

Bully code needs whipping into shape

PUBLISHED: 06 Jan 2012 PRINT EDITION: 06 Jan 2012

Jason Murphy and Lucille Keen

A controversial national code of practice on workplace bullying needs refinement if it is to reduce the heavy burden that claims place on human resource departments, according to experts.

Maurice Blackburn employment lawyer Terri Butler said codes of practice helped employers minimise risks to the workforce.

“When finalised, a national code of practice on workplace bullying will be another string to the bow in the fight against bullying,” she said.

But if the code is not improved from the draft form, the risk will be borne by business, according to business representatives.

Safe Work Australia – the organisation that will administer the new harmonised national workplace safety law – issued a draft code of practice on bullying for public comment last year.

The submissions, recently made available, show business and unions are unhappy with the draft code.

Australian Human Resources Institute president Peter Wilson said if the bullying code were “heavy-handed” and “blunt” companies would need to invest in resources that could affect company productivity.

“If the claim requires a long workplace and legal process this can be expensive. The code needs to deliver a safe, fair and productive workplace, a sensible balance.”

Mr Wilson said the indirect costs of bullying in the workplace could be huge.

“When bullying becomes part of the culture it affects productivity,” he said.

“Bullying is like sexual harassment and can lead to companies spending hundreds of thousands and end up in court.”

Mediator and bullying expert Sheila Freeman said the national code of practice could increase the workload for human resources departments.

“Hopefully it’s going to make HR more aware that training is needed ... to let employees know that bullying is not going to be tolerated, and to make managers aware of what’s happening in their organisations.”

She said awareness could increase claims. “One person puts in a complaint and ... it opens the floodgates a bit ... in a way it’s good because it gives people the confidence to come forward.”

She said fears of vexatious claims were misplaced.

“There might be the odd one but there wouldn’t be many. Most of them would be substantiated.”

Several submissions objected that a definition of workplace bullying that required multiple incidents for it to be recognised risked missing serious psychological attacks in a workplace that happened only once.

But Ms Freeman insisted those matters should be dealt with separately. “Bullying is not a one-off incident. Something can happen at any time and you might say the wrong thing or whatever. That’s not bullying. Bullying is ongoing [actions] ... They might seem very trivial but when you start linking them all together, you notice there is a pattern.”

Workplace Relations Minister Bill Shorten said bullying could not be tolerated.

“We’re determined to get a code and an agreed standard in terms of making sure the workplace bullying is completely stamped out,” he said. “I have no doubt that we’re capable of resolving the disagreements here.”

A 2011 survey of 5000 employees by employment company WorkPro found 23 per cent claimed to have been bullied in the past two years, and 68 per cent worried whether their own behaviour could be seen as bullying.

Bullying can occur in all workplaces, from least skilled to most skilled.

In a 2011 article for the *Australasian Law Management Journal*, Kris Will argued lawyers needed training on what constituted bullying.

“Frustrated supervising partners, senior lawyers, or managers who are ill-equipped to manage poor performance or inappropriate workplace behaviours can find themselves unintentionally bullying staff.”

The draft code is part of a process of national workplace safety law harmonisation begun in 2008

Model laws, model regulations and model codes of practice have been developed by Safe Work Australia in discussion with state WorkCover authorities.

Harmonised laws are intended to cut the costs of business for companies operating across state borders.

NSW and Queensland are committed to the new law, while SA, Victoria and WA have sought delays in their introduction.

The post-traumatic-stress reactions of train drivers who have run over people committing suicide are less severe than the results of some long-term bullying by multiple perpetrators, according to international research.

Bullying can spread negative effects throughout the organisation. Up to one in five witnesses to bullying leave as a result, according to Australian research.

Thuggish behaviour

Characteristics of bullying

WHO HAS DUTIES IN RELATION TO WORKPLACE BULLYING?

- Everyone in the workplace
- A person conducting a business or undertaking has the primary duty
- Officers, such as company directors, must exercise due diligence

WHAT IS WORKPLACE BULLYING?

Workplace bullying is repeated, unreasonable behaviour directed towards a worker – or a group of workers – that creates a risk to health and safety

EXAMPLES OF DIRECT BULLYING INCLUDE

- Abusive, insulting or offensive language
- Spreading misinformation or malicious rumours
- Behaviour or language that frightens, humiliates, belittles or degrades, including criticism that is delivered with yelling or screaming

EXAMPLES OF INDIRECT BULLYING INCLUDE

- Unreasonably overloading a person with work or not providing enough work
- Setting timelines that are difficult to achieve or constantly changing deadlines
- Deliberately excluding, isolating or marginalising a person from normal work activities

BULLYING CAN BE

- Downwards from managers to workers
- Sideways between workers or co-workers
- Upwards from workers to supervisors



REACTIONS MAY INCLUDE

- Distress, anxiety, panic attacks or sleep disturbance
- Physical illness, such as muscular tension, headaches and digestive problems
- Depression and risk of suicide

SOURCE: DRAFT CODE OF PRACTICE ON BULLYING

The Australian Financial Review

Related News

People [Bill Shorten](#)

Topics [Employment & Industrial Relations](#), [Politics/Legislation](#)

See also

- [Small business has a bully beef](#)
- [Editorial | Anti-bullying code a burden for bosses](#)



Create an alert

Click on the links below to create an alert and receive the latest news as it happens

People [Bill Shorten](#)

Topics [Employment & Industrial Relations](#), [Politics/Legislation](#)