

What is
bullying?

Preventing and responding to bullying at work

**FOR PERSONS CONDUCTING
A BUSINESS OR UNDERTAKING
(PCBUs)**

March 2017

Guide for persons conducting a business or undertaking on how to minimise and deal with bullying at work.

These guidelines are an update to the 2014 guidelines *Preventing and Responding to Workplace Bullying*. The update was initiated due to the introduction of the Health and Safety at Work Act 2015 (HSWA).

In addition, external feedback (such as the research commissioned by the Healthy Work Group at Massey University and the New Zealand Work Research Institute at AUT University, and the feedback sought during targeted consultation) was used to inform the changes.

This update includes:

- changing the document's focus to be primarily for persons conducting a business or undertaking (guidance for workers is available in a separate guide)
- simplifying the content
- explaining how bullying fits into the new work health and safety legislation
- changing the format so the guidance follows a PLAN-DO-CHECK-ACT approach to deal with bullying.

ACKNOWLEDGEMENTS

WorkSafe would like to acknowledge and thank the stakeholders who have contributed to the original development and the subsequent update of these guidelines.

Safe Work Australia is acknowledged for the use of content from their *Guide for Preventing and Responding to Workplace Bullying* November 2013.

Preventing and responding to bullying at work

KEY POINTS

- Bullying at work is repeated and unreasonable behaviour directed towards a worker or a group of workers that can lead to physical or psychological harm.
- Businesses and undertakings must effectively deal with bullying at their workplaces.

WORKSAFE

FOREWORD

Persons conducting a business or undertaking (PCBUs) must effectively deal with bullying at work.

WorkSafe New Zealand encourages PCBUs to use the PLAN-DO-CHECK-ACT approach described in Figure 1 when managing work risks including those arising from bullying.

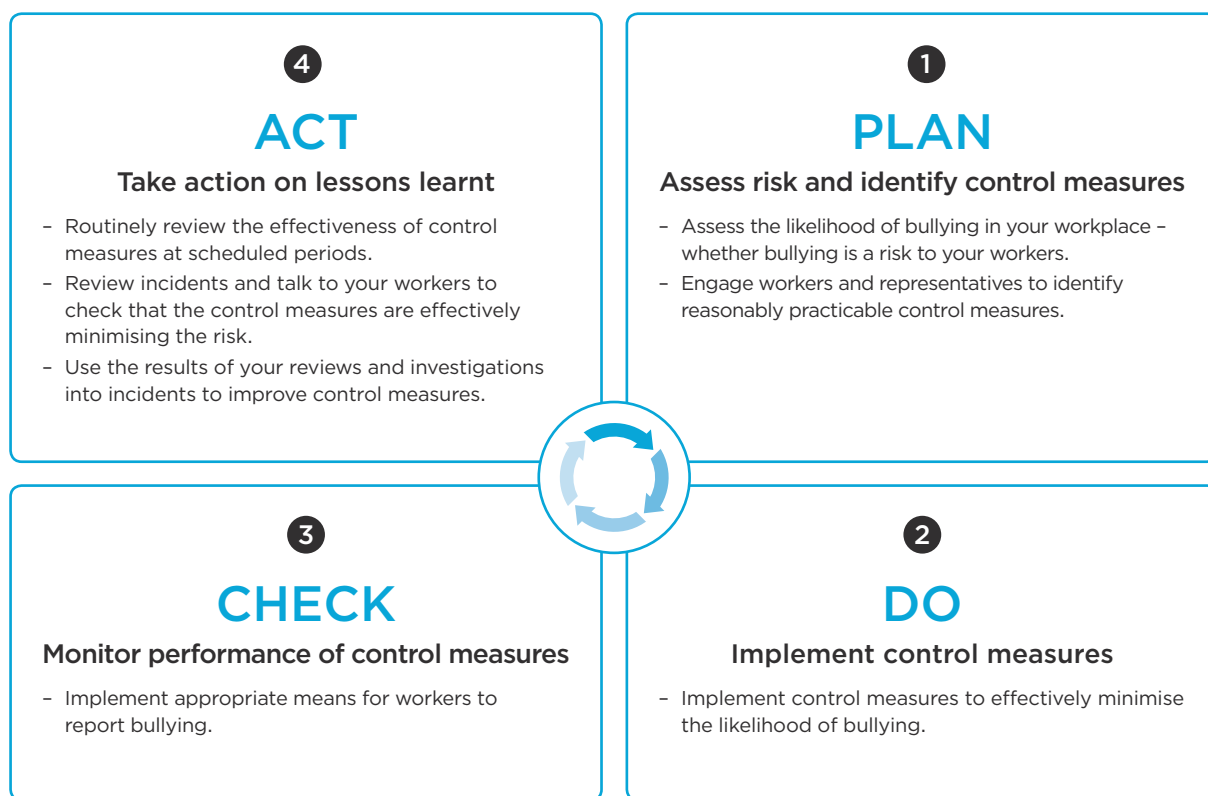


FIGURE 1: The PLAN-DO-CHECK-ACT approach

These guidelines are written for PCBUs – the ‘you’ used in these guidelines.

These guidelines describe ways to minimise the likelihood of bullying at work and the harm arising from it, and cover the PLAN-DO-CHECK-ACT steps above.

While these guidelines focus on dealing with bullying at work, they can also be used to deal with other unreasonable behaviour.

Specifically, these guidelines:

- explain how bullying harms workers (Section 1)
- explain how to identify bullying and assess its likelihood in a business or undertaking (Section 2)
- explain how to minimise the likelihood of bullying using control measures (Section 3)
- describe monitoring the effectiveness of control measures used to minimise the likelihood of bullying, and reviewing and updating control measures (Section 4)

- describe how you can deal with bullying complaints in-house (Section 5)
- describe where to seek external help including for cyberbullying, harassment and discrimination (Section 6)
- provide in-depth case studies (Appendix A)
- provide:
 - an example of reporting indicator results (Appendix B)
 - a template for an anti-bullying policy (Appendix B)
 - templates for forms for workers to submit informal reports and formal complaints of unreasonable behaviour (Appendix B)
 - a glossary (Appendix C).

See the WorkSafe website: [worksafe.govt.nz](https://www.worksafe.govt.nz) for other anti-bullying guidance and tools.

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1.0

Introduction

IN THIS SECTION:

- 1.1** Bullying can lead to physical or psychological harm
- 1.2** Who has health and safety duties and obligations?
- 1.3** Managing risks under HSWA

Bullying at work causes harm to workers and must be dealt with by businesses and undertakings.

1.1 Bullying can lead to physical or psychological harm

Definition of bullying

Figure 2 shows the definition of bullying used in these guidelines.

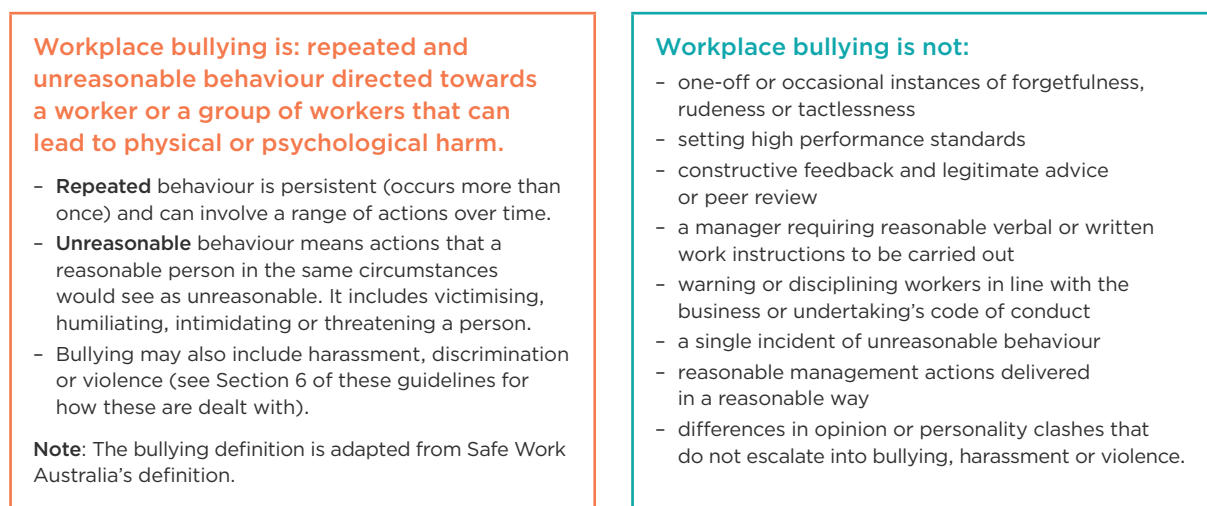


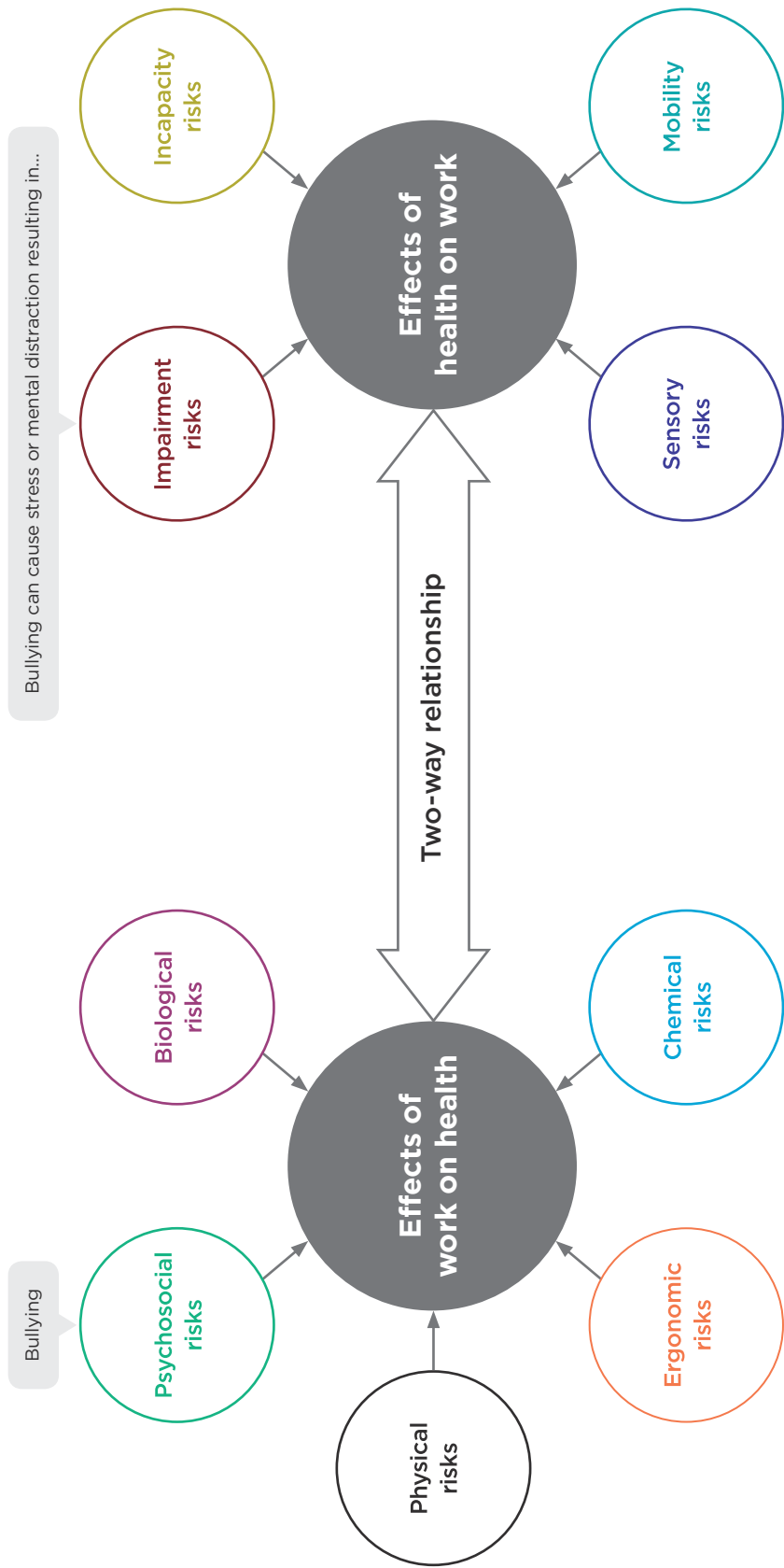
FIGURE 2: Definition of bullying used in these guidelines

You should deal with all undesirable work behaviours (even one-off incidents) regardless of whether the behaviours fall under the above definition of bullying. Such behaviours can escalate and should not be ignored.

Work-related health risks and health-related safety risks

It is well recognised that work can affect a person's health, and a person's health can affect safety at work. Workers can become unwell or develop poor health from their work and work environment (work-related health risks). Similarly in some safety critical tasks, poor health or physical and mental impairment may reduce a worker's ability to work safely (health-related safety risks).

Figure 3 shows examples of work-related health risks and health-related safety risks. This figure shows that bullying is predominantly a psychosocial health risk but that, in some situations, it may also increase the potential for safety risks.



WORK-RELATED HEALTH RISKS ('EFFECTS OF WORK ON HEALTH')				HEALTH-RELATED SAFETY RISKS* ('EFFECTS OF HEALTH ON WORK')				
Biological risks	Chemical risks	Ergonomic risks	Physical risks	Psychosocial risks	Impairment risks	Incapacity risks	Mobility risks	Sensory risks
Blood borne viruses (eg Hep C)	Asbestos	Manual handling	Noise	Bullying and work behaviours	Fatigue	Poorly controlled diabetes	Physical frailty	Colour vision deficiency
Animal bacteria (eg Leptospira)	Solvents	Shift work	Vibration	Excessive workload	Stress or mental distraction	Poorly controlled heart disease	Bone and/or joint conditions	Reduced visual acuity
Bacterial infection	Pesticides	Job design	UV radiation (eg sun exposure)	Lack of autonomy	Drugs/alcohol consumption	Poorly controlled high blood pressure	Severe obesity	Reduced hearing capability

FIGURE 3: Examples of work-related health risks and health-related safety risks

* Health-related safety risks are specific to the tasks, situation and work environment that they exist within and are not a risk in all circumstances.

Bullying harms workers. Bullying can affect health and well-being, in the short and long term, as described in Figure 4.

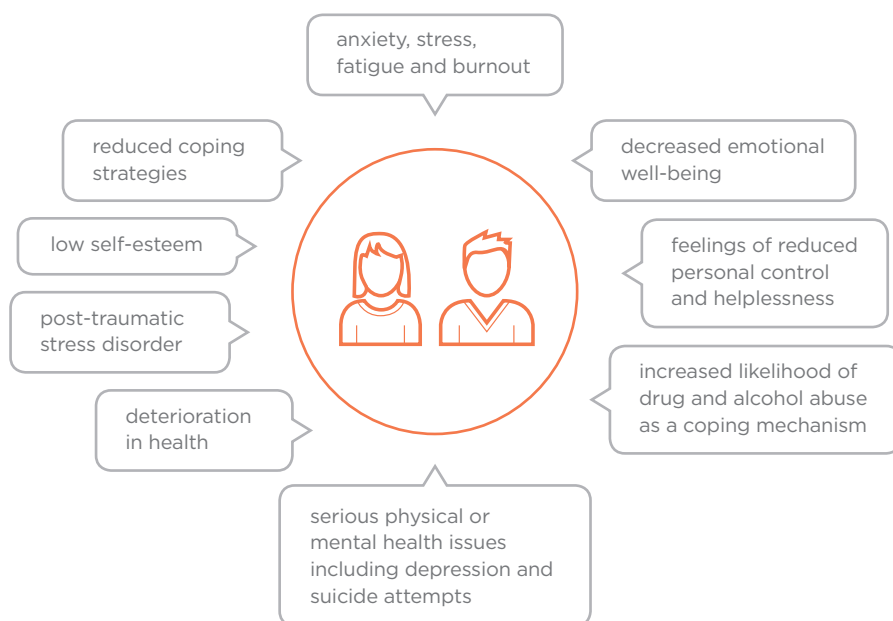


FIGURE 4:
Harms from bullying

The health risks that result from bullying have a moderate to high likelihood of occurring, and moderate to high adverse consequences.

As well as the worker/s being bullied, those observing it (called bystanders) can also suffer harm.

Bullying can also negatively impact the entire workforce and result in:

- a hostile work environment
- decreased worker health and well-being, motivation, performance and commitment
- workers attending work while sick, or taking more sick leave
- increased worker turnover.

1.2 Who has health and safety duties and obligations?

The Health and Safety at Work Act 2015 (HSWA) is New Zealand's key work health and safety legislation. It sets out the work health and safety duties that must be complied with.

All work and workplaces are covered by HSWA unless specifically excluded.

WorkSafe New Zealand (WorkSafe) is the work health and safety regulator.

Under HSWA, everyone at a workplace has health and safety duties and so has a role in dealing with bullying. There are four types of people that have duties under HSWA – persons conducting a business or undertaking (PCBUs), officers, workers and other persons at workplaces (see Table 1 for explanations about these duty holders).

All of these duty holders have duties in relation to bullying at work. See Section 3.8 of these guidelines for roles and responsibilities in relation to bullying.

DUTY HOLDER	EXPLANATION
PCBU (‘you’ in these guidelines)	<p>A PCBU is a ‘person conducting a business or undertaking’. A PCBU may be an individual person or an organisation. This does not include workers or officers of PCBUs (to the extent they are solely workers or officers), volunteer associations (that do not have employees), or home occupiers that employ or engage a tradesperson to carry out residential work.</p> <p>A PCBU must ensure, so far as is reasonably practicable, the health and safety of workers, and that other persons are not put at risk by its work.</p> <p>A PCBU plays an important role in protecting its workers’ physical and mental health.</p>
Officer	<p>An officer is a person who occupies a specified position or who occupies a position that allows them to exercise significant influence over the management of the business or undertaking. This includes, for example, company directors and chief executives.</p> <p>Officers must exercise due diligence to ensure that the PCBU meets its health and safety duties and obligations.</p>
Worker	<p>A worker is an individual who carries out work in any capacity for a PCBU. A worker may be an employee, a contractor or sub-contractor, an employee of a contractor or sub-contractor, an employee of a labour hire company, an outworker (including a homeworker), an apprentice or a trainee, a person gaining work experience or on a work trial, or a volunteer worker. It also includes an individual PCBU that carries out work for the business or undertaking.</p> <p>Workers can be at any level (eg managers are workers too).</p> <p>Workers have duties to take reasonable care to keep themselves and others healthy and safe when carrying out work.</p>
Other persons at workplaces	<p>Examples of other persons at workplaces include workplace visitors, casual volunteers at workplaces and customers.</p> <p>Other persons have duties to take reasonable care for their own health and safety and to take reasonable care that they don’t harm others at a workplace.</p>

TABLE 1:
Description of
duty holders

1.3 Managing risks under HSWA

Risks to health and safety arise from people being exposed to hazards (anything that can cause harm, such as bullying).

You are expected to manage work risks effectively. You must understand how to manage any changes to work processes or organisational changes that may increase risks, and make sure any new risks are managed.

Under HSWA, risks must be eliminated so far as is reasonably practicable. If a risk can’t be eliminated, it must be minimised so far as is reasonably practicable.

‘Reasonably practicable’ means you do what is reasonable to ensure health and safety in your circumstances (eg what a reasonable person in your position would be expected to know and do) – you do what is reasonable to first try to eliminate the risk. If the risk can’t be eliminated, then you must minimise it so far as is reasonably practicable.

Just because something is possible to do, doesn’t mean it is reasonably practicable in the circumstances. However, cost can only be used as a reason to not do something when it is grossly disproportionate to the risk.

For further information, read WorkSafe’s fact sheet *Reasonably Practicable*.

For guidance on how to manage work risks: see WorkSafe's website: worksafe.govt.nz/managing-health-and-safety/managing-risks

It is unlikely that you will be able to eliminate bullying. Instead you should minimise the likelihood of bullying occurring at your workplace, and have processes in place to effectively deal with bullying when it does occur.

Section 3 of these guidelines describes the actions you can take to minimise the likelihood of bullying and the harm that arises from it. Section 5 describes how you can effectively investigate allegations of bullying.

Engaging workers

You must, so far as is reasonably practicable, engage with the workers who carry out work for you and who are, or are likely to be, directly affected by a work health and safety matter.

You have a general duty to engage with workers. In addition, you must engage when:

- identifying hazards and assessing risks to health and safety
- proposing changes that may affect workers' health or safety
- making decisions about:
 - ways to eliminate or minimise health and safety risks
 - procedures for resolving health or safety issues
 - whether facilities for workers' welfare are adequate
 - procedures for engaging with workers
 - procedures for monitoring workers' health
 - procedures for monitoring workplace conditions
 - procedures for providing information and training for workers
- developing worker participation practices, including when determining work groups
- carrying out any other activity specified in regulations.

You must engage with workers (ask for their input and take it into account) when working out how you will minimise the likelihood of bullying.

You must also have practices that give your workers reasonable opportunities to participate effectively in improving work health and safety on an ongoing basis (these are known as worker participation practices). This includes processes for workers to report health and safety issues such as concerns that risks are not being adequately managed.

Having worker representatives is one way for workers to participate. Well-established ways to do this include having Health and Safety Representatives (HSRs), Health and Safety Committees (HSCs) and unions. Other representatives can include community or church leaders.

For further guidance on worker engagement, participation and representation see:

- WorkSafe's good practice guidelines *Worker Engagement, Participation and Representation*
- WorkSafe's interpretive guidelines *Worker Representation through Health and Safety Representatives and Health and Safety Committees*.

Working with other PCBUs

More than one PCBU can have a duty in relation to the same matter (overlapping duties).

PCBUs with overlapping duties must, so far as is reasonably practicable consult, cooperate and coordinate activities with other PCBUs so that they can all meet their joint responsibilities. PCBUs do not need to duplicate each other's efforts.

You cannot contract out of your duties, but can enter reasonable agreements with other PCBUs to meet duties. However, all PCBUs retain the responsibility to meet their duties.

The extent of the duty to manage risk depends on the ability of each PCBU to influence and control the matter.

For further guidance on overlapping duties see WorkSafe's quick guide *Overlapping duties*.

2.0

Assessing the likelihood of bullying

IN THIS SECTION:

- 2.1 What can bullying look like?
- 2.2 Assessing the likelihood of bullying

Assessing the likelihood of bullying in your business or undertaking is the first step to minimising the harm arising from it.

Bullying results in harm to workers' health. The first step to minimising the likelihood of bullying is to identify the factors that may lead to an increased likelihood of bullying, and assess whether they exist in your business or undertaking.

2.1 What can bullying look like?

As described in Section 1.1 of these guidelines, bullying at work is **repeated** and **unreasonable** behaviour directed towards a worker or a group of workers that **can lead to physical or psychological harm**.

Bullying can happen at any time and at all levels of a business or undertaking.

Bullying:

- isn't limited to managers targeting staff or staff targeting managers – it can also happen between co-workers, and between workers and other people at workplaces such as clients, customers or visitors
- can be carried out by one or more persons
- can be directed at a single person or a group
- may occur outside normal work hours.

Bullying can be carried out in a variety of ways including through email, text messaging, internet chat rooms or other social media channels (called cyberbullying).

For further information on cyberbullying, see NetSafe's website:
www.netsafe.org.nz/advice/harmfuldigitalcommunications

There are different types of bullying and types of bullying behaviours. These are described in Tables 2 and 3.

TYPE	DESCRIPTION
Institutional/corporate bullying	This occurs when, because of how an organisation operates, behaviour is allowed to occur that offends or unduly stresses or unreasonably burdens workers without concern for their well-being, for example: <ul style="list-style-type: none"> - setting impossible targets, unmanageable caseloads or unrealistic deadlines - lack of oversight and arbitrary decisions made without consultation that can have a major impact on workers' lives. See below for examples.
Bullying by managers	This is when a manager targets a worker. This is often the most visible and well-defined type of bullying.
Bullying of managers	This is when workers bully managers. The most common form of this type of bullying is the withdrawal of cooperation or communication.
Bullying by co-workers	This is when workers are bullied by others who work at the same or similar level.
Bullying by clients/customers	This is when workers are bullied by those they serve. Examples include teachers bullied by pupils and their parents, nurses bullied by patients and their relatives, social workers bullied by their clients, and shop workers bullied by customers.
Bullying of clients/customers	This is when workers bully their clients/customers.

TABLE 2:
Types of bullying

Examples of institutional bullying

- A new worker had to manage 100 clients per week with five minutes per client. The organisation's standards allowed 20 minutes per week per client, with some needing little attention. But staff shortages caused an unreasonable workload which the manager simply deemed unavoidable.
- A factory box-unpacking rate per hour was applied without regard to the physical differences in capability between workers, the size and weight of the boxes or the shelf position of the unboxed items.
- Workers were pressured to work late into the evening as it became part of the culture. Anyone who did not work late was seen as not being a team player. In one instance a new Human Resources manager tried to address this workplace culture and was made 'redundant' three hours later.

Bullying can be physical, verbal or relational/social (eg excluding someone from a peer group, spreading rumours).¹

Common bullying behaviours fit in two main categories:

- attacks that are direct and personal or
- indirect and task-related.

Examples of these behaviours are described in Table 3.

Some of these behaviours may also fall under other types of behaviour such as discrimination or violence. See Section 6 of these guidelines for the external help available for dealing with these types of behaviours.

¹ From *Bullying Prevention and Response: A Guide for Schools* (2015).

PERSONAL ATTACKS (DIRECT) Examples include:	TASK-RELATED ATTACKS (INDIRECT) Examples include:
Belittling remarks – undermining integrity – lies being told – sense of judgment questioned – opinions marginalised	Giving unachievable tasks – impossible deadlines – unmanageable workloads – overloading – ‘setting up to fail’
Ignoring – excluding – silent treatment – isolating	Meaningless tasks – unpleasant jobs – belittling a person’s ability – undermining
Attacking a person’s beliefs, attitude, lifestyle or appearance – gender references – accusations of being mentally disturbed	Withholding or concealing information – information goes missing – failing to return calls or pass on messages
Ridiculing – insulting – teasing – jokes – ‘funny surprises’ – sarcasm	Undervaluing contribution – no credit where it’s due – taking credit for work that’s not their own
Being shouted or yelled at	Constant criticism of work
Threats of violence	Underwork – working below competence – removing responsibility – demotion
Insulting comments about private life	Unreasonable or inappropriate monitoring
Physical attacks	Offensive sanctions (eg denying leave where there is no reason to do so)
Humiliation (in public or private)	Excluding – isolating – ignoring views
Persistent and/or public criticism	Changing goalposts or targets
Using obscene or offensive language, gestures or material	Not giving enough training or resources
Ganging up – colleagues/clients encouraged to criticise or spy – witch hunt – dirty tricks campaign – singled out	Reducing opportunities for expression – interrupting when speaking
Intimidation – acting in a condescending manner	Supplying incorrect or unclear information
Intruding on privacy (eg spying, stalking, harassed by calls when on leave or at weekends)	Making hints or threats about job security
Unwanted sexual approaches, offers, or physical contact	No support from manager
Verbal abuse	Scapegoating
Inaccurate accusations	Denial of opportunity
Suggestive glances, gestures, or dirty looks	Judging wrongly
Tampering with personal effects – theft – destruction of property	Forced or unjustified disciplinary hearings
Encouraged to feel guilty	Lack of role clarity
	Not trusting
	Sabotage

TABLE 3: Examples of bullying behaviours²² Adapted from Health and Safety Executive. (2003). Research report: *Bullying at work: A review of the literature*.

Note: All current or prospective workers are legally protected from discrimination and dismissal by a PCBU (called adverse conduct) for carrying out health and safety-related activities or raising health and safety issues or concerns. See WorkSafe’s special guide *Introduction to Health and Safety at Work Act 2015* for further information.

You can use the examples in Tables 2 and 3 to identify which behaviour is classed as ‘bullying’.

You should have procedures to deal with other types of undesirable behaviours you may identify as well as bullying.

2.2 Assessing the likelihood of bullying

Certain factors increase the likelihood of bullying occurring. Tables 4 and 5 outline situations where bullying can flourish or not, and factors that may increase the chance of bullying occurring.

BULLYING CAN FLOURISH WHEN...	BULLYING IS LESS LIKELY TO FLOURISH WHEN...
a code of silence exists and bullying behaviour isn’t talked about – no-one dares or feels safe/able to question the organisation’s norms.	it’s discussed openly, and information and training is provided for workers and managers.
unreasonable workplace behaviour and practices are seen as ‘normal’.	unreasonable behaviours are identified and desirable behaviours are demonstrated.
people who mention or report bullying are isolated and/or experience reprisals.	people can report bullying objectively and feel safe from reprisals or isolation.
there are no consequences for bullying behaviour.	there are disciplinary consequences when bullying is confirmed.
there is no support for workers.	workers are supported by their peers, managers and Human Resources when they need it.
deadlines are unreasonable or not taken into consideration in the work programme.	work pressures and deadlines are factored into work programmes.
people are required to continually defend their own performance.	people are part of a self-supporting and self-correcting team.
there aren’t any checks or balances on managers’ behaviour, and managers aren’t supported.	managers ask for, and get training and support to be better managers.
there is no model for expected management behaviour.	effective management behaviours are spelled out clearly and acted upon.
managers fear a false charge of bullying.	there are consequences for frivolous, vexatious or malicious complaints.
unreasonable behaviours are not promptly dealt with.	unreasonable behaviours are promptly dealt with.
there is no formal or informal process to deal with concerns or complaints.	informal and formal processes exist and are used to resolve issues.
negativity abounds.	positivity abounds.
people are targeted.	unreasonable behaviors are called out.

TABLE 4: Situations when bullying can flourish³

³ Adapted from a table developed by Frank Darby, Ministry of Business, Innovation and Employment, 2012.

FACTOR	FOR EXAMPLE...
Work relationships	<ul style="list-style-type: none"> - poor communication - low levels of support or co-worker hostility - criticism and other negative interactions - interpersonal conflict - negative worker-management relationships - workers excluded from work activities.
Worker composition (eg certain groups of workers are more at risk of being exposed to bullying)	<ul style="list-style-type: none"> - casual workers - young workers/new workers/apprentices/trainees - injured workers and workers on return-to-work plans - piece workers - workers in a minority group because of ethnicity, religion, disability, gender or sexual preferences.
Negative leadership styles	<ul style="list-style-type: none"> - 'ruling with an iron fist' - where workers are not involved in decision making - where little or no guidance is provided to workers - where responsibilities are inappropriately and informally delegated to subordinates - where there is inadequate supervision.
Systems of work	<ul style="list-style-type: none"> - lack of resources - lack of training - poorly designed rostering, unreasonable performance measures or timeframes - lack of support systems - high job demands - limited job control - role conflict and ambiguity - an acceptance of unreasonable behaviours or lack of behavioural standards - unreasonable expectations of clients or customers.
Organisational change	<ul style="list-style-type: none"> - significant technology change - restructures, downsizing, outsourcing, job insecurity.

TABLE 5:
Factors that increase bullying⁴

Gather information

To assess the likelihood of bullying you could look at the following sources of information:



FIGURE 5: Sources of information about bullying prevalence

⁴ Adapted from Safe Work Australia's *Guide for Preventing and Responding to Workplace Bullying* November 2013.

Use both leading and lagging types of information. Lagging information focuses on events that have occurred (eg the number of bullying complaints last year). Leading information helps to predict if bullying is likely to occur in the future.

HSRs, HSCs and unions can help to find out information about the likelihood of bullying in your business or undertaking (eg run focus groups, hold interviews, do surveys and give useful information). They can also advocate for workers who may not be able to represent themselves.

NUMBER OF RESIGNATIONS/TURNOVER

Often the person experiencing bullying leaves and the person allegedly behaving in a bullying manner stays. A string of resignations from one area of an organisation may indicate that a bully is present. This is an indirect measure.

LEVEL OF ABSENTEEISM – SICK LEAVE

Check absenteeism records including sick leave to see if they cluster around specific business units or managers. This is an indirect measure.

NUMBER OF FORMAL COMPLAINTS/LEGAL ACTIONS/REPORTS

Look for increased reports/complaints from workers of bullying behaviour (see Section 5 of these guidelines). Reports can also come from HSRs, HSCs, employee assistance programmes or other workplace networks such as disability, ethnic or gender-based support groups. See if reports relate to a particular work area or person.

WORKER SURVEYS

You could hold worker surveys to establish whether bullying is occurring. Ask questions on both negative and positive behaviour so you can work to increase the positive. Always give overall feedback to the participants but keep individual responses confidential. Surveys will need to vary (eg in questions asked, frequency) according to the purpose and situation.

INTERVIEWS: ASK WORKERS DIRECTLY OR INDIRECTLY

Hold interviews internally, or through an independent provider to measure bullying. Workers should be asked indirectly ('Have you experienced negative behaviour of this sort?') rather than directly ('Have you been bullied?'). Indirect questioning obtains more comprehensive answers compared to direct questioning.

People who experience or witness bullying might not call it that. They can explain it away or minimise it to maintain group harmony (eg 'It's been a stressful time for them and...').

Because bullying is ongoing and repeated, it can take a while for people to see the pattern, so it can go on for some time before being addressed. Also, the full impact on the target's well-being might only be realised in hindsight or with distance from the situation.

FOCUS GROUPS

Hold well-facilitated focus groups to reveal whether bullying is affecting workers, and to establish a positive work environment.

APPRAISALS

You could appraise managers and supervisors as well as other workers. One approach is an anonymous, structured appraisal of a manager's competencies by their peers and workers.

EXIT INTERVIEWS

You could use exit interviews to find out why workers are leaving. Tracking the outcomes of exit interviews over time can help you identify trends and patterns, and see whether turnover is due to management issues in certain areas.

Exit interviews can include the following questions:

- Why are you leaving?
- How long have you been intending to leave?
- Are you going to a better job or leaving one you don't like?
- Did you experience unreasonable behaviour?
- Do you believe the word 'bullying' applies to these behaviours?
- Did this contribute to your decision to leave?

INDICATORS

Performance against indicators can provide you a picture of whether the likelihood of bullying is increasing or decreasing. Use both leading indicators (eg % workers that have completed anti-bullying training) and lagging indicators (eg % of workforce reporting bullying in the past 12 months).

Examples of indicators:

- % of workforce reporting bullying
- % bullying complaints upheld
- % parties to a complaint are satisfied with the investigation process
- % of managers/workers who have completed anti-bullying training in the last 12 months
- % of workers that feel the business or undertaking appropriately manages bullying at work
- % of workers that feel bullying is not tolerated by the business or undertaking
- % of workers that feel they are able to report bullying without repercussions
- % of workers that are satisfied with their role
- % of workers that would recommend their business or undertaking as a good place to work.

See Appendix B of these guidelines for an example of reporting indicator results.

Next steps

Using the information gathered, assess the likelihood of bullying occurring in your business or undertaking. This will determine the extent and urgency of the actions you need to take in the first instance (see Section 3 of these guidelines).

However even if your business or undertaking is assessed as currently having a low likelihood of bullying, be aware that bullying can occur at any time and you are still expected to put control measures in place to minimise the likelihood of bullying.

You can also use the information sources described above to carry out regular monitoring of the levels of bullying in your business or undertaking to check if the control measures in place are working effectively (see Section 4 of these guidelines).

3.0

Minimising the likelihood of bullying

IN THIS SECTION:

- 3.1 What can you do?
- 3.2 Build good relationships in a respectful work environment
- 3.3 Develop good managers
- 3.4 Educate workers about bullying
- 3.5 Make anti-bullying policies, processes and systems transparent
- 3.6 Make sure your workers know how to informally report unreasonable behaviour or make a formal complaint
- 3.7 Provide support
- 3.8 Make sure everyone knows their roles and responsibilities

Use control measures to minimise the likelihood of bullying at your workplace.

Minimising the likelihood of bullying involves the early identification of situations likely to increase the likelihood of bullying, and then putting in place control measures.

Give preference to control measures that protect multiple workers at once.

3.1 What can you do?

The control measures summarised in Figure 6 and described below can help to address potential causes of bullying. The most effective way to minimise unreasonable behaviours is to adjust the culture settings to expose and address such behaviours. Consider what is reasonably practicable in your circumstances to minimise the likelihood of bullying in your business or undertaking.



FIGURE 6:
Possible control measures to minimise the likelihood of bullying

3.2 Build good relationships in a respectful work environment

Build a 'no-bullying tolerated' work culture

All workers (including HSRs and managers) need clear statements on expected conduct and core values. Workers should be consulted with and involved in the development of these statements.

HAVING A CODE OF CONDUCT

Organisational behaviours can be supported through a range of policies and practices such as codes of conduct.

A code of conduct describes:

- the expected behaviours, rules, practices and responsibilities for you, workers and others at your workplace (eg visitors, clients and customers)
- the consequences for not following the code of conduct
- what is considered to be serious misconduct.

For an example of a code of conduct, see the Police's Code of Conduct:
www.police.govt.nz/sites/default/files/publications/ourcode.pdf

SETTING VALUES

Workers should understand the core values of the business or undertaking's culture.

For example, WorkSafe's values are that its workers will act with:

- integrity - being fair, firm, and consistent, showing respect for those we work with
- courage - standing up for health and safety
- responsibility - being accountable for what we do.

Promote good working relationships

Positive and tolerant work relationships are vital to organisational success and the well-being of workers. Creating an environment that builds good relationships minimises the likelihood of bullying.

Fostering a shared sense of purpose for workers is another way to develop a culture that builds relationships.

Regular worker surveys are a good way to gauge workplace culture and identify aspects that need improvement in both individual behaviour and corporate performance.

Recognise and promote diversity

Sometimes cultural differences can lead to misunderstandings or different ideas about what behaviour is 'reasonable'. Recognising diversity and creating an environment where people are aware of cultural differences and different communication styles can reduce misunderstandings.

Recognising diversity means understanding how people's differences can bring different strengths. An inclusive and tolerant workplace motivates people to do their best and creates a stronger and more focused team.

A business or undertaking that can tackle problems and challenges is likely to promote openness and minimise the sort of unreasonable behaviours that let bullying thrive.

For more information see Diversity Works New Zealand at:
<https://diversityworks.nz>

Manage work and workloads

Lack of resources, lack of training, poorly designed rostering, unreasonable performance measures or timeframes, lack of support systems and high job demands can increase the likelihood of bullying.

You must ensure that the information, training, instruction or supervision needed to protect all people from work health and safety risks is provided.

In addition, you should:

- review resource availability
- review and monitor workloads and staffing levels
- reduce excessive working hours
- clearly define jobs
- seek regular feedback from workers over concerns about roles and responsibilities.

Implement a conflict management process

Inevitably, personal differences will arise at work. While conflict can be beneficial if it promotes new ideas and solutions, it can escalate into bullying, harassment or violence. Figure 7 describes potential sources of conflict.

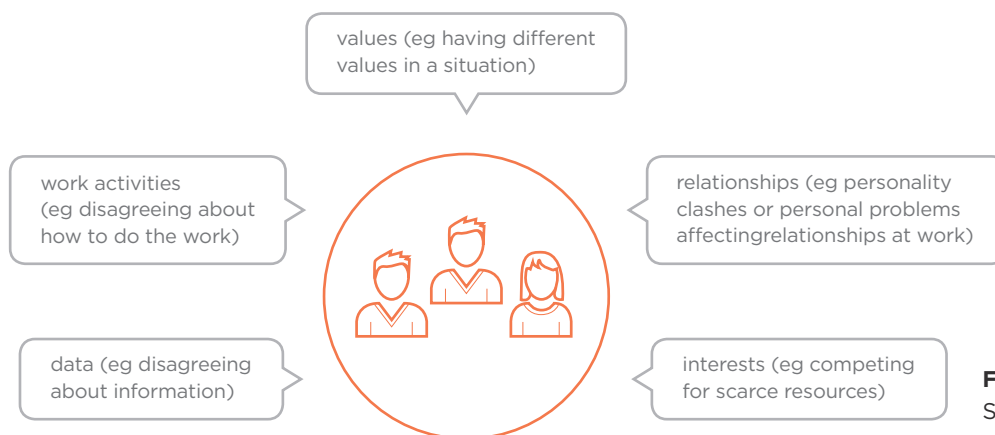


FIGURE 7:
Sources of conflict

You should:

- be aware of what your main sources of conflict are and have processes in place to deal with these
- provide training to workers (eg on diversity and tolerance, addressing conflict in the workplace, interpersonal communication and interaction)
- ensure managers promptly act on inappropriate behaviour.

Implement systems to support workers at a greater risk of being bullied or of showing bullying behaviours

Certain groups of workers (eg new and young workers) may be more vulnerable, while other groups of workers, through lack of awareness, may be more at risk of displaying behaviours that may be construed as bullying.

You should:

- train workers (eg in diversity, tolerance and communication skills)
- train line managers to identify and support workers at higher risk of being bullied or showing bullying behaviours
- implement a buddy system for new workers
- monitor work relationships.

Involve workers in change processes

Significant technology change, restructures, downsizing, outsourcing and job insecurity can increase the likelihood of unreasonable work behaviours which may result in bullying. Workers should be involved in any change processes.

You should:

- plan all change and consult with workers affected as early as possible
- review and evaluate change processes
- develop and maintain effective communication throughout the change, and seek and act on feedback.

Recruit workers who share your work values

Recruiting people who share your work values is crucial to a well-functioning work environment. It's much easier to recruit the right person than to manage people whose skills or personality don't match what's needed in the team.

When recruiting, look at the candidate's past performance and behaviour towards other workers.

During the hiring process, to help to get the right person you should:

- accurately describe the role
- be clear about skills and qualifications required
- ensure personal attributes are suited to the role
- do reference checks.

For employers/employees: A clearly written employment agreement can help reduce the risk of misunderstandings. Negotiating specific provisions in a collective agreement is a means of addressing bullying.

Information about employment law and agreements can be found at:

www.employment.govt.nz

For help to create employment agreements, go to the Employment Agreement Builder at: <https://eab.business.govt.nz/employmentagreementbuilder/startscreen>

3.3 Develop good managers

Large and small businesses or undertakings should give managers leadership training to help them effectively manage and supervise workers. This can create and maintain a well-functioning work environment.

When managers behave as described in Table 6, bullying is less likely.

CATEGORY	EXAMPLE
Be respectful and responsible	<ul style="list-style-type: none"> - show integrity - manage emotions - have a considerate approach.
Manage and communicate existing and future work	<ul style="list-style-type: none"> - manage work proactively - have good problem-solving skills - participate with and empower others.
Use good reasoning to manage difficult situations	<ul style="list-style-type: none"> - manage conflict in a prompt manner - use the organisation's resources - take responsibility for resolving issues.
Manage the individual within the team	<ul style="list-style-type: none"> - be personally accessible - be sociable - use empathetic engagement.

TABLE 6:
Manager behaviours⁵

Managers should encourage their workers to talk to them if they experience or see unreasonable behaviour. Even if the worker does not want to make a report or complaint, managers should keep a log of personnel issues they deal with to identify patterns of unreasonable behaviour.

Managers should be expected to intervene early to call out and deal with any unreasonable behaviour before it escalates.

You should:

- support, train, and supervise managers
- coach managers in communication and leadership skills, and constructive feedback
- provide and act on regular feedback on management performance (including feedback from workers under supervision)
- mentor and support new and poorly performing managers
- implement and review performance improvement and development plans
- provide regular leadership skills training
- run refresher training (eg once a year)
- ask questions about leaders' conduct and performance in exit interviews and worker surveys.

3.4 Educate workers about bullying

You must provide information, training, instruction or supervision needed to protect all people from health and safety risks from the work being carried out - this includes information, training, and instruction about bullying.

Educating workers (including managers and HSRs) about bullying behaviours, their consequences and how to deal with them has benefits like those described in Figure 8.

⁵ This table is based on United Kingdom Health and Safety Executive research which identified 66 management competences. For this table, these competencies have been grouped into four categories. For more on this research and all 66 competencies, see: www.hse.gov.uk/stress/standards/index.htm

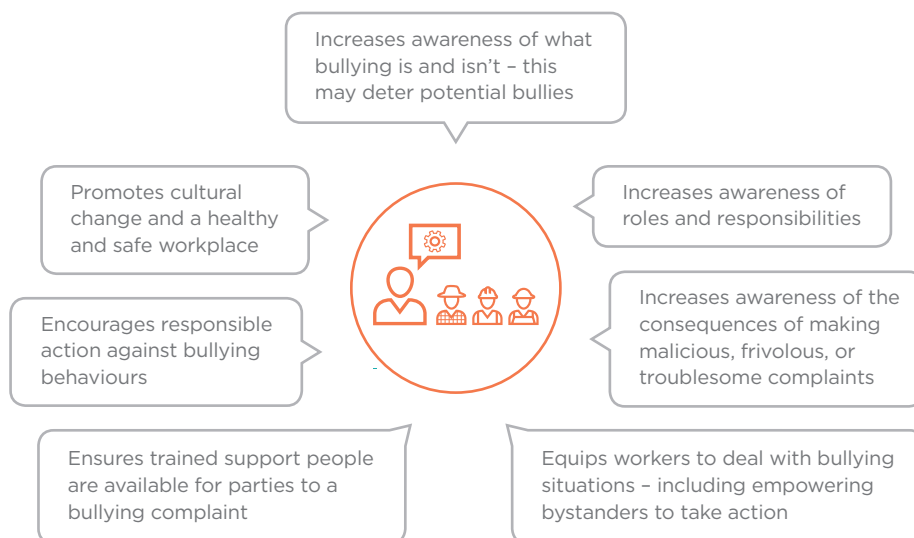


FIGURE 8:
Benefits of educating workers

Bystanders (people that see bullying occurring) have an important role when dealing with bullying. Training can empower workers to use words and actions to safely and effectively help someone being bullied and/or report bullying on someone else's behalf.

Another benefit is that appropriately trained HSRs or other workers can support parties to a complaint. These people can form part of the internal support available to workers (see Section 3.7 of these guidelines).

You can:

- run awareness programmes including the important role of bystanders in dealing with bullying
- provide training to workers about your anti-bullying policies, processes and systems (see below)
- provide training on what to do if workers see or experience bullying
- present selected information from this guidance at a team meeting, tool box talk or seminar to educate workers on bullying behaviour
- provide training to HSRs or other workers on how to provide support to parties of a bullying complaint.

3.5 Make anti-bullying policies, processes and systems transparent

You must engage with your workers about anti-bullying policies, processes and systems.

So workers know what's expected from them, you should have documented policies, processes and systems that are clear and easy to understand. Policies to address bullying should be included in your health and safety system. Reporting processes should be easy to access, and workers should know what to expect once an incident is reported.

All policies, processes and systems should be explained when a worker starts work. You should check workers understand these policies, processes and systems.

Anti-bullying policies

An anti-bullying policy outlines expectations for acceptable behaviour and needs to emphasise your commitment to prevent bullying and address it if it occurs. It should be developed with input from managers, workers and their representatives (eg HSRs, HSCs, unions), and is a positive way to build a culture where bullying can't thrive.

An anti-bullying policy should be:

- easy to understand
- provided in languages other than English (if required)
- consistent with other health and safety policies and objectives
- openly communicated and accompanied by worker training in expected behaviour and the bullying reporting process.

See Appendix B of these guidelines for an example of an anti-bullying policy.

The policy should be endorsed by senior management to signal their commitment to preventing bullying.

It has to be more than just words on a page and must be put into practice.

Processes and systems for dealing with bullying

Following the processes and systems within the policy will give workers confidence, encourage further reporting, and give a systematic approach to addressing, managing and investigating bullying.

Processes and systems to deal with bullying (as described below) should align with your anti-bullying policy. Processes are best if they give several ways to resolve issues, from low-key informal action, to lodging formal complaints.

Processes and systems should cover:

- identifying factors that may enable bullying to occur and developing control measures to address them
- how to access the reporting processes
- asking questions about bullying behaviours in regular surveys and at exit interviews
- asking workers how to improve the work culture
- promoting and acknowledging positive behaviour
- developing clear methods for dealing with reported bullying, and easy reporting systems for informal reports or formal complaints
- training or employing a person (who is independent and impartial) to investigate bullying complaints
- training workers in the principles of natural justice
- support for people who complained and the subjects of complaints
- strategies for low-key informal solutions
- clear and timely responses to resolve written complaints
- transparent and impartial investigations
- mechanisms to rebuild work relationships.

3.6 Make sure your workers know how to informally report unreasonable behaviour or make a formal complaint

You must engage with your workers when developing or updating anti-bullying policies, processes and systems. Processes should include how to report unreasonable behaviour your workers or customers etc experience or see.

All reporting methods should be known to workers. They should know what to expect and what will happen after they have lodged a report/complaint. If their manager or supervisor is the subject of the complaint, then the person who wishes to make a report/complaint should go to the next senior manager, or the Human Resources team.

Workers should be encouraged to keep good written records.

Workers should know:

- how to record instances of the unreasonable behaviour – the more specific information the better
- how to know if it is bullying, or some other type of behaviour
- how to informally report unreasonable behaviour they directly experience or see (see Appendix B of these guidelines for an example of a form you could give workers to fill in)
- how to make a formal complaint (see Appendix B of these guidelines for an example of a form you could give workers to fill in)
- what to expect after they have made a report/complaint.

3.7 Provide support

You must engage with your workers about what internal/ external support will be made available.

All parties to a complaint should be given the opportunity to have a support person or representative (eg friend, co-worker, HSR, union, legal representative) with them to attend meetings or interviews. Such support may be required over a prolonged period.

To avoid conflicts of interest, the same support person should not support both parties to a complaint.

Possible sources of support

Consider whether you could designate and train a contact person to help people to submit and/or receive reports/complaints about bullying. Support can also come from the Human Resources team, peers, or HSRs.

Ideally HSRs/support people should receive training to provide this kind of support.

Unions can advise and support parties to a bullying complaint.

You could contract companies, such as employee assistance programmes, to give confidential support to all workers.

3.8 Make sure everyone knows their roles and responsibilities

Everyone at work has a role in dealing with bullying and should be made aware of their roles and responsibilities in relation to bullying (see Table 7).

ROLE	IN RELATION TO BULLYING...
PCBUs	<p>Must:</p> <ul style="list-style-type: none"> - ensure, so far as is reasonably practicable, the health and safety of workers, and that other persons are not put at risk by its work - minimise the likelihood of bullying so far as is reasonably practicable - provide information, training, instruction or supervision needed to protect all people from health and safety risks from the work being carried out (ie bullying policies and processes). <p>Should:</p> <ul style="list-style-type: none"> - develop a culture where bullying cannot thrive, including bullying from clients or customers - raise awareness of what is and isn't bullying by ensuring workers are educated about it - create, reinforce, monitor and review control measures against bullying - create complaint-handling processes - take complaints seriously and listen without judgment - ensure an effective and timely response to complaints.
Human Resources (on behalf of the PCBU)	<p>Should:</p> <ul style="list-style-type: none"> - raise awareness of what is and isn't bullying by ensuring workers and managers are educated about it - establish open communication systems - maintain and update anti-bullying policies, processes and systems, and ensure workers are trained in them - have performance management processes that measure behaviour against the code of conduct - ensure managers and supervisors are properly trained in people management, and keep the training records - have processes for both informal resolutions and formal investigations - follow up on complaint responses and be proactive with solutions - analyse worker information (eg absenteeism records, exit interviews) for indicators of bullying.
Line Managers (on behalf of the PCBU)	<p>Should:</p> <ul style="list-style-type: none"> - raise awareness of what is and isn't bullying by ensuring workers are educated about it - record and investigate complaints fairly and in line with the business or undertaking's policies and processes - look for informal solutions before escalating an issue to higher levels (eg mediation or investigation) as appropriate - support positive culture-change programmes - lead by example - seek help if they don't know what to do.
Officers	<p>Must:</p> <ul style="list-style-type: none"> - exercise due diligence to ensure that the PCBU meets its health and safety duties and obligations.
Workers	<p>Must:</p> <ul style="list-style-type: none"> - take reasonable care for their own health and safety - take reasonable care that others are not harmed by something they do or don't do (this includes bullying or other unreasonable behaviours) - co-operate with reasonable policies and procedures about bullying you have in place that have been notified to them - comply, so far as is reasonably practicable, with any reasonable instruction about bullying given by you so you can comply with the law. <p>Should:</p> <ul style="list-style-type: none"> - report bullying when it happens so you can do something about it (either as the victim or a bystander) - at an early stage let someone know their behaviours aren't okay with them - describe the unwanted behaviours to the person and ask them to stop.
Other people at workplaces (eg visitors, customer, clients)	<p>Must:</p> <ul style="list-style-type: none"> - take reasonable care for their own health and safety - take reasonable care that others are not harmed by something they do or don't do (this includes bullying or other unreasonable behaviours) - comply, so far as is reasonably practicable, with any reasonable instruction about bullying given by you so you can comply with the law. <p>Should:</p> <ul style="list-style-type: none"> - report bullying when it happens so you can do something about it (either as the victim or a bystander).

TABLE 7: Roles and responsibilities of people at the workplace

4.0

Monitoring, reviewing and updating control measures

IN THIS SECTION:

- 4.1 Monitoring the effectiveness of control measures
- 4.2 Reviewing and updating control measures for ongoing improvement

Control measures should be monitored and regularly reviewed to confirm they remain effective at minimising the likelihood of bullying.

It's important to check that your control measures are working well to minimise the likelihood of bullying so far as is reasonably practicable.

4.1 Monitoring the effectiveness of control measures

Monitoring bullying data

To check your workers' exposure to bullying, bullying data can be gathered through informal reports and formal complaints of bullying and the outcome of investigations into these (see Section 5 of these guidelines).

Data from sources such as exit interviews, worker surveys, and absenteeism rates can reveal clusters of complaints and be used to track bullying trends. See Section 2.2 of these guidelines for other sources of information.

Monitoring should be conducted routinely, but is particularly recommended:

- when there are changes to the work environment that may increase the chances of bullying occurring
- when a situation of bullying has been confirmed (see Section 5 of these guidelines)
- at the request of an HSR or HSC.

Monitoring results should be used to assess the risk to your workers from bullying, and whether the control measures are working effectively.

The monitoring should be done in consultation with workers, HSRs, HSCs, and unions (if they have members in your workforce).

The results should be reported to HSRs, HSCs, and your senior leadership.

Monitoring work culture

Regular worker surveys are a good way to gauge workplace culture and identify aspects that need improvement in both individual behaviour and your performance.

Indicators of success may include:

- decreased reporting of bullying⁶
- positive worker survey results.

⁶ **Note:** If under-reporting of bullying has been occurring in your business or undertaking, then an initial increase in bullying reporting may be an indication of a positive culture change.

4.2 Reviewing and updating control measures for ongoing improvement

All policies, processes and systems should have a regular review date and a review process to check that they're being followed and are still fit-for-purpose.

However, reviews should also take place when monitoring indicates your control measures are not effectively minimising the likelihood of bullying.

If the policies, processes and systems are not effectively minimising the likelihood of bullying, they must be updated and improved.

The outcome of reviews should be reported to HSRs, HSCs, and your senior leadership.

5.0

Investigating bullying in-house

IN THIS SECTION:

- 5.1 Principles to follow when investigating reports or complaints in-house
- 5.2 Overview of steps for dealing with reports/complaints
- 5.3 Low key approach
- 5.4 Informal approach
- 5.5 Formal approach/formal investigation process

PCBUs should have processes to fairly deal with bullying complaints in-house. The outcome of investigations should be used to monitor control measures.

5.1 Principles to follow when investigating reports or complaints in-house

You should treat all informal reports and bullying complaints seriously. However even if you haven't received reports/complaints (eg because the worker is scared about retaliation) but are aware that unreasonable behaviour is occurring, you still need to deal with it.

You should have processes to fairly deal with bullying allegations. Table 8 outlines the principles to consider when dealing with allegations of bullying. These principles are based in part on the principles of natural justice. Natural justice covers both parties to a complaint.

PRINCIPLE	WHAT DOES THIS MEAN?
Treat all matters seriously	<ul style="list-style-type: none"> - Take all complaints and reports seriously. Assess all reports on their merits and facts. - Ensure the people (internal or external) who deal with the complaint are trained to do a fair and thorough investigation, and use the principles of natural justice.
Act promptly	<ul style="list-style-type: none"> - Reports should be dealt with quickly, courteously, fairly and within established timelines.
Ensure non-victimisation	<ul style="list-style-type: none"> - It's important to ensure that anyone who raises an issue of bullying isn't victimised for doing so. Whoever the complaint is made against and any witnesses should also be protected from victimisation.
Support all parties	<ul style="list-style-type: none"> - Once a complaint has been made, both parties should be told what support is available (eg employee assistance programmes or peer support systems). - Treat all parties involved with sensitivity, respect and courtesy. - Anyone involved is entitled to have a support person present at interviews or meetings (eg HSR, contact person, the union or friend).
Be neutral	<ul style="list-style-type: none"> - Impartiality towards everyone involved is critical during the process. - Where possible, the person in charge of the investigation or resolution process should not have been directly involved in the incidents and must avoid any personal or professional bias.
Communicate the process and outcomes	<ul style="list-style-type: none"> - All parties need to be told what to expect during the process, how long it will take, the reasons for any delays and what will happen at the end. - Give them clear reasons for any actions that are taken or not taken.

PRINCIPLE	WHAT DOES THIS MEAN?
Maintain privacy (confidentiality)	- The process should ensure privacy for all parties involved. Details of the matter should only be known to those directly concerned (except their representative or support person).
Keep good documentation	- Documentation is important to any formal investigation. Even if the issue isn't formally investigated, keep a record of all informal conversations, meetings and interviews detailing dates and times, who was present, what was discussed and the agreed outcomes.

TABLE 8: General principles for dealing with reports or complaints

5.2 Overview of steps for dealing with reports/complaints

You can use the approach outlined in Figure 9 when receiving a report/complaint about a worker's behaviour.

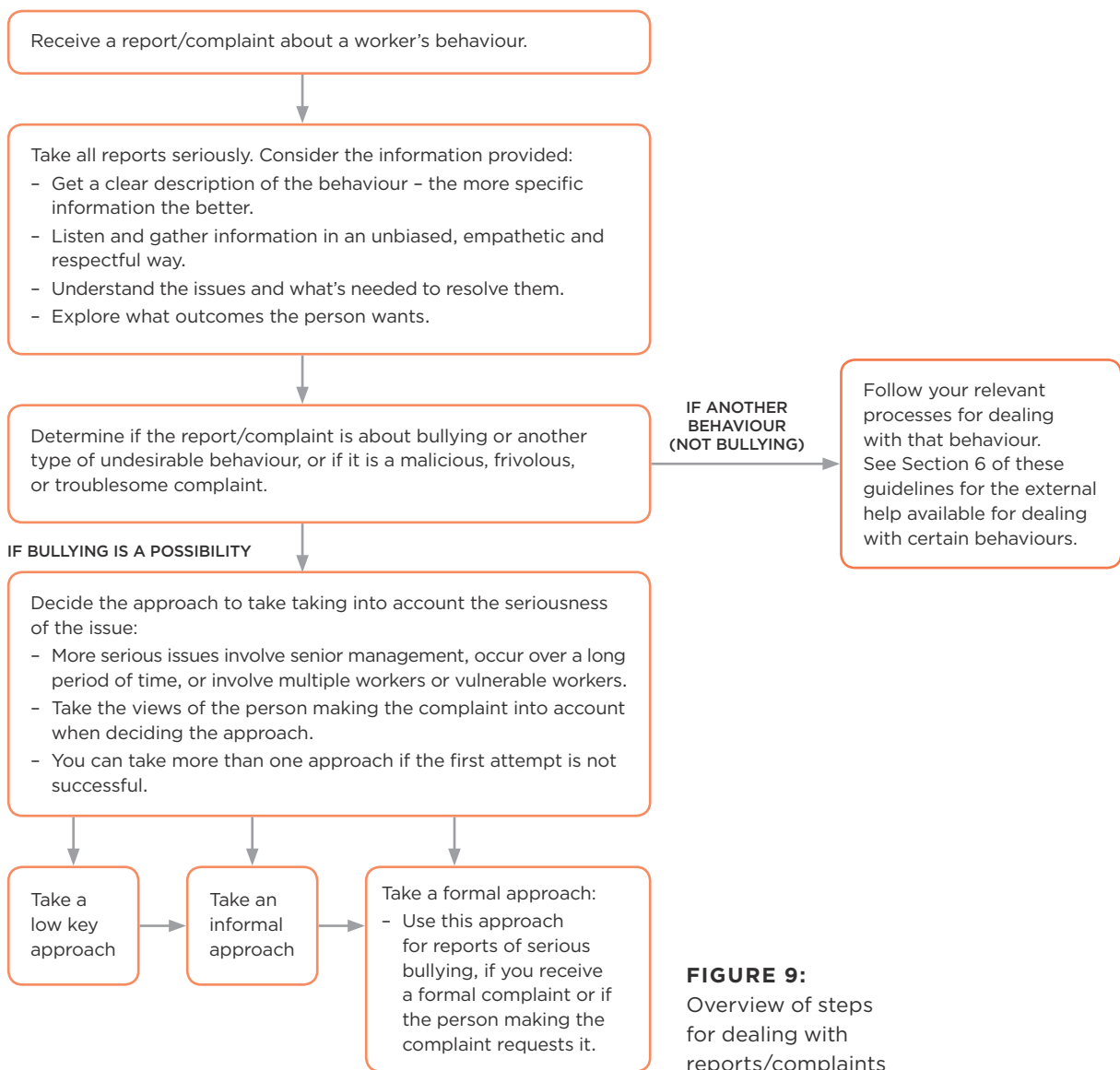


FIGURE 9: Overview of steps for dealing with reports/complaints

As described in Figure 9, there are a number of response options. Where possible, low key and informal solutions should be attempted first (taking into account the seriousness of the issue).

5.3 Low key approach

Low key approaches may include:

- getting the line manager or a member of the Human Resources team to talk directly to the subject of the complaint to remind them of the code of conduct, and values of the business or undertaking
- encouraging workers to:
 - if a behaviour doesn't feel right, say something early on to the person displaying the behaviour – but only if they feel safe to do so
 - talk to someone they trust (eg HSR or a member of the HSC, contact person, their union, manager and/or the Human Resources team) to give an objective viewpoint about whether the behaviours they are experiencing are unreasonable or are appropriate management actions.

5.4 Informal approach

The aim of the informal process is to stop the unreasonable behaviour and restore a productive working relationship.

Steps could include:

- the worker reports the behaviour to the line manager but does nothing else
 - that manager is then responsible for identifying and mitigating any risk
- the line manager or a trusted third party talks to the subject of the complaint (informal and direct approach – see below)
- the line manager organises early mediation resulting in an agreement understood by all parties (informal resolution process – see below).

Written agreements will be the only official record of the allegation.

While informal approaches can have positive results (eg the person accepts the feedback and the unreasonable behaviour ceases), it is possible that a person may react negatively (eg becomes defensive) and does not change their behaviour.

Informal and direct approach

People can become defensive and rationalise their behaviour when approached directly, so clear boundaries are needed to show what is and isn't acceptable behaviour.

Approach the subject of the complaint carefully. For example, you could:

- talk to the subject of the complaint with the evidence (eg details of the behaviour/s, pooled feedback from colleagues)
- get the subject of the complaint to discuss the issue with a trusted third party (eg a colleague, Human Resources team member).

Be mindful of personal safety and possible reprisals. Keep records of the conversation's details, time and date.

Informal resolution process (eg through mediation)

An informal process is designed to resolve concerns/relationship issues through dialogue and without a formal complaint. The informal process isn't disciplinary and doesn't disadvantage those involved.

Mediation can be used as part of informal or formal approaches. Mediation can be used early on in the situation or at other times (eg after a formal complaint has been investigated). Both parties should request mediation and agree to participate. Mediation involves a trained and impartial mediator sitting with all parties concerned to try to get an agreement and a way forward. It's important that mediation creates a safe and constructive environment. If there are genuine safety concerns, parties should inform the mediator before the mediation begins.

You can run in-house mediation or use an external mediator. The Ministry of Business, Innovation and Employment (MBIE) provides a free, confidential and impartial mediation service for employers and employees (see Section 6 of these guidelines). For more information see: <https://employment.govt.nz/resolving-problems/steps-to-resolve/mediation/what-is-mediatio>

5.5 Formal approach/formal investigation process

Overview of process

You can use the approach outlined in Figure 10 to investigate allegations of bullying or other unreasonable behaviour.

It's important that workers clearly understand what to expect. The investigation should happen as soon as possible after the complaint is received.

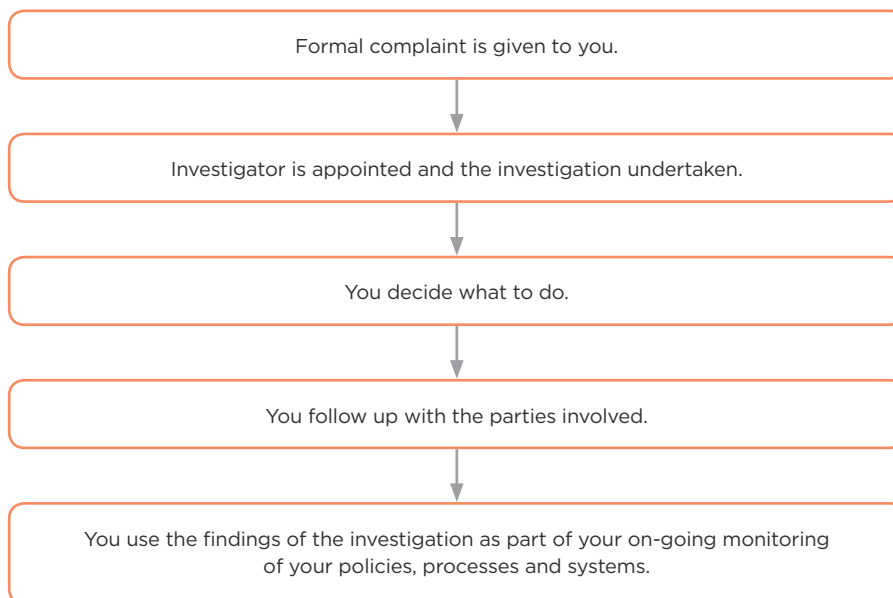


FIGURE 10:
Overview of a formal investigation process

When investigating allegations of bullying behaviour, the concept of natural justice must come into play for both parties of the complaint.

To summarise what natural justice can look like during an investigation:

- Before taking any action against the subject of the complaint, you should:
 - raise allegations/concerns with the subject of the complaint
 - carry out an impartial and independent investigation into the allegations/concerns
 - give the subject of the complaint a reasonable opportunity to respond to the allegations/concerns
 - genuinely consider the subject of the complaint's explanation.
- Other principles include:
 - making sure the decision-maker is as impartial as possible
 - treating workers equally, avoiding 'disparity of treatment'
 - allowing support people and/or representatives to be present
 - maintaining privacy (confidentiality).

See Table 8 for more information.

The steps of the formal investigation process are described below.

Formal complaint is given to you

As part of your process, you may require workers to advise their supervisor or manager they intend to lodge a formal complaint. If their manager or supervisor is the subject of the complaint, then the person planning to make a complaint should go to the next senior manager, or the Human Resources team.

The person planning to make a complaint will need to know how to format their complaint and who to send it to. The complaint should be as specific as possible. It needs to include the specific allegations, dates, times and names of any witnesses.

See Appendix B of these guidelines for an example of a formal complaint form. If needed, workers should be provided support in filling in and lodging a complaint.

The written complaint should initiate an independent investigation process.

Once receiving the complaint, you should:

- take reasonable steps to protect the person who complained from reprisals
- ensure privacy is maintained
- ensure both the person who complained and the subject of the complaint are supported
- organise an investigation process
- decide if security measures (such as organising an escort to and from work if there are safety concerns) are required
- decide what interim measures will be taken to ensure the safety and welfare of the person who complained during the investigation. Interim measures may include suspension of the subject of the complaint pending the outcome of the investigation, or reassignment to other duties until the investigation is complete
- give guidance to the person who complained about how to respond to the subject of the complaint if they remain in day-to-day contact.

The subject of the complaint should be informed as soon as possible after a complaint has been received.

The subject of the complaint should be notified about:

- the details of the complaint and who made it (eg details of the allegations, including a copy of the written complaint and any investigation material)
- the process and their rights (including the right to have a support person present)
- the requirement for confidentiality and non-victimisation
- the possible consequences (eg if it's a formal employment investigation that could result in dismissal)
- expectations of behaviour during the investigation (remain professional).

An investigator is appointed and the investigation undertaken

The investigation should be carried out by an independent (preferably external) unbiased and experienced investigator. Where possible, the person in charge of the investigation or resolution process should not have been directly involved in the incident and must avoid any personal or professional bias. Workers need to be assured of the impartiality of the investigator.

The investigator needs to know the rights of both the person who complained and the subject of the complaint, and give clear advice about the possible outcomes.

The investigator should develop a plan that covers:

- the expected timetable for investigating and resolving the complaint
- how the complaint will be investigated (eg interviews with the person who complained, the subject of the complaint, and any witnesses, viewing documentary evidence)
- who will receive copies of statements and records of the interview
- who can be present at the interviews
- whether parties can refuse to participate
- what support will be available for each party, including the right to have a support person present.

All parties to a complaint should have the opportunity to have a support person or representative (eg friend, HSR, their union, legal representative) to attend meetings or interviews.

The investigator interviews all parties involved and any witnesses, and reviews any relevant documentation to determine the facts. The determination is made on the balance of probabilities after considering all the facts. They provide a written report on their findings and recommended solutions to you. If mediation is recommended, both parties need to freely agree to attend (see Section 5.4 of these guidelines for information about mediation).

You decide what to do

You will get the investigator's findings and must decide what to do.

You should review the investigator's findings and recommendations, and meet with each person separately to discuss the recommended solution.

The subject of the complaint should have the opportunity to respond to allegations and to the findings of the investigation. Give each party a copy of the report and explain their right to appeal and what the process is.

If the allegation can't be proven, it doesn't mean there was no bullying or other unreasonable behaviours. You need to identify ways to help those involved return to a constructive working relationship. This could involve mediation, changed working arrangements, and/or addressing other organisational issues that contributed to the complaint. It could also include counselling for the person who complained if the complaint is found to be vexatious.

If the complaint is upheld, you must decide how to:

- address the bullying
- make the bully accountable for their conduct
- protect the person who complained from any further bullying or reprisals.

Some options are to:

- ask the bully to apologise and agree to change their behaviour
- give a formal warning or take other disciplinary action.

You should report the decisions and actions back to the person who complained (taking into account the privacy of the subject of the complaint) so they know the issue has been taken seriously and dealt with. This will help workers trust the process and establish a lack of tolerance for bullying.

You should tell both parties what your business or undertaking's processes are if either is unhappy with your final decision. If parties to a complaint are still not satisfied by your actions after following these processes, they may seek external help (see Section 6 of these guidelines).

You follow up with the parties involved

You should ensure the agreed changes have been effective by reviewing the well-being of the person who complained and the subject of the complaint for a period of time after the resolution. The length of time and frequency of checks will depend on the issue and type of work.

You use the findings of the investigation as part of your on-going monitoring of your policies, processes and systems

The outcome of the investigation can help to tell you whether your policies, processes and systems are working well to minimise bullying.

See Section 4 of these guidelines for more information about monitoring your anti-bullying policies, processes and systems.

What happens if someone withdraws a complaint?

If a complaint is withdrawn partially through the process but you have uncovered unreasonable behaviour, you still need to deal with this behaviour.

Seeking external help

At times, you or the parties to the complaint may wish to seek external help. This could happen if someone is not satisfied by your actions, or when the behaviour is best dealt with externally (eg acts of violence should be dealt with by the Police). The external help available is outlined in Section 6 of these guidelines.

6.0

Seeking external help

IN THIS SECTION:

6.1 Who can help?

Bullying complaints may be dealt with by different Government bodies depending on the circumstances.

If parties to a complaint are not satisfied by your actions, and they have made reasonable efforts to work with you to try to resolve the issue using internal processes, they may decide to seek external help. You may also seek external help.

In addition, certain behaviour should be dealt with externally in the first instance, for example, physical assault should be dealt with by the Police.

This part of the guidelines describes the legislation that covers different aspects of bullying and where to get help.

6.1 Who can help?

As outlined in Table 9, there is a range of legislation and external help available depending upon what type of bullying occurs.

LAW	WHAT DOES IT COVER
<p>The Employment Relations Act 2000 (ERA)</p>	<ul style="list-style-type: none"> - The ERA aims to build productive employment (eg employer/employee) relationships. - The ERA outlines penalties for certain breaches of duty of good faith within an employment relationship. Repeated verbal or emotional attacks on an employee may breach the duty of good faith – where parties to an employment relationship are required to be active and constructive in maintaining an employment relationship. - If the employee has resigned as a result of the employer’s failure, they may be able to raise a personal grievance for unjustified dismissal or constructive dismissal. If they haven’t resigned, they may still be able to claim unjustified disadvantage under the ERA, as well as breach of contract. Employees that feel that bullying behaviour led to their unjustified disadvantage or unjustified dismissal might raise a personal grievance. - In terms of harassment, the ERA only provides protection from sexual and racial harassment, which is also covered by the Human Rights Act 1993 (HRA). This gives grounds for a personal grievance under the ERA, or a claim under the HRA. - MBIE’s free mediation service (Phone 0800 20 90 20; https://employment.govt.nz/resolving-problems/steps-to-resolve/mediation/request-meditation) is available to any employer or employee, and can help parties resolve an employment relationship problem. The mediation service is available to assist as soon as an issue arises, and may arrange to facilitate a meeting, with the agreement of both parties. - If mediation is unsuccessful, the Employment Relations Authority (http://era.govt.nz) can resolve disputes about a range of employment issues (including treatment that employees find unfair or unreasonable) such as: <ul style="list-style-type: none"> - payment of wages - personal grievances for unjustified disadvantage - personal grievances for unjustified dismissal - being asked to do work that would expose the worker to a serious health and safety risk arising from immediate or imminent exposure to a hazard (workers can refuse such work under section 83 of HSWA). An unreasonable management decision may be an instruction to undertake unsafe work. - Like the Employment Relations Authority, the Employment Court deals with cases about employment disputes. The Employment Court also deals with challenges to Employment Relations Authority decisions (https://employmentcourt.govt.nz).
<p>The Health and Safety at Work Act 2015 (HSWA)</p>	<ul style="list-style-type: none"> - HSWA is the primary work health and safety legislation. - WorkSafe is the primary work health and safety regulator – although Maritime New Zealand and the Civil Aviation Authority also carry out certain health and safety functions for their industries. - HSWA requires certain health and safety matters to be notified to WorkSafe. People may also contact WorkSafe voluntarily if they have a question or request about health and safety, or want to tell WorkSafe about a health and safety concern. - WorkSafe prioritises incoming notifications, requests, concerns and enquiries using risk-based processes and criteria. - WorkSafe has a range of possible responses that are suitable for health and safety matters of different levels of seriousness, urgency and risk. Please note that not all concerns and notifications will meet WorkSafe’s threshold for initiating a response. - WorkSafe can be contacted on 0800 030 040 (24 hours). Issues can be raised anonymously or in confidence.

LAW	WHAT DOES IT COVER
The Harmful Digital Communications Act 2015 (HDCA)	<ul style="list-style-type: none"> - The purpose of the HDCA is to deter, prevent and mitigate harm caused to individuals by digital communications. Harm means serious emotional distress. - The HDCA aims to provide a quick, efficient and relatively cheap legal avenue for people dealing with serious or repeated harmful digital communications. - The HDCA lays out 10 communication principles which are plain expressions of unacceptable ways to communicate online. - Harmful communications could include people using phones to send threatening or offensive messages, publishing threatening or offensive messages online, spreading damaging or degrading rumours and publishing invasive or distressing photographs or videos. This covers cyberbullying. - Digital communications means any form of electronic communication and includes emails, texts, websites, blogs, comments sections, online forums (chat rooms), social media sites, or phone apps. - The HDCA simplifies the process for taking harmful communications off the internet quickly, and has criminal and civil sanctions. - For information about what to do if you are experiencing cyberbullying, online harassment and abuse, visit: www.netsafe.org.nz - Before applying to the Courts, you must have had your complaint investigated by NetSafe. - For information on how to apply to the Court, visit: www.victimsinfo.govt.nz/staying-safe/staying-safe-online/harmful-digital-communications
The Human Rights Act 1993 (HRA)	<ul style="list-style-type: none"> - Discrimination can be part of bullying. - Discrimination occurs when a person is treated unfairly or less favourable than another person in the same or similar circumstances. - The HRA's intention is to ensure everyone is treated fairly and equally. - The HRA makes it illegal to discriminate on the grounds of: <ul style="list-style-type: none"> - sex - marital status - religious belief - ethical belief - colour, race, or ethnic or national origins - disability - age - political opinion - employment status - family status - sexual orientation. - It also covers sexual and racial harassment at work, school and other areas. - The Human Rights Commission deals with complaints about discrimination: www.hrc.co.nz
Harassment Act 1997 (HA)	<ul style="list-style-type: none"> - Harassment can be part of bullying. - Harassment takes place when someone engages in a pattern of behaviour that is directed against another person (including watching, loitering, following, accosting, interfering with another person's property or acting in ways that causes the person to fear for their safety) at least twice in a 12-month period. - The HA makes harassment a criminal offence in certain circumstances. It provides for restraining orders. See the ERA and HRA above for dealing with racial and sexual harassment. - Harassment has the potential to cause humiliation, offence or intimidation. It's usually repeated behaviour but even one instance may cause reasonable concern. - People who are being harassed may be able to obtain restraining orders against the person harassing them. Help may be found at organisations such as community law centres (http://communitylaw.org.nz) and the Citizens Advice Bureau (www.cab.org.nz/vat/gl/laws/Pages/Harassment.aspx).
Crimes Act 1961 and other legislation administered by the New Zealand Police	<ul style="list-style-type: none"> - Acts of violence towards a person can be verbal (verbal abuse, threats, shouting, swearing) or physical (stalking, throwing objects, hitting, damage to property). - Violence is illegal and should be referred to the Police. - Criminal charges can be filed by the Police.

TABLE 9: Legislation that deals with aspects of bullying

Advice may be found from places like:

- unions
- community law centres: <http://communitylaw.org.nz>
- the Citizens Advice Bureau: www.cab.org.nz/Pages/home.aspx

Appendices

IN THIS SECTION:

Appendix A: Case studies

Appendix B: Templates and examples

Appendix C: Glossary

Appendix A: Case studies

Here are two real-life case studies.

These case studies show some of the features of bullying at work. They're taken from real life investigations and show the sort of effects that bullying can have on people and workplaces. Names have been changed to protect confidentiality.

CASE STUDY 1

Bullying and lack of senior leadership leads to a resignation

When Denise began her new role, she understood that she would be an apprentice to her manager, John. Soon after she was employed, John's manager Simon restructured the unit and John was made redundant. Soon after this Grant was appointed into a new role, and became Denise's manager. Denise had a small team of professionals reporting to her.

Initially everything ran smoothly. The relationship between Denise and her new manager Grant seemed to go well. About eight months later an event occurred which caused Denise great concern. One day Grant accused her of making an error in a report. Denise accepted that she'd made the error and offered to discuss and rectify it. Grant refused to resolve the issue by talking about it and a short time later Denise found a warning letter about the incident on her desk. This came as a surprise because she hadn't been told verbally that the error was grounds for a formal warning. Denise was upset by the action, so left for the day to go home and be supported by her husband.

This was the first in a series of incidents in which Grant berated Denise for perceived performance issues. She was accused of not performing for several reasons. Grant implied that her lack of initiative in asking for work constituted non-performance, despite Denise's argument that her role was clearly set out and she had no space for additional work. He often called her into his office and spoke to her accusingly, asking for explanations about what she'd been doing and why certain things weren't yet completed. He directly questioned her ability to manage her staff, particularly regarding her management style and techniques. Denise felt that Grant was watching all of her interactions with her staff, and was always ready to criticise. Grant would often call her into his office to comment on an interaction he'd observed between Denise and a member of her staff, asking, for example, why she'd spoken to the person in a certain way. Eventually Grant would not allow her to talk to her own staff members.

While these incidents occurred over several weeks, Denise tried to discuss the issues to resolve them, but Grant refused to meet with her.

Denise began to feel that she wasn't doing her job properly, although there'd been no problems for several months, including before Grant's appointment as her manager. As Grant's accusations continued, Denise felt less and less capable of doing her job. She began to feel guarded in everything she did – both her individual work and her interactions with others. Eventually she felt a loss of confidence and self-esteem, and her own self-doubt seemed to lead to errors in her work.

Denise knew that her experiences, and particularly her reactions, were affecting those around her. The team's morale, communication and ability to work together began to decrease. While she instigated meetings with her team to talk about the issues they were experiencing, she believed that their knowledge of the issues between her and Grant was taking a toll on the team.

In particular, her coping style of getting on with her work and keeping her head down contributed to the team's decreased communication as staff members followed her lead. Denise was also aware that Grant was having discussions with a member of her team she was having problems with, and she felt that Grant was taking the employee's comments at face value rather than discussing them with Denise.

Throughout the situation, Denise turned to her family, friends and her previous manager John, and received emotional support and advice on how to manage the situation. She didn't discuss the situation with her senior manager Simon, because she believed he was a close ally of Grant's and would not treat her issues seriously. In fact, as things progressed, Simon also began treating Denise badly – going behind her back to get her staff members to complete jobs for him, and accusing her of errors in her work. In one instance, after accusing Denise of making an error in a report, Denise reviewed the report and found that there was in fact no error. On returning to Simon to point this out, she was dismissed by him with no apology or acknowledgement that he had been wrong.

After about three months of experiencing these actions, Denise was called to a disciplinary meeting with Grant. She contacted Human Resources to ask how she could prepare for the meeting, but they said they didn't know, weren't in a position to help, and that their only role was to sit in on the meeting. She felt that Human Resources didn't want to know her. On receiving advice from a friend, Denise contacted an employment lawyer who came to the disciplinary meeting with her. At the meeting Grant mentioned a series of issues he had with her performance, but gave her no opportunity to resolve them. Two days after the meeting, a second formal warning letter was left on Denise's desk.

Denise decided to leave the organisation and negotiated a settlement. She was paid three months' salary and left immediately. During the negotiations the Human Resources manager, who had previously been on leave, contacted Denise to ensure that this was what she wanted. The Human Resources manager made it clear that she did not agree with the process or the warnings given, and that it was inconsistent with similar incidents that had occurred across the organisation. Her senior manager, Simon, who had not once intervened in the situation, told her on her last day how professional she had been throughout the situation.

In retrospect, Denise believes it is clear that she was operating in a culture that she was not suited to ('a man's world'), and that she simply didn't fit in and wasn't wanted there. Women were not thought of highly, particularly in management roles, and she believes the personal attacks on her performance were aimed at removing her from the organisation.

The lessons that may be learned from this case study include:

- ensure role clarity and support prioritisation of workloads
- follow agreed processes for disciplining workers
- ensure workers understand these processes
- ensure workers are treated fairly and supported.

This second case study summarises events in a company across a year.

CASE STUDY 2

High human and corporate cost of an untimely investigation process

Colin met with his CEO about an alleged wrongdoing by Ryan. The CEO treated the complaint seriously and said he'd oversee an investigation.

Ryan was given a written summary of four allegations and asked to respond within a week. He responded but when meeting with the CEO, found that legal advice had recommended an 'independent' investigation. The independent investigator began the process from scratch.

Colin filed a new claim with 24 allegations rather than four and, across one month, was interviewed by the investigator and confirmed the notes that were taken. He then went on stress leave.

The investigator then met with people referred to in the notes to get supporting evidence. These people were also asked to confirm the notes. Another month passed.

Four months after the original complaint the CEO was given a set of summaries. They were now as thick as a phone book.

A similar process then occurred when Ryan responded. Four separate half-day interviews were needed, over one month, to address the allegations. It took another month or so to interview Ryan's witnesses and have them confirm the notes.

The investigator then gave Ryan's material to Colin for comment.

After documenting Colin's comment, there were now three sets of material, each the size of a phone book, and nine months had passed since the initial complaint. Colin had been off work on sick leave, and his witnesses had been relocated as they felt uncomfortable having contact with Ryan.

Ryan believed the outcome so far showed that the CEO thought he was 'guilty'. He was also turned down for a new position. When the investigator filed his report it was long, lacked detail, and wasn't comprehensive. Both Colin and Ryan found a large number of errors and flawed conclusions. But the CEO accepted the report and dismissed Ryan, who then filed a claim for unjustified dismissal and unjustified disadvantage.

Witnesses for both parties were by now at odds with each other and the organisation. Several made complaints about the way they'd been treated and at least one resigned.

One year later: The issue completely divided the workplace, three employees had resigned and two grievance claims had been lodged. Costs to the organisation were estimated at several hundred thousand dollars.

The lessons that may be learned from this case study include:

- deal with complaints quickly within established timeframes
- tell the parties involved what will happen during the process and what the timeframes are - inform them of any delays and the reasons behind them
- act in a fair and impartial manner towards all parties involved
- give parties a reasonably opportunity to respond to the investigation findings, and genuinely consider their feedback.

Appendix B: Templates and examples

Note: Templates are available as Word versions or PDF forms on the WorkSafe website: worksafe.govt.nz

Example of a health and safety dashboard for a fictitious organisation

HEALTH AND SAFETY DASHBOARD FOR XYZ LIMITED (2015)

Current area of focus

AREA	2015	COMMENT
Notifications to WorkSafe	1	This was when a worker suffered a serious burn that required hospital admission. Control measures were reviewed and updated to identify the cause of the injury and to prevent recurrence.
# health and safety concerns raised by workers	10	Those concerns marked 'urgent' were reviewed within one hour of being received. All other concerns were reviewed within five working days.
Emergency plan drills	2	Fire alarm evacuations were completed within a satisfactory time. However some workers needed a reminder to not carry hot drinks on the stairs.
% workers taking part in health monitoring programmes	70%	This is an improvement to 2014 result and possibly due to discussions with workers about the reasons for health monitoring.
% exposure monitoring tests that exceeded the set standard	12%	Control measures were reviewed and updated to reduce exposure below the set standard.
% workers received flu vaccines	70%	This is similar to previous years.
% turnover	10%	This is similar to the 2014 result and an improvement on the 2013 result.
% absence rate	5%	This is similar to the 2014 result and an improvement on the 2013 result.

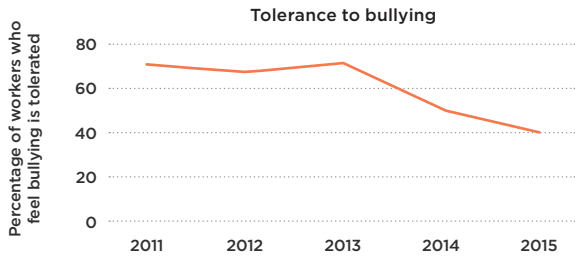
Progress on initiatives

INITIATIVE	PROGRESS
Improving worker participation	Three Health and Safety Representatives (HSRs) were elected by workers. The HSRs have undergone training. A regular meeting has been set up between HSRs and management.
Equipment and plant checks	All vehicles have current WOFs and have had recent services. Workers are now reminded to regularly check personal protective equipment (PPE) for wear and damage. There is a form to request new PPE.
Anti-bullying initiative	An update follows. This initiative appears to be working to reduce bullying.

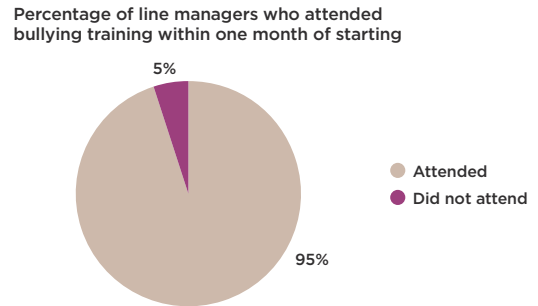
Initiative update

Summary of progress since the new anti-bullying approach was implemented in mid-2013.

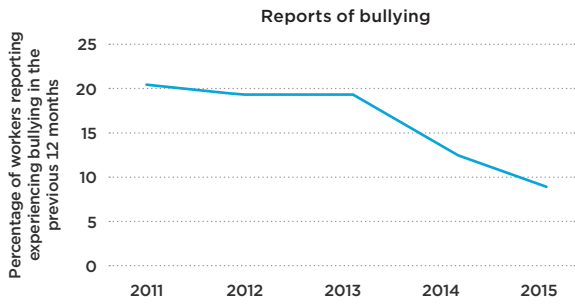
A majority of workers now feel that bullying is not tolerated by the business



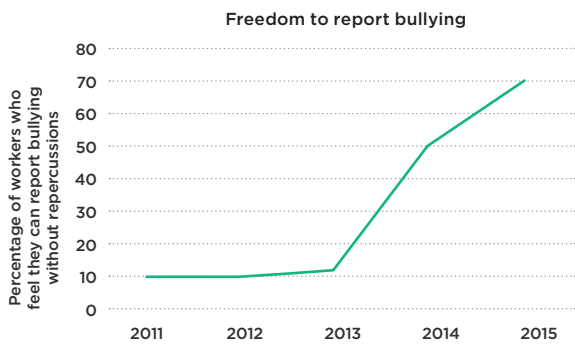
Almost all new line managers receive anti-bullying training within a month



The reports of bullying are decreasing



The reports of bullying are decreasing



Template for an anti-bullying policy

This template should be adopted with careful consideration by the business or undertaking. Consultation and discussion with workers and HSRs/HSCs and unions (if relevant) should take place before rolling out the policy. The policy should be supported by a good implementation process, and workers should be trained in both the policy and processes.

After discussions involving all workers which led to general agreement, Company X puts on record that bullying at work has the potential for:

- serious consequences
- an individual to experience health problems, loss of self-esteem and performance ability
- divisions in the workplace to occur as people take sides
- financial and productivity losses for workers and the company.

Bullying defined

Bullying is defined as unreasonable and repeated behaviour towards a person or group that can lead to physical or psychological harm.

Repeated behaviour is persistent and can include a range of actions.

Unreasonable behaviour covers actions which a reasonable person wouldn't do in similar circumstances, including victimising, humiliating, intimidating or threatening a person.

A single incident isn't considered bullying but can escalate if ignored. Managing performance in line with business policies and processes is not bullying.

Company X will do the following to minimise and respond to workplace bullying. Senior management and the board of directors will minimise workplace bullying by:

- establishing respect for the broad range of human values and character strengths required for this organisation to survive
- actively looking for ways to create a positive workplace ('healthy work') that workers feel is pleasant, fair, rewarding and positively challenging
- encouraging positive leadership styles and investing in our managers to achieve this
- training key workers to receive bullying reports and give support and advice
- directing attention towards behaviour rather than people, and aiming to promote harmonious relationships across the organisation
- providing workers who believe they've been bullied with a range of options to resolve the issue
- promoting low-key solutions before formal actions where appropriate
- aiming to repair the working relationship and promote positive work values
- openly discussing bullying, in both formal and informal settings, and providing information and training about it
- identifying factors that contribute to bullying, and putting effective control measures in place
- ensuring our processes and systems are fit for purpose and regularly reviewed
- having regular worker surveys on our work culture.

Workers agree to:

- tell their managers if they experience or see any bullying behaviours - if the manager is the person behaving in a bullying manner then advise (name other contacts)
- try low-key solutions, eg talking to the person initially (if safe to do so)
- follow the company's informal or formal processes when making a complaint
- keep an eye out for other people, providing support when seeing a person being isolated or experiencing reprisals
- accept that perceptions of bullying may need to be negotiated.

Managers agree to:

- ensure workers have clarity on what their roles entail
- intervene early to call out and deal with any unreasonable behaviour before it escalates
- record and investigate complaints fairly and in line with the business or undertaking's policies and processes
- look for informal solutions before escalating an issue to higher levels (eg mediation or investigation) where appropriate.

When dealing with an allegation of bullying our company will:

- treat all matters seriously and investigate promptly and impartially
- ensure neither the person who complained nor the alleged bully are victimised
- support all parties involved
- find appropriate remedies and consequences for confirmed bullying as well as false reports
- communicate the process and its outcome
- ensure confidentiality
- use the principles of natural justice
- keep good documentation
- have specialist external advisors available to help.

This policy was developed by representatives from the board of directors, senior management, line managers, workers, HSRs/HSCs and unions (if relevant).

Template for an informal reporting of unreasonable behaviour

This form is to informally report behaviour that has upset you. Record the details below.

Name:

What has happened: (date, time, location, who was present, what happened, who did what)

How did this behaviour make you feel:

How has this behaviour affected your work:

Have you taken any actions? If so, what:

As a result of this report, what do you want to happen:

Please give this report to: (appropriate person in business or undertaking)

Template for a formal complaint

This form is to lay a formal complaint. Record the details of the complaint below.

Incident 1

Repeat table as needed.

Name:

When did it happen

Time: HH : MM

Date: DD / MM / YEAR

Where did it occur:

Who was present:

What was said and who said what:

Why do you think it is bullying

It's unreasonable because:

It's repeated because:

It's endangered my health or safety because:

Who witnessed this incident:

How did this incident make you feel:

How has this incident affected your work:

Have you taken any actions? If so, what:

As a result of this complaint, what do you want to happen:

Please give this complaint to: (appropriate person in business or undertaking)

Appendix C: Glossary

TERM	EXPLANATION OR LEGAL DEFINITION (AS NOTED)
The Health and Safety at Work Act 2015 (HSWA)	New Zealand's key work health and safety legislation is the Health and Safety at Work Act 2015 (HSWA) and regulations made under that Act. All work and workplaces are covered by HSWA unless specifically excluded.
Health and Safety Committee (HSC)	Supports the ongoing improvement of health and safety at work. An HSC enables PCBU representatives, workers and other HSC members to meet regularly and work co-operatively to ensure workers' health and safety.
Health and Safety Representative (HSR)	Is defined in HSWA as a worker elected as an HSR in accordance with subpart 2 of Part 3 of HSWA. HSRs are elected by members of their work group to represent them in health and safety matters. Throughout these guidelines, the term HSR means an elected representative who meets the requirements of HSWA and the Health and Safety At Work (Worker Engagement, Participation and Representation) Regulations 2016. It does not apply to people who are referred to as health and safety representatives under other arrangements, but who are not elected under HSWA.
PCBU (section 17 of HSWA)	<ul style="list-style-type: none"> a. means a person conducting a business or undertaking: <ul style="list-style-type: none"> i. whether the person conducts a business or undertaking alone or with others; and ii. whether or not the business or undertaking is conducted for profit or gain; but b. does not include: <ul style="list-style-type: none"> i. a person to the extent that the person is employed or engaged solely as a worker in, or as an officer of, the business or undertaking; ii. a volunteer association; iii. an occupier of a home to the extent that the occupier employs or engages another person solely to do residential work; iv. a statutory officer to the extent that the officer is a worker in, or an officer of, the business or undertaking; v. a person, or class of persons, that is declared by regulations not to be a PCBU for the purposes of this Act or any provision of this Act.
Reasonably practicable (section 22 of HSWA)	<p>In relation to a PCBU's primary duty, the duty of PCBUs who manage or control a workplace, or who manage or control fixtures, fittings or plant at workplaces, and the upstream PCBU duty 'reasonably practicable' means that which is, or was, at a particular time, reasonably able to be done in relation to ensuring health and safety, taking into account and weighing up all relevant matters, including:</p> <ul style="list-style-type: none"> a. the likelihood of the hazard or the risk concerned occurring; and b. the degree of harm that might result from the hazard or risk; and c. what the person concerned knows, or ought reasonably to know, about: <ul style="list-style-type: none"> i. the hazard or risk; and ii. ways of eliminating or minimising the risk; and d. the availability and suitability of ways to eliminate or minimise the risk; and e. after assessing the extent of the risk and the available ways of eliminating or minimising the risk, the cost associated with available ways of eliminating or minimising the risk, including whether the cost is grossly disproportionate to the risk.
Union	<p>Is an organisation that supports its membership by advocating on its behalf. The Employment Relations Act 2000 gives employees the freedom to join unions and bargain collectively without discrimination. Workers can choose whether or not to join a union.</p> <p>A union is entitled to represent members' employment interests, including health and safety matters.</p>
Worker (section 19 of HSWA)	<p>Means an individual who carries out work in any capacity for a PCBU, including work as:</p> <ul style="list-style-type: none"> a. an employee; or b. a contractor or subcontractor; or c. an employee of a contractor or subcontractor; or d. an employee of a labour hire company who has been assigned to work in the business or undertaking; or e. an outworker (including a homeworker); or f. an apprentice or a trainee; or g. a person gaining work experience or undertaking a work trial; or h. a volunteer worker; or i. a person of a prescribed class. <p>A PCBU is also a worker if the PCBU is an individual who carries out work in that business or undertaking.</p>

TERM	EXPLANATION OR LEGAL DEFINITION (AS NOTED)
Workplace (section 20 of HSWA)	a. means a place where work is being carried out, or is customarily carried out, for a business or undertaking; and b. includes any place where a worker goes, or is likely to be, while at work. In this section, place includes: a. a vehicle, vessel, aircraft, ship, or other mobile structure; and b. any waters and any installation on land, on the bed of any waters, or floating on any waters.
WorkSafe New Zealand (WorkSafe)	WorkSafe is the government agency that is the work health and safety regulator.

Disclaimer

This publication provides general guidance. It is not possible for WorkSafe to address every situation that could occur in every workplace. This means that you will need to think about this guidance and how to apply it to your particular circumstances.

WorkSafe regularly reviews and revises guidance to ensure that it is up-to-date. If you are reading a printed copy of this guidance, please check worksafe.govt.nz to confirm that your copy is the current version.

ISBN: 978-1-98-856722-8 (print)

ISBN: 978-0-908336-97-5 (online)

Published: February 2017

PO Box 165, Wellington 6140, New Zealand

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