to take all reasonably practicable measures to stop or prevent workplace bullying faces on conviction a fine of \$50 000 for the first offence and \$100 000 for subsequent offences. (Legislation currently before Parliament (July 1999) will double these penalties.)

Such penalties can be imposed not just on the employer (which may be an institution rather than an individual) but also on the most senior manager of the enterprise or organisation living in South Australia.

Employees who practice bullying face a maximum fine on conviction of \$1000. (\$5000 following the changes to the legislation mentioned above.)

Where the health of an employee is seriously affected by the bullying and a person (whether an employer, manager or employee) knows that this is the case and either continues the bullying or continues to allow it to happen, this is considered to be an “aggravated offence” the penalty for which, on conviction, being double the normal fine and/or five years gaol.

The legislation also requires the employer to be proactive as far as workplace bullying is concerned and not to simply wait for someone to complain. Section 19 of the Act as well as Division 1.3 of the Occupational Health, Safety and Welfare Regulations (1995) require the employer to regularly monitor the workplace and the employees to detect signs of workplace bullying occurring and, where the practice is detected, to immediately assess the risks arising from it and take whatever steps are necessary to eliminate the problem at its source.

As well as making workplace bullying unlawful, the Act also contains provisions setting out ways in which it can be dealt with. The specific procedures that must be followed will be covered later in this handbook but the broad principles underlying these provisions are as follows

- . All policies, practices and procedures developed for the purpose of controlling workplace bullying must be developed in consultation with health and safety representatives, health and safety committees (on which employees are represented) and, where requested by union members in the workplace, a union or unions representing employees in that workplace.

The process of identifying workplace bullying, assessing risks arising from it and developing means of controlling those risks must involve health and safety representatives, health and safety committees and, where requested, the relevant union or unions.

- . The elected health and safety representative is empowered by this legislation to:
  - . Inspect the workplace and interview employees for the purpose of finding out whether or not workplace bullying is occurring and of discovering its extent.
  - . Investigate reports of workplace bullying made by either the victim or another person or both.
  - . Make recommendations and submissions to the employer on ways of curbing workplace bullying.
  - . Be consulted by the employer on the implementation of any changes to the workplace that may affect the incidence of workplace bullying.
  - . Be notified of any incidence of workplace bullying that affects any employee the health and safety representative represents.
  - . Be given access to all information available in the workplace concerning the incidence of workplace bullying (apart from personal medical information and that covered by legal profession privilege).
  - . Represent employees in any workplace bullying matter (eg. Making a complaint).

If workplace bullying is taking place the health and safety representative can act to stop it by using the procedure described in detail in Chapter 11.

The chief advantages of this legislation as far as curbing workplace bullying is concerned are:

- . The responsibility of the employer and senior management for preventing workplace bullying is clearly established. Under this legislation senior executives of organisations are as likely to be charged with failing to take all reasonably practicable steps to prevent bullying as the bully is to be charged

for the bullying itself. Also failure to act against bullying normally attracts a much heavier fine than the actual bullying.

- . The only question at issue when investigating bullying under this legislation is whether or not the victim's health and safety was put at risk. If it is then the behaviour must stop irrespective of any justifications or excuses that may be offered.
- . There is no requirement for the victim to make a complaint before action can be taken. Under this legislation a manager or a health and safety representative can initiate action to stop bullying upon simply observing it or having it reported to them.
- . The government regulatory body involved has much more power and authority in dealing with the matter than is the case with other legislation.
- . The victim's own elected representative has powers under this legislation to investigate and act upon reports of workplace bullying. This means that management is not the only means of obtaining redress - there are other ways in which the problem can be resolved even if management fails to act.

#### 4. WORKERS REHABILITATION AND COMPENSATION ACT (1986)

If an employee suffers any injuries or illness, whether physical or mental, as a result of workplace bullying he or she is entitled to be compensated for any loss of income and any medical and rehabilitation costs that result from the bullying. The costs of such compensation are likely to be considerable as the consequences of bullying frequently involve long periods of absence from work and extremely expensive medical treatment and rehabilitation services.

Such costs may run into hundreds of thousands of dollars where workers have been rendered unemployable by bullying.

It follows therefore that in addition to whatever action is taken under the Occupational Health, Safety and Welfare Act (1986) to curb bullying, those responsible for managing workers compensation claims on behalf of WorkCover may demand that management take action to reduce the incidence of these claims.

Organisations may also face levy or premium increases if claims remain at a high level.

However care must be taken to ensure that action taken to reduce workers compensation costs is not restricted to simply reducing the number of claims without addressing the reasons for those claims. Such actions may keep levies and premiums down but result in much greater costs in the long run.

## CHAPTER 8

### DEALING WITH A WORKPLACE BULLY - A GUIDE FOR VICTIMS

The following is a step by step guide for the worker who believes that he or she may be a victim of a workplace bully or bullies and wants to put an immediate end to it.

#### RECOGNISE THE SIGNS

The earlier chapters of this handbook list some of the more common forms of workplace bullying. It is impossible to list them all but, irrespective of the type of bullying, they all have features in common which, if understood, make it relatively easy to recognise it when it occurs. Simply ask yourself the following questions.

- . has a particular incident or form of treatment any similarities with the types of behaviour listed in Chapter 1?
- . has the incident or treatment resulted in my experiencing physical pain, or the fear of it, and is it the result of a deliberate action or actions on someone's part?
- . has the incident or treatment caused me to feel embarrassed, humiliated, intimidated, inadequate, insecure, isolated or any other unpleasant or uncomfortable feeling?
- . do you feel that the treatment is unfair or "unjustified"? A note of caution here - abuse of an employee by a supervisor or another employee is never justified but may not constitute workplace bullying if it is an isolated event resulting from a set of special circumstances such as when an overworked supervisor overreacts to an employee error that may cause that supervisor hours of additional work. You may not like the reaction but you can understand what happened.
- . is the treatment continuous and directed at you and not others? An essential feature of any kind of bullying is that the treatment is repeated on every opportunity and that certain people are singled out for it.
- . am I being discriminated against in anyway? Am I being treated less favourably than others for no apparent reason in matters regarding access to training, allocation of unpleasant duties and so on?
- . do I dread coming to work each day or do all I can to avoid coming into contact with certain people?
- . am I taking time off work more frequently than before for illnesses I can't explain or describe? Am I making excuses for not coming to work when previously I would "struggle through" no matter how bad I felt?

All these, as well as the behaviour described in Chapter 1 are indications that you may be experiencing workplace bullying. It is most important that the bullying is recognised as early as possible because the earlier the problem is recognised and appropriate action taken, the easier it is to resolve. Many victims of bullying do not

recognise what is being done to them and wonder what it is that they are doing wrong to deserve such treatment. It is essential that victims recognise that such uncertainty is part of the bullying, that bullying is widespread and that the victim does not have to do anything at all for it to occur.

## DO NOT WORRY ABOUT WHY IT IS HAPPENING

This only makes the uncertainty and stress even worse. The fact that it is happening is all that is necessary for you to take action. The bully has his or her own reasons for bullying you. That is their problem and should not be allowed to influence your behaviour.

## IDENTIFY CLEARLY WHO IS OR ARE THE BULLY OR BULLIES

Is it a supervisor or manager or is it a co-worker? Is the person doing the bullying doing it on his or her own initiative or is he or she doing it on the instigation of someone else? If a group of co-workers are bullying you is there an obvious ringleader?

When taking action on a problem it is usually better to target the actual cause of that problem. Where there are several people involved, target the leader. If he or she stops the others will do so as well and if the leader looks like getting into any form of trouble arising from his or her treatment of you the others are likely to quickly distance themselves from the bully. In some cases they may even come over to your side in an effort to avoid getting into trouble themselves.

Remember that bullies only operate from a basis of power and their backers and supporters are part of that power. Separate the bully from his or her supporters and you take away much of that power.

## KEEP RECORDS

Whenever you have been subjected to an act of bullying, make notes in writing of the incident, when and where it happened, who was responsible for the act, how you felt about it, potential witnesses and so on. If the bully sees you making such notes so much the better. Notes are important for the following reasons:

- . bullying frequently consists of a series of acts or incidents which in isolation appear trivial but put together can be devastating. Also a bully can deny that bullying is occurring when single incidents are involved but cannot do so when there is a series of incidents. Notes therefore are important to demonstrate that a pattern of events is occurring which is necessary if allegations of bullying are to be sustained.
- . notes are also necessary to provide the level of detail required to establish credibility. A person with detailed notes will always prevail over one with only vague memories where there is any dispute.

- . the act of taking notes, if witnessed by the bully, will take away the bully's confidence and may cause the bullying to stop for that reason alone. Taking notes indicates to the bully that you intend taking action and the possession of detailed information provides you with a form of power. As has already been mentioned, bullies depend upon their victims lacking power.
- . notes are required to provide the evidence that is necessary if the person or persons responsible for the bullying are to be successfully prosecuted.
- . if you intend to make a claim for workers compensation in order to recover lost wages and medical/rehabilitation expenses arising out of the bullying, notes may well be required to establish that the illness, for which you are claiming arose out of the bullying, is work related. Any loss of time at work and any other cost arising from bullying must also be recorded.
- . finally, people who are victims of bullying sometimes report that the act of recording the incident often makes them feel better, irrespective of whether the records are used or not.

#### TALK TO PEOPLE ABOUT IT

Keeping the fact that you are being bullied to yourself only makes the impact of the bullying even worse, mainly because it increases the sense of isolation which the bully is trying to achieve. Also the more you talk about it the more evidence you will have to support you when you do decide to take action. Seeing you talk to other people may also serve as a disincentive to the bully.

#### REFRAIN FROM RETALIATING IN KIND

Do not do the sort of things to the bully that he or she is doing to you, no matter how tempting this may be. Also, under no circumstances retaliate by using any form of physical violence.

Bullies are often very good at covering up what they are doing from the eyes of people in authority. If you use physical violence against the bully or take any other form of unlawful or wrong action against him or her, he or she will almost certainly complain and, because no one will have seen what the bully has been doing to you, you will be seen as the aggressor and it will be you that is punished.

Even if your retaliatory action is not unlawful or wrong, if anything at all goes wrong with anything that you do, you will have made yourself even more vulnerable to further bullying, without being able to do anything to stop it, because you will be regarded as being no better than the bully.

Some workers respond to workplace bullying by reducing the quality or quantity of their work, by, for example, "working to rule", doing no more for the job than is absolutely necessary and so on. This response should also be avoided. For one thing it tends to punish those who are not responsible for the bullying and consequently you run the risk of alienating people who may otherwise have supported you. You also play into the bully's hands by, in effect, proving what they

say about you is true. On top of all of this, by working to rule and doing the bare minimum, you may lose much of what makes your job satisfying.

### STAY WHERE YOU ARE

Do not resign or seek a transfer, partly because you will be giving the bully a victory which increases his or her feelings of power, which encourages him or her to further acts of bullying. Also why should you allow people such as these to drive you out of a job or position you enjoy?

Also you may find that if you resign or seek a transfer, your reputation as an easy target for workplace bullies will precede you and you will be immediately set upon by bullies in your new job or position (as we have seen, they are everywhere). As you are new to the job or position you won't have the support or networks that you have in your present position and consequently will be forced to resign again or seek another transfer. Before too long you will have become virtually unemployable.

### COMPLAIN FORMALLY ABOUT THE TREATMENT YOU HAVE RECEIVED

Carefully time your complaint so that it does not appear that you are overreacting or are "super sensitive". Wait until you have gathered sufficient evidence to demonstrate that there is a consistent and continuing pattern of victimisation directed at you. This will prevent the bully claiming that there has been a misunderstanding, a mistake or a temporary and uncharacteristic lapse on his or her part. When making the complaint do so in writing (keep a copy) and include all the records and other evidence that you have been collecting. Wherever possible include the names of any witnesses there may have been to the events described in your complaint.

Making your complaint in writing further reinforces the seriousness of your complaint and makes it much harder for the person receiving it to ignore it should they be so inclined. A person in authority is much less likely to ignore a formal complaint if he or she believes that it may go further with concrete evidence of it being ignored.

It is also important that your complaint goes through the correct channels, at least in the first instance. By doing so, you do not provide people with an excuse for doing nothing or very little about it, you demonstrate to everyone concerned that you know your rights and are prepared to exercise them and you also show that you are serious about what you are doing.

On top of all this, going through the proper channels may be enough on its own to persuade the bully or bullies to stop. Remember that the bully relies on having more power than his or her victim to make the bullying work. By using the proper channels you are showing that you too have power and are prepared to use it. There is nothing that the bully likes less.

Finally using the correct channels makes any retaliatory action on the part of the bully less likely.

Many larger organisations have a formal complaints process which should be followed. The normal procedure for making a complaint is as follows:

- (i) the complaint should first go to an officer of the organisation responsible for dealing with such matters. They usually have titles such as Harassment Contact Officer or similar and their role is both to provide support and assistance to the person making the complaint and to ensure that the complaint reaches the desk of the person with the responsibility to do something about it.

Such officers may also be empowered to investigate the complaint which normally involves speaking to the alleged bully about the matter. If he or she believes that you are or have been the victim of bullying, he or she may take up the matter with senior management on your behalf.

- (ii) most government agencies and larger private sector organisations have such officers but should your organisation not have, your complaint should be directed towards the manager responsible for human resources or the manager responsible for the department or section in which both you and the bully or bullies are employed.

Your workplace union representative or occupational health and safety representative should be notified of what you are doing even though you may not require their assistance at this stage.

- (iii) should you not receive a satisfactory response from your management or are reluctant to approach them directly for any reason, take your complaint to either your workplace union representative (if a member), your occupational health and safety representative or both. Remember that workplace bullying is certainly a breach of the health and safety legislation and may be a breach of the contract of employment.

- (iv) if, for any reason, the workplace union representative or occupational health and safety representative is unable or reluctant to help then you will need to go outside your immediate workplace. Here you have a number of options including:

- . a senior manager from your employing organisation (sometimes local managers are unwilling to act on workplace bullying matters because of close relationships with the bully or bullies or a reluctance to do anything that may indicate that all is not well within their area of responsibility. Senior managers are much less likely to have these concerns and tend to be much more concerned about the broader implications of bullying for the organisation such as cost, reputation and so on.
- . a full time official of your union (if you are a member). This can be the organiser responsible for your workplace or a specialist health and safety or harassment officer which many unions now employ.
- . the Working Women's Centre (if the victim is female).

- . the Commissioner for Equal Opportunity (if the harassment or bullying is on grounds covered by the Equal Opportunity Act, eg. race, gender, disability etc.).
- . the Office of the Employee Ombudsman.
- . the Department for Administrative and Information Services (Workplace Services Division).
- . your member of Parliament (if you are employed by the Government).
- . you can also lodge a worker's compensation claim for any stress or similar disability caused by your treatment. Such a claim will involve, in effect, the making of a complaint both to your doctor and to the claims manager dealing with your organisation. The possibility of having to meet the cost of a drawn out workers compensation stress claim will usually result in pressure being placed on the employer to make the changes necessary to stop such claims being made.

If the workplace bullying involves a physical assault on you or the threat of physical harm in any way a criminal act has been committed and the above processes no longer apply. Where a criminal act such as the above has been committed the only appropriate response is a direct complaint to the police.

To summarise, the only way to stop workplace bullying is through a formal complaint, initially to your own manager and then outside your workplace if this is not successful. Your complaint should be in writing, thoroughly prepared and established procedures should be followed as much as possible. In this way you take control of the situation and, as we have seen, there is nothing a bully likes less, because you are, in effect taking away the power on which they depend.

## CHAPTER 9

### DEALING WITH WORKPLACE BULLYING - GUIDELINES FOR MANAGERS

As has been explained in an earlier chapter, South Australian legislation makes it clear that the employer owes a duty of care to his or her employees to protect them from threats to their health and safety, which includes threats to their well being, while at work. This is stated clearly in section 19 of the Occupational Health, Safety and Welfare Act (1986). This means that if a worker is being subject to workplace bullying and the employer through his or her managers, is doing nothing to prevent it, then the employer, his or her managers and the people who are actually carrying out the bullying are all guilty of an offence.

The employer also has a duty under Equal Opportunity legislation to actively prevent bullying where it takes place on the grounds of race, gender, disability and so on while under the Workers Rehabilitation and Compensation Act (1986) the claims manager is liable for the cost of lost wages and medical expenses incurred by an employee as a result of workplace bullying. In serious cases this cost could total several hundred thousand dollars.

There may be an additional cost that has not yet been mentioned in this Guide. A legal argument has been put forward by a Queensland barrister, specialising in workplace bullying claims, to the effect that if a government department establishes a formal code of conduct that forbids behaviour that intimidates or humiliates employees then that code has the force of law which means that an employee who breaches that code can be sued under Common Law. This argument has yet to be tested in a court but it does suggest that workplace bullying has a whole range of legal ramifications, not just for government agencies, that are not yet fully understood.

When all of this is added to the huge financial cost, to the employer, of workplace bullying that has already been described it can clearly be seen that the management of any organisation owes a duty to that organisation, its employees and themselves to take all the steps necessary to bring workplace bullying to an end.

Steps to be taken by management, to protect themselves and their employer from these consequences now follow:

#### STATE CLEARLY THE ORGANISATIONS INTOLERANCE OF WORKPLACE BULLYING

A clear statement must be made to all staff, contractors, customers and visitors to the employer's premises to the effect that workplace bullying will not be tolerated. Such a statement must appear on notice-boards, be distributed to all staff, appear on the agenda in workplace meetings and training sessions, form part of the rules of the organisation and all induction training provided to new employees. The penalties for ignoring or defying such an instruction should be both severe and immediate.

#### APPOINT A WORKPLACE BULLYING OFFICER

An officer of the company or organisation must be appointed to oversee all measures taken against workplace bullying. This need not be a new position although large companies should consider the appointment of a contact officer for the express purpose of providing assistance, support and a point of contact for victims of workplace bullying. Alternatively an existing contact officer could have the scope of his or her responsibilities broadened to include workplace bullying.

## ESTABLISH POLICIES AND PROCEDURES

A clear set of policies and procedures must be established covering all aspects of workplace bullying. These policies and procedures must state the duties and responsibilities of all members of the organisation as far as workplace bullying is concerned, establish a procedure for dealing with complaints and allegations of workplace bullying and describe a range of sanctions that will apply to persons found to have been guilty of workplace bullying or of not taking all reasonable measures to prevent it.

These policies and procedures must be given to all members of staff, preferably as part of a workplace training or briefing session on the subject. All material and information on workplace bullying must be issued in English and in whatever other languages are spoken in that organisation. Posters and leaflets distributed around the workplace stating clearly the organisation's opposition to workplace bullying and listing persons to be contacted if it occurs, are an essential means of support for these policies etc.

As workplace bullying is an occupational health and safety matter the procedure that is used to develop these policies and procedures must be consistent with the provisions of the Occupational Health, Safety and Welfare Act (1986) ie. that the policies and procedures must be developed in consultation with health and safety representatives and committees and, if there are no health and safety representatives and committees in the workplace, with affected employees. Unions represented in the workplace concerned must also be consulted if employees who are members of the unions concerned request it.

Furthermore the policies and procedures developed to deal with this issue should accord with the provisions of the Occupational Health, Safety and Welfare Regulations (1995) in that they should provide for the identification of workplace bullying hazards, the assessment of risks arising from those hazards and the control of those risks.

## PROVIDE TRAINING IN THE IMPLEMENTATION OF POLICIES AND PROCEDURES

Also in accordance with this legislation all managers and supervisors must receive training in how to recognise and deal with workplace bullying within their areas of responsibility and all employees should be fully informed of their rights and obligations as far as workplace bullying is concerned and the procedures that should be followed should they believe that they are at risk of becoming a victim.

The training and information given should emphasise the victim's right to determine the course of action to be taken and his or her rights to protection from any victimisation or other forms of retribution that may follow the making of a complaint.

## MONITOR THE WORKPLACE FOR INDICATIONS OF WORKPLACE BULLYING

Managers should not wait until a complaint of workplace bullying is made. Rather they should continually monitor the workplace for signs that workplace bullying is taking place.

Indications that workplace bullying may be occurring include:

Sudden increases in absenteeism and lateness, particularly amongst workers with previously good attendance records.

- . Sudden resignations from employees who previously appeared happy in their jobs, especially when the employee does not seem to be able to provide a clear explanation for resigning, such as better paid work elsewhere.
- . Unexpected deterioration in work performance.
- . Unexpected requests for transfer to another department or section.
- . Increased workers compensation claims for stress related illnesses.
- . Increased absences for other forms of illness.
- . Increased incidence of workplace fatigue.
- . Increases in the number of work related injuries occurring.
- . Deterioration in workplace relationships indicated through such factors as increased tension, increased shouting and arguing, unusual silences, people obviously not talking to others and so on.
- . Reduced commitment to organisational goals.
- . Increased levels of non compliance with organisational rules and procedures.
- . Increases in mistakes and confusion resulting from poor communication and lack of cooperation.
- . Employees not showing initiative, especially those who had previously shown considerable initiative.
- . Employees showing obvious signs of working to rule or adhering strictly to their job description, not putting themselves out for customers or other workers, showing reluctance to take on more responsibility or perform more complex tasks and so on.

- . Increased customer complaints alleging poor service on the part of staff, especially when those allegations include indifference on the part of staff to customer needs, brusque or rude treatment by staff etc.
- . Increased tendency for employees to “cover up” errors and faults.
- . Increased reports of alcohol and drug abuse at work.

## INVESTIGATE ALL INDICATIONS OF WORKPLACE BULLYING

Where any of the above occur, especially where a marked change in behaviour is involved, the manager or supervisor must immediately investigate to ascertain the cause. It may not be related to workplace bullying, for example an increase in absenteeism or lateness may be the result of increased pressure on the employee from family responsibilities but, even so, the investigation is not wasted. This is because it may enable another problem to be solved (eg. in this case more formal arrangements might be made to enable the worker to meet his or her family commitments that relieve the pressure on the employee while at the same time remove the need to take the entire day off) and also because the knowledge that these investigations are occurring both encourage victims of bullying to formally complain about their treatment and also help discourage the bully. All our experience with bullying shows clearly that the more proactive management is seen to be in dealing with it the greater the likelihood of the bully being caught. In other words active identification and investigation of bullying establishes a climate in the workplace hostile to bullying which in turn empowers the victim and depowers the bully.

A further advantage of active identification and investigation is that it also encourages other employees to give support to victims.

## SEEK TRAINING

Managers are sometimes reluctant to investigate possible incidences of bullying because such investigations require skills that they would not normally expect to have. The same may apply to union and health and safety representatives who may also be called upon to conduct such investigations.

Consequently training should be sought for all members of the organisation who may be involved in dealing with cases of workplace bullying.

## KEEP RECORDS

Statistical information is an invaluable tool in the identification and investigation of workplace bullying. Statistical records covering work related injuries, absenteeism, productivity, customer complaints, grievances, waste, disciplinary actions and so on can help indicate the existence of workplace bullying especially when these figures change suddenly without other obvious explanation. These statistics should be discussed and analysed at occupational health and safety and other consultative meetings.

## LISTEN CAREFULLY TO WHAT IS OCCURRING IN THE WORKPLACE

By being visible in the workplace, by taking time to listen to what employees are saying, the manager not only increases his or her chances of picking up information about workplace bullying, he or she also provides encouragement to victims to speak up.

Listening also includes watching for clues that may indicate bullying such as facial expressions, attitudes, whether some employees are being ostracised or humiliated etc. A confidential workplace survey may be useful in the detection of workplace bullying. Technical advice on the design of such a survey should be obtained however.

## TREAT COMPLAINTS SERIOUSLY

Do not ignore the complaint or trivialise it. It is possible to treat the complainant with sympathy and supportive behaviour without coming to any conclusions about the guilt or innocence of the person complained against.

Therefore the person making the complaint must be listened to carefully, advised of his or her options, as well as his or her rights, and dealt with in such a manner so as not to discourage further complaints even if the first one is not substantiated.

The complaints process and the person hearing the complaint must keep in mind the effect that bullying has on the victim and offer support and counselling to him or her in the same way as you would have had he or she been the victim of (say) an armed robbery. The aim of the complaints process must be at least as much to minimise the harmful consequences of the bullying as to punish the bully.

Sometimes the victim's only concern is to stop the bullying, not to punish the bully. The victim's wishes as far as the outcome of the complaints process is concerned, should be respected, provided of course that they don't involve a breach of natural justice.

The investigation of any complaint must be thorough, open and fair to all concerned, including the alleged bully. The victim, who is entitled to be supported by a representative of his or her choice, must be kept fully informed, at all times, on the progress of the investigation and its findings.

Wherever possible the investigation should be carried out by someone who has had the appropriate training.

## ACT IMMEDIATELY

Do not appear to procrastinate or show reluctance or inability to deal with the matter. Hear the complaint as soon as possible after it has been made and launch the investigation immediately. Offer support or counselling immediately. If the victim appears particularly distressed have him or her taken home immediately.

If the investigation reveals that bullying has probably occurred but there is insufficient evidence to support formal proceedings against the alleged bully, this must be made clear to the victim and the incident used as an opportunity to make the workforce fully aware that bullying will not be tolerated by, for example, restating the organisation's policy on the matter. Even if no formal action is taken against the person accused of the bullying, the victim is usually reassured by the fact that his or her complaint has been taken seriously.

Although disciplinary action cannot be taken against a person in the absence of reasonable evidence to the contrary, the incident may be used as an opportunity to reinforce the organisation's policies regarding bullying in the workplace and perhaps to consider a restructuring of the workplace aimed at separating the alleged bully from his or her victims - making it clear, of course, that such a restructuring is not a punishment.

## ACT FIRMLY

If reasonable grounds exist to conclude that a person is guilty of workplace bullying then, provided that the principles of natural justice are adhered to, the penalties imposed must reflect the seriousness with which the organisation regards the offence.

A range of possible penalties exist including:

- . apology in writing to victim.
- . compulsory counselling or retraining for the perpetrator.
- . a formal written warning.
- . transfer to another part of the organisation.
- . suspension, with or without pay.
- . withdrawal of privileges.
- . a fine (if provisions exist for such a penalty).
- . demotion.
- . dismissal.

Except in the most serious cases, more severe penalties, such as those involving loss of income eg. suspension, demotion or dismissal, should not be imposed without a warning.

Although the victim must be consulted over the penalty to be imposed when those penalties are at the lower end of the scale (he or she may be satisfied with an apology and an undertaking that the bullying behaviour be not repeated) managers must remember that they also have a duty to other employees to deter future acts of

bullying and this factor should also influence the nature of the penalty imposed. On the other hand it is easier for a victim to demand more serious penalties than it is for management to impose them. It is management that may have to defend the organisation if action for unfair dismissal is taken against them.

## IDENTIFY REASONS FOR BULLYING

So far we have focussed on the best ways for management to deal with the act of bullying in itself. However important this is we must keep in mind the fact that there is a reason why bullying occurs and, as is the case with other workplace issues and problems, eliminating the reasons behind a problem is always better than dealing with it after it has occurred.

The manager therefore has two tasks to perform in response to workplace bullying. One is to put a stop to the practice once it has occurred and at the same time minimise its consequences for the victim. This is what this chapter has covered up to now. The second task is to prevent it recurring. This requirement is consistent with the Occupational Health and Safety legislation which states that hazards must, as much as possible, be eliminated at their source. This topic will be covered in the next chapter.

Therefore once the immediate consequences of workplace bullying have been dealt with the manager must identify the reasons why the bullying is occurring in the first place.

When examining the causes of bullying in its earlier chapter this guide drew attention to the general consensus of most experts in this field to the effect that a significant factor in the recent dramatic increase in the incidence of workplace bullying, in Australia and in other countries, was the reappearance of the workplace culture of a hundred years ago.

This culture, based on long hours, casualisation, job insecurity, high stress and absolute control by management, tends to create a workplace climate in which bullying flourishes. Of course the emergence of such a culture occurred as a result of factors outside the control of workplace managers and there is little that he or she can do to reverse this development (indeed he or she may be as much its victim as the rest of the workforce). None the less there are still some things that a manager can do to prevent bullying, even within the present economic environment. These will be considered in the next chapter. While the current economic climate of labour market deregulation etc. may be an important contributor to workplace bullying, this should not be used as an excuse for doing nothing.

## CHAPTER 10

### ELIMINATING WORKPLACE BULLYING AT ITS SOURCE

A review of the literature currently available on workplace bullying shows that a significant proportion of the bullying that occurs is perpetrated by managers against subordinates. For example the report of the Workplace Bullying Project (Working Women's Centre, Adelaide, 1997) showed that bullying of subordinates occurred at almost twice the rate of bullying by peers.

This would suggest that there may be a shortcoming in the way in which employees are managed in Australian workplaces and that if this shortcoming can be overcome a significant reduction in the incidence of bullying may be achieved.

Before moving to identify ways in which shortcomings in management styles and methods may increase the incidence of workplace bullying it is necessary first to address a long held myth about bullying which has tended to make the task of overcoming it so much harder.

This myth holds that some people are "natural" bullies, they bully because that is the sort of people that they are (ie. Bullies are born not made). An example of this myth in action is the widespread notion that school bullies go on to be workplace bullies.

There is, so far, no evidence, from any source, that supports this notion. A significant proportion of workplace bullies were never school bullies and vice versa. In other words most workers became bullies because the circumstances forced them to be not because they wanted to be. We should therefore concentrate our search for a solution to the bullying problem on the organisation and the system not the individual.

As many of the Total Quality Management theorists put it "80% of any problem is caused by the system, 20% by the individual". Consequently it would appear that focussing on the system rather than the individual may be the most fruitful approach to this problem.

Ways of overcoming workplace bullying could therefore include:

#### MANAGEMENT SKILLS

Many of the examples of workplace bullying provided earlier in this guide and also by many researchers in this subject suggest that one likely explanation for bullying of subordinates by managers is that many managers do not know how to manage in any other way. They believe that good management is "tough" management which involves making instant decisions, tolerating no dissent or disagreement, driving people to work harder or faster, dispensing with anyone who cannot keep up and generally treating everyone in a harsh and unfeeling manner.

Such managers also believe that if they do not behave in this way they will be seen as "weak" and therefore unlikely to survive in their position. However the almost inevitable outcome of this approach tends to be increased absenteeism and labour turnover, more accidents, lower quality and hence, reduced productivity, Unfortunately because many managers do not understand this they conclude that

falling productivity results from workers not being pushed hard enough, rather than from their being pushed too hard. Consequently they increase the pressure still further and it is usually at this point that the sort of bullying described earlier in this guide begins to occur.

To make matters worse harsh and bullying managers are sometimes held up as examples of effectiveness. (“Look at ‘X’. No one argues with him or her. That is the sign of a strong manager”.) Consequently younger managers are encouraged to follow their example.

Often the bullying is made much worse by the pressure that managers are under from their own superiors (they too are sacked if they fail to perform) and also sheer frustration stemming from what appears to be the fact that the harder they try to improve productivity the worse it seems to get.

The problem can be made worse by the tendency for managers to be judged on their behaviour towards workers eg. lack of consultation, willingness to punish, “toughness” etc. rather than on how well their department or section is actually performing.

The problem lies in the lack of proper management training. The overwhelming importance attached to the financial aspects of business has resulted in much of the training that they do receive is focussed on cost cutting and related topics, very little time being spent on training in understanding and dealing with people. Consequently the only information that managers have in how to deal with people comes from their own experiences as a subordinate with the result that the bad practices of the past are perpetuated.

Training in how to manage people effectively is therefore an essential step in the elimination of one of the major causes of bullying. Such training will focus on the development of an understanding of how people behave and, in particular, emphasise that people will generally work harder if they are secure, treated with respect and dignity and given an opportunity to use their initiative and judgment. They will not work hard if they are bullied, intimidated, humiliated and generally treated if they have no brains at all.

## COUNSELLING AND DISCIPLINARY PROCEDURES

Every manager will, from time to time, have to deal with shortcomings in an employee’s work performance. Such shortcomings can include poor quality work output, absenteeism or lateness, failure to follow procedures and so on.

Dealing with such matters is an essential part of a manager’s duties and one which many do not enjoy doing. However it is the way that it is done that is of importance as it can make the difference between an immediate and significant improvement in that worker’s performance and a worker left feeling sullen and resentful and interested only in leaving, if possible, and determined not to improve performance but only to avoid getting caught in future.

There are some managers who enjoy the power they obtain from the counselling or disciplinary procedure and use it as an opportunity for some sustained bullying.

There are many more however who do not enjoy this experience at all and certainly have no intention of bullying yet, perhaps because of the pressure on them, perhaps because of their own lack of training, conduct the counselling or disciplinary session in a bullying manner.

In the former case, such people should never be appointed to managerial positions but in the latter, significant improvements can be achieved through the provision of counselling and related training which focusses on counselling as a means of support and mutual problem solving rather than as a punishment.

## APPEALS PROCEDURES

Bullying by managers can be significantly reduced through the establishment of a formal process enabling employees to appeal to a higher level of management against any decision by their immediate manager that they consider to be unjust or unfair, such as the disproportionate allocation of unpleasant duties, refusal of training, not being allowed to work overtime etc. Such appeal rights may also be extended to the way in which they are treated such as abusive behaviour, overreaction to trivial mistakes etc.

Appeals procedures not only discourage bullying through increasing the likelihood of detection and empowering employees to stand up to the bully (senior management is not likely to regard with approval a subordinate who is the subject of too many appeals) but also help redress the power imbalance behind much of the bullying that occurs. Put another way, establishing an appeals process is a clear statement that employees also have rights which the bully cannot take away. The notion of equal rights creates a climate hostile to the practice of bullying.

## SELECTION PROCEDURES

Careful interviewing and thorough checking of past records when selecting a person to fill a management vacancy can identify those applicants with a tendency towards bullying behaviour. For example responses to interview questions can reveal an excessive orientation towards power and control in a particular applicant which should count against him or her as much as (say) a lack of relevant experience.

In addition, job advertisements and position descriptions should specify the management style required which would send a clear message to the effect that "bullies need not apply".

This course of action will not only help prevent bullies from coming into the workplace but will also tell those that are already there that their behaviour must change if they are to have any hope of advancement.

An additional advantage is that it also has a positive impact on "peer" bullying ie. bullying by people of the same level in the organisation as their victims. As much of "peer" bullying arises out of competition amongst workers for available positions a realisation that bullying behaviour will detract from a persons chances of promotion rather than enhance it will also contribute to a reduction in bullying.

## REWARD SYSTEMS

Currently managers and others tend to be rewarded according to output achieved or costs cut. Such rewards, whether they take the form of a pay bonus, promotion or other entitlement, or whether they focus on the individual or the group, all can encourage workplace bullying. Consequently a manager, believing that output is the only performance criterion that counts with his or her superiors, may tend to bully subordinates who do not give output the same priority that he or she does. Also a work team paid a group bonus on output increased or costs cut may bully an individual team member whose age prevents him or her from working fast enough or whose family responsibilities preclude excessive overtime.

By changing the reward or incentive system to encourage cooperation, team work, quality and customer service, the organisation removes much of the reason for bullying as well as achieves a much more productive and efficient workplace.

Managers should begin this process by carefully examining the things for which employees are rewarded, remembering that praise and status can be just as much a reward for the individual as cash, to ensure that their organisation is not encouraging bullying through its various incentive systems. When developing a new reward system care should be taken not to confuse employees through the sending of contradictory messages or through undermining existing policy. For example the confusion caused by a manager openly attacking workplace bullying, telling employees that it won't be tolerated, while at the same time promoting a notorious bully, will only make the task of eliminating bullying even harder. For one thing employees will tend to lose confidence in managers showing such obvious double standards.

## OPEN MANAGEMENT

Bullying flourishes in conditions of secrecy and poor communication. Many forms of bullying, especially those practiced by people of the same level in the organisation as the victims, involve not providing the victim with important information, causing him or her to make mistakes or fail to perform an important task properly. Other forms involve the spreading of false information about the victim. All of them rely on the victim not finding out about what is happening until too late and work far more effectively where people have little knowledge of what is occurring.

The more open the managers, the more transparent the decision making process, the less likely people are to believe false rumours and the more likely the victim is to be aware of when he or she is not receiving the necessary information.

Also in an open organisation, the perpetrator of such practices is more likely to be caught out and exposed.

The organisation seeking to eliminate workplace bullying should therefore establish more open management systems and maintain good channels of communications. Regular consultation and management briefing systems are ways of achieving this.

All the above suggestions, if implemented, help change the workplace culture from one which has been found to encourage bullying to one which is actively hostile to it.

They will also result in a more productive workplace because no employees perform well if they are insecure, fearful, humiliated or demoralised. They will perform well on the other hand if they have dignity, respect and a reasonable amount of control over their work.

## CHAPTER 11

### USING THE OCCUPATIONAL HEALTH, SAFETY AND WELFARE LEGISLATION TO PREVENT WORKPLACE BULLYING

The step by step process that follows can be used by either the victim of workplace bullying, an elected health and safety representative or any other person to bring to an end acts of bullying in the workplace.

#### STEP 1

Either the victim or another person acting on the victim's behalf, or independently, can approach the health and safety representative, elected by the victim's work group, to take the action necessary to stop workplace bullying.

Alternatively the health and safety representative can take the action on his or her own initiative.

#### STEP 2

The health and safety representative approaches the alleged bully, informs him or her of any allegations made and explains the requirements of the legislation, especially those of section 21, which requires all employees not to endanger the health and safety of any person at work through any act or omission. If satisfied that there are reasonable grounds for him or her to do so, (ie. the allegations are substantially true) the health and safety representative can call on the alleged bully to cease the practice complained of, explaining the consequences for the bully if his or her behaviour does not change.

In the event of an unsatisfactory response from the alleged bully, the health and safety representative can take the matter to a manager responsible for the area where the alleged bully works.

Alternatively the health and safety representative can approach that manager directly.

#### STEP 3

The health and safety representative points out that, in his or her opinion, the bully is in breach of section 21 of the Act because of his or her behaviour and the manager is in breach of section 19 of the Act for not doing all that is reasonably practicable to prevent that behaviour. He or she then enters into discussions with the manager on ways in which that behaviour can be prevented with a view to achieving a satisfactory outcome for the victim.

If the discussions with that manager are unsuccessful the health and safety representative can take the issue to a more senior manager.

#### STEP 4

In the event of the discussions with senior management not achieving a satisfactory outcome, the health and safety representative takes the matter to the health and safety committee (if there is one).

If the health and safety committee fails to take the action necessary to prevent the bullying or tries to do so but is not successful, he or she can proceed to the next step of issuing a default notice. The health and safety representative does not have to wait until the committee's regular meeting for this step to occur nor does he or she have to wait a long time for the committee's decision. A health and safety representative can call a meeting of the committee at any time and can set a time by which the committee must make a decision on the matter.

#### STEP 5

A default notice is then issued stating that the person, to whom the notice is addressed, is in breach of the Act, outlining the reasons for the health and safety representative's opinions and stating a date by which the matter must be remedied.

The notice can be issued to the person accused of bullying, the senior manager responsible for the failure to take appropriate action or both. If the notice is addressed to the person accused of bullying that person shall give a copy of that notice to a senior manager.

Any person, upon being issued with a default notice, whether the alleged bully in this case or the senior manager, must bring the notice to the attention of anyone affected by it and display a copy of the notice in a prominent position at or near the workplace. (One advantage of issuing the notice to the alleged bully rather than just to his or her employer is that the requirement to display a copy of the notice in a prominent place may of itself bring about the change in behaviour required).

#### STEP 6

The manager responsible has a choice between either taking whatever steps are necessary to stop the bullying by the date specified in the notice or appealing against the notice to a Department for Administrative and Information Services Inspector. Such an appeal must be made within fourteen days of receiving the notice.

If the manager does neither or if the health and safety representative is in other ways dissatisfied with the response, he or she can call in the Inspector.

If the Inspector is called in the default notice is suspended but must continue to be displayed.

#### STEP 7

The Inspector must visit the workplace within seven business days of being called in and, following consultation with both the health and safety representative and the

person or persons to whom the notice has been issued, may, if he or she is satisfied that workplace bullying has taken place, issue instructions that the bullying must cease and whatever action that may be necessary to prevent its recurring, be taken. Failure to comply with such instructions is an offence punishable by a fine of up to \$20 000.

## STEP 8

If any person involved in this matter, whether the employer, any employee or a health and safety representative, is dissatisfied by any decision made by an Inspector, he or she may appeal to the President of the Industrial Court to have the matter determined.

If there is not an elected health and safety representative for the work group to which the victim belongs or if the health and safety representative is reluctant to take the required action the victim can take the matter directly to the Inspector.

The above procedure, set out in full in section 35 of the Occupational Health, Safety and Welfare Act (1986) is a remarkably effective means of dealing with workplace bullying as it deals equally with the person doing the bullying as well as the manager who fails to stop it. From the viewpoint of the victim of bullying it gives both bully and management a simple choice between either stopping the practice or having the matter taken entirely out of their hands and dealt with by an external authority over which neither have any influence.

However the victim of bullying must be made aware that although this approach can be both quick and effective it can also be rather brutal and is likely to result in extremely poor working relationships between the victim on the one hand and those against whom the notices have been issued on the other. For this reason recourse to this procedure should only be had following all reasonable attempts to resolve the matter through the organisation's internal procedures.

Also, because the above is a legal process that may result in prosecutions the victim should ensure that he or she is absolutely clear on exactly what the complaint is about and has plenty of evidence to support his or her claims such as a written record of events, documents and witnesses if his or her case is to be successful.

The victim should also be made aware that it is unlawful to victimise or discriminate against him or her in any way on the grounds that he or she has taken the action described above or has made any other complaint regarding workplace bullying.

## CHAPTER 12

### RIGHTS OF ANY PERSON ACCUSED OF WORKPLACE BULLYING

Just as the victim of workplace bullying enjoys a number of rights when making a complaint about such treatment so too has the person against whom the complaint is made. Like any other person accused of wrong doing, he or she is entitled to “natural justice”.

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

Firstly it is essential that people are protected against false and malicious accusations. Persons have been falsely accused of workplace bullying because of a desire on the part of other persons to harm them and sometimes because of an overreaction on someone’s part to a trivial or isolated incident. Indeed false accusations can be part of the bullying process in itself and people could be accused of bullying as a means of covering up bullying by someone else. It would be most ironic, to say the least, if a system established to prevent bullying developed into a tool for the bully but this could easily happen if due processes of natural justice are not observed.

Secondly, if a person accused of bullying is denied natural justice then any action taken against him or her may well be overturned should he or she appeal against it. Therefore he or she escapes punishment even if the original accusation was correct. This principle is similar to the one in criminal justice where cases against a person accused of a crime have been thrown out of court because they may have been denied natural justice.

If a person accused of bullying is denied natural justice and any penalty imposed on them is cancelled because of this then both victim and management will find it much harder to deal with the bully in future if the bullying should continue. Not only is the bullying likely to continue under such circumstances, it may well get worse because the act of taking on the system and beating it has the effect of further empowering the bully.

Therefore management must take care not to take any short cuts as far as natural justice is concerned in dealing with workplace bullying no matter how well intentioned those short cuts may be.

Natural justice is generally considered to include the following:

- . The right to be fully informed of the complaint against the person accused. This includes being told the name of the person making the complaint.
- . The right to reply in full to the complaint.
- . The right to be considered innocent until proved to be guilty.
- . The right to representation by a person of his or her choice.

- . The right to have information about the complaint restricted to those who are directly involved. (However if the victim elects to use the procedures in the Occupational Health, Safety and Welfare Act (1986) to bring an end to the bullying, this particular right is very difficult to enforce once the default notice has been issued because, as explained in the previous chapter, the default notice must be prominently displayed. The person against whom the complaint has been made must be informed of this at the beginning of the proceedings.)
- . The right to be given the benefit of any reasonable doubt.
- . The right to have all mention of the matter removed from his or her personal records if the case against him or her is not proven.
- . The right to be informed of any rights of appeal that may exist against any decision made on the matter.

All the above rights, and any other rights he or she may have that are contained in the policies and procedures of his or her employing organisation, must be brought to the attention of the person against whom the complaint is made, at the beginning of the proceedings.

## CHAPTER 13

## SOURCES OF ADVICE, INFORMATION AND ASSISTANCE IN WORKPLACE BULLYING MATTERS

This guide has covered a broad range of workplace bullying information in a general manner and provides a general guide to rights, responsibilities, procedures etc. However it cannot cover every single aspect of the issue nor can it anticipate every single situation in which workplace bullying can arise. Therefore for detailed advice, information and assistance on specific instances of workplace bullying the reader should approach one or more of the following institutions and agencies.

- . The Office of the Employee Ombudsman  
Ph: 8207 1970
- . Your own union
- . The United Trades and Labor Council  
Ph: 82121355
- . Your employer association
- . The South Australian Chamber of Commerce and Industry  
Ph: 8300 0000

(Note: Unions and employer associations will normally only assist their members in such matters. Similarly the United Trades and Labour Council and the Employers Chamber may only assist those who are members of affiliated organisations).

- . The Working Women's Centre of South Australia Inc.  
Ph: 8410 6499
- . The Department for Administrative and Information Services (Workplace Services)  
Ph: 8303 0400
- . The Commissioner for Equal Opportunity (but only in cases that come within the scope of the Equal Opportunity Act, 1984)  
Ph: 8207 1977
- . The WorkCover Corporation (The WorkCover Employee Advocate provides advice, assistance and representation to employees on matters relating to workers compensation claims while occupational health and safety information can be obtained from the Occupational Health and Safety Division of WorkCover)  
Ph: 8233 2222
- . Victim support groups such as "South Australian Employees Bullied out of Work"  
Ph: 8250 0388