

TAKE SHELTER

Understanding just what bullying is can help understand how to deter it

by HUGH KINGSLEY

Ancedotal evidence suggests that many Australian employers have failed to fully understand and implement effective compliance strategies associated with the new workplace laws covering bullying and harassment. An article last year in the *Weekend Australian Magazine* claimed "Workplace bullying has become a catch-all for compensation claims that cost businesses billions every year". In the same article, former Victoria Premier Jeff Kennett has compared this situation to the flood of repetitive-strain-injury-compensation claims associated with the introduction of computers to workplaces back in the 1980s.

Like repetitive strain injury, workplace bullying can be difficult to understand. Maybe, this is because both are slippery concepts to concretise. Nonetheless employers have a legal responsibility to address this important compliance issue. Respectful workplaces can be seen as an antithesis for bullying and harassment. An ongoing commitment to this premise can see bullying and harassment behaviours fall off and employees more focused on their work.

PROBLEM FOR EMPLOYERS

Workplace bullying and harassment has become a key issue for employers for two important reasons. Firstly, employers now

"THE CRIMES ACT HAS ALSO BEEN AMENDED TO IMPOSE JAIL TERMS FOR PERPETRATORS IN THE MORE EXTREME CASES OF BULLYING"

JIM RUTHERFORD
PRINCIPAL, HARWOOD ANDREWS

have a legal obligation to fulfil and secondly, workplace bullying and harassment can cost organisations millions of dollars in lost productivity, unnecessary staff turnover and reduced competitive edge. The victims and bystanders of workplace bullying suffer both physical and emotional symptoms, including depression, anxiety, pain, digestive problems and low self-esteem. And their work suffers as a consequence.

In addition, organisations expose themselves to costly claimant payouts if they allow these negative behaviours to infiltrate and proliferate. Noteworthy cases include David

Jones Australia, Deutsche Bank UK and Walmart US. Interestingly, many cases are settled without media exposure.

Research by Kusy & Holloway found "64 per cent of the respondents were currently working with a toxic personality, and a whopping 94 per cent have worked with someone toxic in their career". And, with the massive increase in cyber-bullying, organisations also need to be on the alert for this most insidious form of bullying.

LEGAL INTERPRETATION

Australia is one country which appears to be leading the way in addressing workplace bullying and harassment through legislative changes. Jim Rutherford, principal of Harwood Andrews, an accredited specialist in workplace relations law says: "The Australian federal government has attempted to introduce uniform Occupational Health and Safety Laws in each State and Territory of Australia. These new laws were meant to be implemented in each state and territory by 1 January this year. However, Victoria, South Australia, Western Australia and Tasmania have delayed implementing them. The new laws will impose an obligation on duty holders (which includes employers) to take reasonable and appropriate measures to eliminate discrimination, harassment, and victimisation as far as possible. Employers

need to ensure that they have taken all reasonable precautions to prevent unlawful behaviour such as bullying, harassment, discrimination and victimisation from occurring."

Under the current Victorian Occupational Health and Safety Act employers are obliged to maintain safe workplaces. Employers must have policies in place which prohibit workplace bullying and harassment, train employees and managers about these policies and monitor the workplace to ensure the policies are complied with.

Clearly, all Australian employers have serious obligations to meet in relation to workplace bullying and harassment. "A breach of these obligations can result in criminal penalties with a maximum fine for a single offence of more than \$1 million," says Rutherford. "The Crimes Act has also been amended to impose jail terms for perpetrators in the more extreme cases of bullying, although this penalty will not extend directly to employers. Further, employees who are victims can also bring WorkCover claims and civil claims in VCAT or the Federal Court. It is not unusual these days for victims of sexual harassment to be seeking million dollar payouts."

Therefore employers can find themselves liable to claims of workplace bullying and harassment through a variety of laws and claims can also be made through a variety of avenues. Naturally, full compliance is an essential action required by all employers. However, it is also important to recognise that compliance alone may not lead to the desired behavioural changes in relation to bullying and harassment. When compliance is seen as an organisational change process, it is relevant to note that effective organisational change is essentially a learning process, which takes considerable resources, time and effort.

BULLYING DEFINED

Bullying has been around ever since an imbalance of power existed between two or more people or groups of people or countries. So, while there is nothing new about workplace bullying and harassment, what

"WORKPLACE BULLYING IS VERBAL, PHYSICAL, SOCIAL OR PSYCHOLOGICAL ABUSE..."

THE AUSTRALIAN HUMAN RIGHTS COMMISSION

appears to be new is the increasing awareness of the serious damage it can cause to individuals and organisations. And now there is a legal requirement for organisations to find solutions to this serious issue.

Definitions of bullying, also known as hazing and mobbing, abound. The Australian Human Rights Commission states: "Workplace bullying is verbal, physical, social or psychological abuse by your employer (or manager), another person or group of people at work. Workplace bullying can happen in any type of workplace, from offices to shops, cafes, restaurants, work-shops, community groups and government organisations. Workplace bullying can happen to volunteers, work experience students, interns, apprentices, casual and permanent employees. Some types of workplace bullying are criminal offences."

Simply, bullying can be defined as, repeated disrespectful behavior toward an individual or group of individuals. The key elements that make up most definitions can be characterised by:

- Imbalance and misuse of power
- Repetition
- It being deliberate
- Intention to change power status
- Lack of empathy.

Workplace bullying involves four key character groups: bullies, targets, victims and bystanders (see sidebar). But it is the non-physical negative behaviours associated with



BULLY

The individuals and/or groups of individuals who repeatedly create a power imbalance between themselves and other people, which benefits them only.



TARGET

The individuals and/or groups of individuals who are targeted by the bullying behaviour and usually suffer as a consequence.



VICTIM

The individuals and/or groups of individuals who have gone from being targets of bullies to victims of bullying behaviour. Again, they suffer as a consequence.



BYSTANDER

The individuals and/or groups of individuals who observe the bullying but are not directly targeted. Nonetheless, bystanders often live in fear of being the next target. However, bystanders have power to influence bullying behaviours by either supporting or not supporting it. Interestingly, targets of workplace bullying and abuse need not become victims. Rather, they can choose to assert themselves and remain targets that can appropriately deflect these unwarranted and unwanted negative behaviors. In doing so, they can focus on performing the jobs they are employed to perform.

Humans are not limited to any one group: they can move in and out of different characters as any situation dictates. In short, the law is trying to wipe out all four character groups.

bullying and harassment that make it so hard to concretise as a term. Workplace bullying and harassment often take place as a sequence of non-dramatic small events. They are hard for targets and victims to spot, difficult to complain about and sometimes hard to believe or see as a problem. Workplace bullying and harassment behaviours can be identified as:

- Withholding information
- Isolation from other workers
- Use of sarcasm, humiliating and/or belittling remarks
- Public criticism and/or humiliation
- Persistent unfair criticism
- Blocking promotion
- Setting of unrealistic goals
- Refusing reasonable requests
- Intimidation to prevent spreading malicious rumours
- Takes undeserved credit and/or improperly shifts blame
- Shouting and verbal abuse
- Displays uncontrolled anger, shouting and/or using vulgar language
- Physical threats
- Discounting or denial of accomplishments
- Undermining authority
- Invading privacy, such as reading emails or inspecting a computer hard drive
- Pattern of intimidation to prevent taking vacation or sick leave
- Demanding perfection in trivial matters
- Pattern of assigning meaningless tasks
- Setting objectives that cannot be achieved
- Excessive monitoring of work
- Sending memos that are designed to intimidate.

Bystanders suffer many of the same symptoms as the targets due to the fear that they may be the next targets and due to the abusive atmosphere in which the bullying takes place. Respectful workplaces represent a powerful deterrent to workplace bullying and harassment.

If we see bullying as both covert and overt, it is easy to see covert bullying through tangible inappropriate behaviours such as verbal and physical abuse. But when we see it as covert bullying such as exclusion, it is almost impossible to see and remedy. To make matters worse, bullying and harassment has been embedded and legitimated in our cultures for numerous generations through work practices, gender inequalities, politics, the media, religion, sport, parenting and leadership styles.

If bullying were likened to an iceberg, overt bullying would be above the surface and easy

to see and remedy. And covert bullying would be below the surface, difficult to see and almost impossible to remedy. Interestingly, it is below the surface that the bulk of workplace bullying and harassment would be found.

WHAT IS NOT BULLYING?

To fully understand bullying, we also need to understand what is not bullying. Work Safe Victoria points out that employers have legitimate authority to direct and control the way work is organised and performed. Employers can allocate work and managers and supervisors can give fair and reasonable feedback on a worker's performance, such as:

- Setting performance goals, standards and deadlines
 - Allocating work to a worker
 - Rostering and allocating work hours
 - Transferring a worker
 - Deciding not to select a worker for promotion
 - Informing a worker about unsatisfactory performance
 - Informing a worker about inappropriate behaviour
 - Implementing organisational changes
 - Performance management processes
 - Constructive feedback
 - Downsizing.
- (www.worksafe.vic.gov.au)

Although, Work Safe Victoria gives employers, and by extension their line managers, legitimate authority to direct and control the way work is organised and performed, employers and their line managers need to make sure they do so without the use of bullying or harassment in any form.

Maybe this is an area of confusion, which may explain why many employers seem to have failed to fully understand and meet their obligations. A clearer understanding of what employers, line managers and employees' rights and responsibilities are may lead to a reduction of claims wrongly interpreted as bullying and harassment. In the 1980s there may have been less mistaken claims for repetitive strain injury if both employers and employees had a clearer understanding of what was meant by the term 'repetitive strain injury'.

WHY BULLYING BEGINS?

Bullying and harassment starts and thrives in organisations for many reasons. There are



Further reading

- Bullying at Work**, Andrea Adams, London, Virago Press, 1992.
- Bullying and Emotional Abuse in the Workplace**, SH Einarson, H Hoel, D Zapf, and CL Cooper (eds), London, Taylor and Francis Books, 2003.
- CEOs and Organisational Change, A View from the Top**, Hugh Kingsley, 1998.
- Toxic Workplace! Managing Toxic Personalities and Their Systems of Power**, M Kusky and E Holloway, Wiley, 2009.
- The Allure of Toxic Leaders**, Jean Lipman-Blumen, New York, Oxford University Press, 2005.
- The Respectful Workplace Game**, F Rubenstein and H Kingsley, Franklin Learning Systems, 2009.

often benefits for the bully, including feelings of dominance, revenge, and power; bullying behaviour is rewarded in certain organisations as examples of "tough" management; in most organisations there is usually no cost for the bully; bystanders are usually powerless to intervene to stop the bullying; targets are usually reluctant to take formal action, such as a lawsuit or grievance due to the possible negative consequences (further bullying and dismissal); and management is often reluctant to take action against managers who are bullies, but successful in their positions.

Sadly, leadership and management through bullying and harassment has been a dominant model in many workplaces. While this model may help organisations achieve short-term goals, it is usually at the expense of organisational health and long-term goals.

RESPECTFUL WORKPLACES

One effective way of thwarting bullying and harassment in the workplace is by developing respectful workplaces where

employees feel safe and unhindered to perform the duties of the jobs they have been employed to perform.

A respectful workplace is one where members are continually vigilant in insuring that they act in a respectful way and do not bully or harass other members. Members work to support, not put down other members.

In this way employees can be more productive because they are more focused on their work. In non-respectful workplaces employee's productivity is likely to suffer as they become distracted by job insecurity, personal financial issues, and the physical and emotional symptoms associated with bullying and harassment.

The principals of respectful workplaces involve communication skills that will give organisational members the ability to deal with difficult and tricky situations without bullying and without the chance that someone could misconstrue the communication as bullying.

An educational game I co-designed (The Respectful Workplace Game) identified the following five principles applicable to developing respectful workplaces:

- Maintain the self-respect and motivation of others (even when criticising)
- Criticise actions and ideas, not people (criticise behaviour, not the character or capabilities of individuals)
- Support others, rather than undermine them – keep the focus on improvement, not punishment
- Set realistic and attainable goals – requests and expectations should meet a standard of attainability and reasonableness. This is true when setting goals for self and others
- Act assertively, not passively or aggressively – avoid the pitfall of taking aggressive action while thinking that it is assertive.

These principles can also be utilised as the basis for organisations wanting to develop their own policies in relation to complying with the laws pertaining to workplace bullying and harassment.

Hugh Kingsley is an educationalist and founder of The Brainary. For more information, email Hugh@thebrainary.com.

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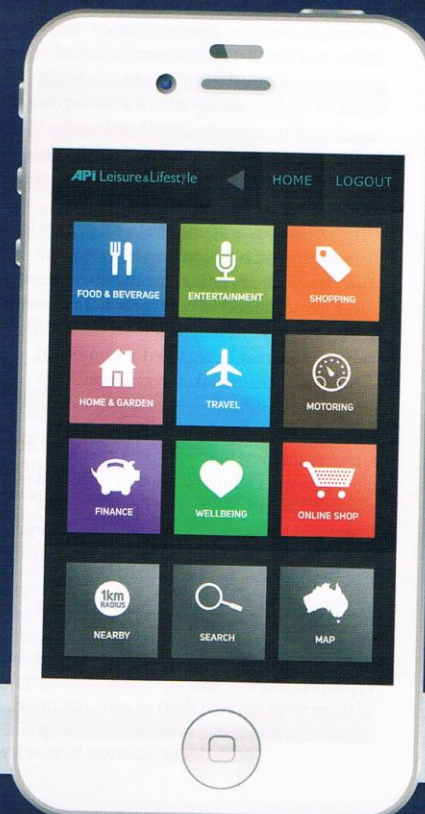
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