

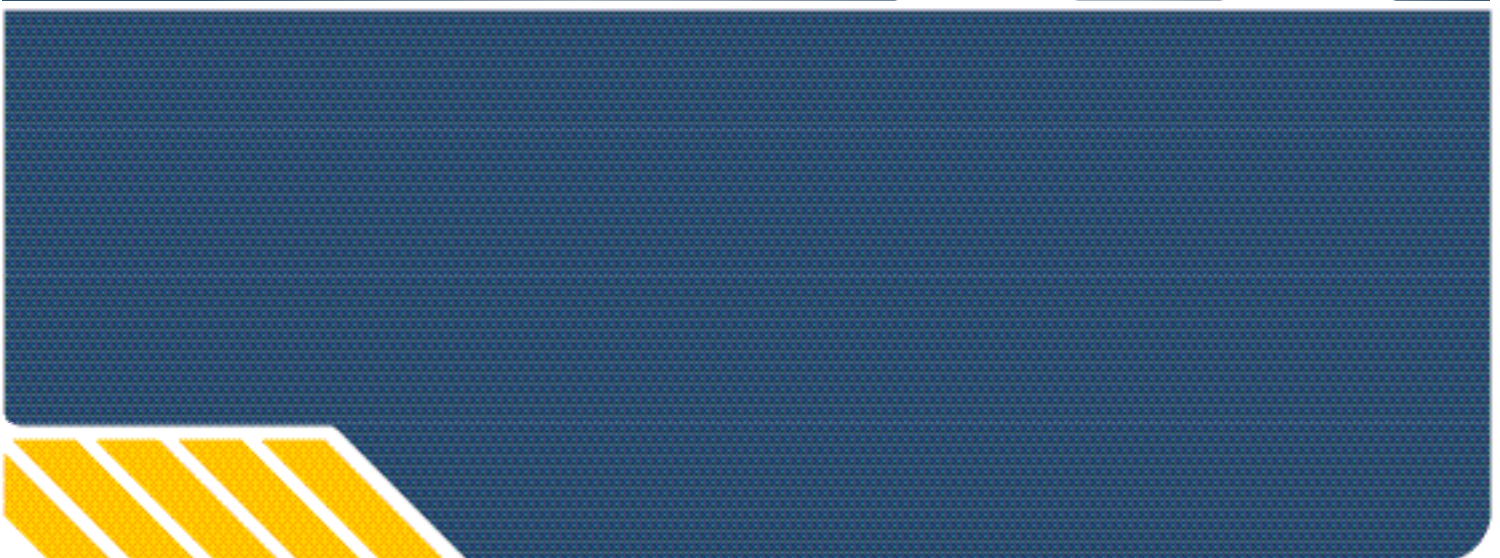


WORKSAFE VICTORIA

PREVENTION OF BULLYING AND VIOLENCE AT WORK

February 2003

GUIDANCE NOTE



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NOT PART OF THE JOB

Bullying and occupational violence are issues which are, rightly, causing increasing concern and need to be addressed by the Victorian community.

Apart from the physical and psychological effects on individuals, their families and colleagues, they reduce productivity across an organisation.

They are mainstream issues that should be considered in every workplace.

Bullying can cost not only the goodwill of the workforce, and profits, but also the company's reputation if the matter goes to court.

Occupational violence also has a broad range of effects on workplaces and individuals.

Of particular concern is that young people, at the start of their working lives, are among the most vulnerable. This material shows that bullying and occupational violence are not "part of the job" and are never acceptable.

Bullying and occupational violence are issues that must be seriously addressed by business, the workforce and the community. Employers need to assess risk, ensure control measures are in place and join with the workforce to ensure it does not become a problem.

This guidance material is a significant step forward in the program of the Victorian Government and WorkSafe to change attitudes towards bullying and occupational violence in the workplace. The prevention framework explains how organisations can take steps to make workplaces safer.

This Guidance Note has been prepared with the assistance of employer groups and unions whose representatives have worked closely with WorkSafe Victoria. I commend all parties for their hard work and preparedness to address these issues and identify practical solutions.

Rob Hulls

Minister for WorkCover
Attorney General



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Workplace bullying and occupational violence can affect employees and organisations in a number of ways.

The effects can range from actual psychological and physical injuries to reduction in employee productivity.

Employers have legal responsibilities to do as much as practicable to eliminate or reduce risks to employees' health and safety. Employees also have legal responsibilities about how they act towards others in the workplace. (See Appendix A)

Employee participation is a key element in an effective health and safety management system. Employees are more likely to support actions to improve health and safety if they understand and contribute to those actions. Employee involvement and consultation promotes commitment to health and safety, and develops a positive health and safety culture. One method of ensuring employee participation is through consultation with workplace health and safety representatives.

This guidance note provides practical information about how to protect everyone in your workplace from risks to health and safety caused by bullying and occupational violence. The purpose of this guidance note is to assist workplaces to eliminate or reduce these risks to health and safety.

Part one - Preventing workplace bullying provides practical information to help identify instances of bullying, and work environments which may contribute to the risk of it occurring. It also provides advice on prevention measures and appropriate responses to incidents of bullying.

Part two - Preventing occupational violence provides practical information on how to identify hazards, and assess and control risks of occupational violence.



PART ONE: PREVENTING WORKPLACE BULLYING





PART ONE: PREVENTING WORKPLACE BULLYING

1 WHAT IS BULLYING?

Bullying can occur wherever people work together. Under certain conditions, most people are capable of bullying. Bullying is not always intentional. Sometimes people do not realise that their behaviour can be harmful to others.

1.1 Defining workplace bullying

Workplace bullying is repeated, unreasonable behaviour directed toward an employee, or group of employees, that creates a risk to health and safety.

Within this definition:

“unreasonable behaviour” means behaviour that a reasonable person, having regard to all the circumstances, would expect to victimise, humiliate, undermine or threaten

“behaviour” includes actions of individuals or a group, and may involve using a system of work as a means of victimising, humiliating, undermining or threatening

“risk to health and safety” includes risk to the mental or physical health of the employee

The following types of behaviour, **where repeated or occurring as part of a pattern of behaviour**, could be considered bullying:

- verbal abuse
- excluding or isolating employees
- psychological harassment
- intimidation
- assigning meaningless tasks unrelated to the job
- giving employees impossible assignments
- deliberately changing work rosters to inconvenience particular employees
- deliberately withholding information that is vital for effective work performance

This list is not exhaustive. Other types of behaviour may also constitute bullying.

Note: An employee may be a manager or supervisor.

What is “unreasonable” behaviour?

“Unreasonable” refers to behaviour that a reasonable person, having regard to all the circumstances, would expect to humiliate, intimidate, undermine or threaten.

In this context, a “reasonable person, having regard to all the circumstances” means a hypothetical reasonable person who has observed the situation. “...having regard to all the circumstances” does not mean that this hypothetical person has total knowledge of every aspect of the situation. Rather, this person knows as much as the alleged bully could reasonably be expected to know.

What is “repeated” behaviour?

“Repeated” refers to the persistent nature of the behaviour, not the specific form the behaviour takes. Behaviour is considered “repeated” if an established pattern can be identified.

It may involve a series of diverse incidents – for example, verbal abuse, deliberate damage to personal property and unreasonable threats of dismissal.

What about a single incident?

According to the definition, a single incident of bullying-style behaviour does not constitute workplace bullying. However, since an employer has a general duty to provide his or her employees with a safe workplace and safe system of work, single incidents of bullying-style behaviour should not be ignored or condoned.

If the behaviour displayed during a single incident of bullying-style behaviour involves a physical attack or threat of physical attack, it may be dealt with under the guidance note as an instance of occupational violence (see Part Two).



This case study demonstrates all of the elements of the definition of workplace bullying used in this document.

CASE STUDY: BULLYING

A project officer was subjected to bullying by a colleague over a number of months. The behaviour directed at the project officer was hostile and harassing and included:

- often finding fault with his work when it was inappropriate to do so
- regularly subjecting him to offensive verbal abuse
- threatening to get him sacked and telling him that he and his family would end up in the gutter, and
- publicly making disparaging comments about his relationship with his wife

A number of incidents were witnessed by other employees. The colleague's bullying tactics had an adverse psychological effect on the project officer. Normally positive and outgoing, he became severely stressed and anxious. Eventually, he was unable to continue working for the organisation due to stress injury.

Repeated unreasonable behaviour

The behaviour created a risk to health and safety

1.2 Sources of bullying

Bullying usually comes from a source inside the workplace.

- An employee may bully another employee
- An employer may bully an employee or group of employees
- A group of employees may bully an individual or another group of employees

Clients and customers may also bully employees. The guidance on managing the risk of occupational violence can be used to address the problem of bullying perpetrated by clients and customers (see Part Two).

1.3 Managerial actions

This guidance note is not intended to diminish an employer's managerial prerogative to direct and control how work is done in their organisation other than in terms of ensuring, so far as is practicable, the health and safety of employees.

The guidance note is not intended to cover poor or bad management practices on their own, because they are not considered bullying.

The guidance note does not cover situations where an employee has a grievance about legitimate and reasonable:

- performance management processes
- disciplinary action
- allocation of work in compliance with systems

The guidance note does not treat business processes, such as the implementation of organisational change or downsizing, as incidents of bullying. However, they may contribute to producing an environment where bullying is more likely to occur (see Section 7.2).

PART ONE: PREVENTING WORKPLACE BULLYING

2 PREVENTING WORKPLACE BULLYING

The prevention approach used in this guidance note is based on the premise that bullying can occur in any workplace, given certain circumstances. While an organisation might appear to be free from bullying, it still may be happening.

Bullying can be difficult to detect. Incidents of bullying may not always be reported because employees might:

- fear retribution or “payback” from the bully
- believe that no-one will act on the problem
- fear being labelled “weak” or “whinging”
- think that reporting will affect their career prospects
- accept bullying as a normal part of work culture

As bullying can occur wherever people work together, this guidance note recommends that employers implement a range of complementary prevention measures.

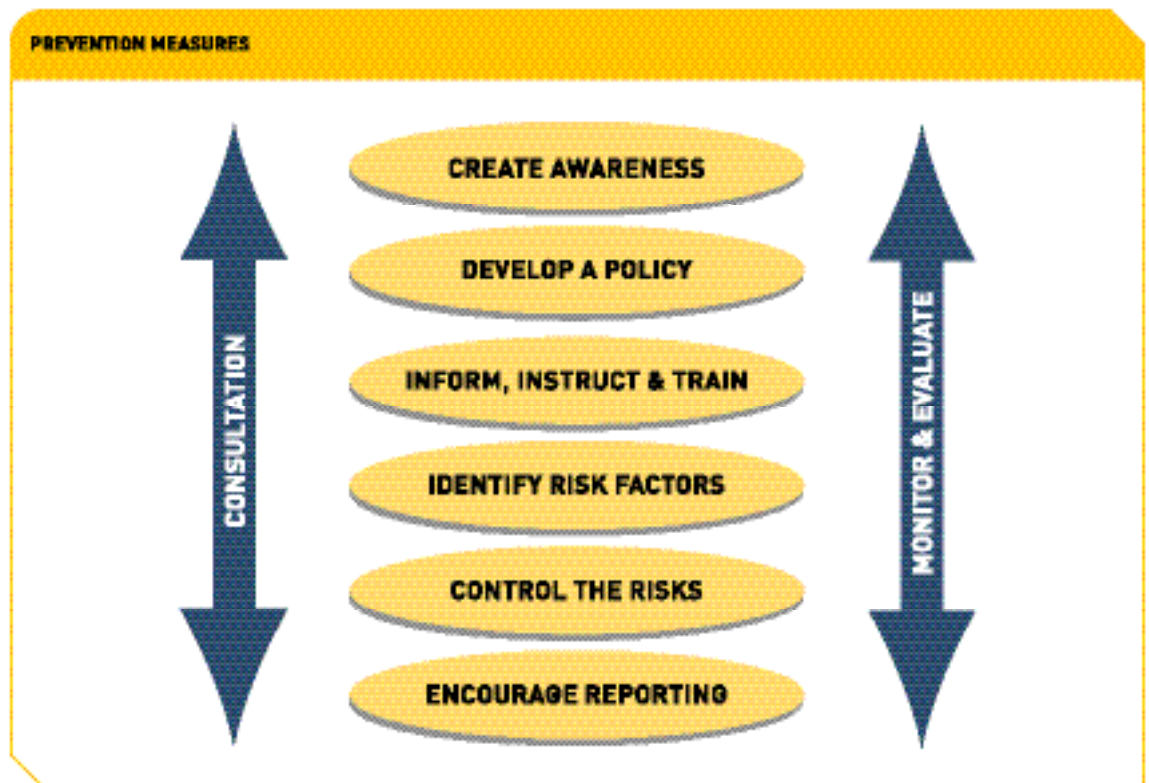
The recommended prevention measures in Figure 1 are designed to reduce the likelihood of bullying occurring.

Because any one measure by itself will not adequately reduce the risk of bullying, it is important that these measures are used in conjunction with each other.

An employer may, in consultation with health and safety representatives, decide the order in which to implement these measures in their workplace. Sections 4 to 9 of this guidance note describe each of these prevention measures and how to implement them.

Once the measures have been put in place, an employer should check that they have been implemented correctly and monitor their effectiveness.

Figure 1





3 CONSULTATION

3.1 The importance of consultation

An employer has a duty to consult with his or her employees' elected health and safety representatives, if practicable, about health and safety matters¹. It is also a good idea to consult directly with employees on health and safety matters that affect them, particularly if there is no elected health and safety representative.

Consultation will help an employer to:

- establish whether bullying is a problem in the workplace
- determine the best way of communicating the prevention message
- successfully implement prevention measures

There are a number of ways in which an employer can consult in the workplace, including direct discussion, staff meetings, tool box meetings, health and safety committee meetings, and special working groups.

When developing prevention methods, consultation should take place as early as possible. Enough time should be allowed for health and safety representatives to discuss bullying issues with employees in their designated work group and with the employer.

When consulting, an employer should consider the needs of any employees from non-English speaking backgrounds².

3.2 What to consult about

Consultation should occur regarding the development of:

- strategies for raising awareness
- a 'no bullying' policy
- procedures for reporting incidents
- procedures for investigating incidents
- bullying resolution procedures

Consultation should also occur when identifying bullying risk factors and developing measures to address risk factors.

In most of the situations above, it will be practicable for an employer to consult with health and safety representatives.

4 CREATE AWARENESS

As a first step in creating a workplace free of bullying, employers should promote awareness of the issue among employees, including managers and supervisors.

By raising awareness, employers will be in a better position to identify workplace bullying, or circumstances in which bullying could occur.

In workplaces with preventative measures in place and no record of workplace bullying, awareness-raising reinforces management commitment to a bullying-free working environment.

In workplaces considering steps to manage the issue of bullying for the first time, awareness-raising should make clear to everyone that bullying is unacceptable and that incidents of such behaviour should be reported.

Awareness-raising information should communicate:

- how to recognise bullying
- the possible effects of bullying
- where to get further information

Channels of communication may include formal training sessions, staff bulletins, intranet, staff meetings and informal discussion groups.

In particular, information should be provided when:

- recruiting employees (including appointing or promoting managers and supervisors)
- running induction training
- engaging contractors or supplying services to others

Involving health and safety representatives and employees in the development of in-house policies can also play an important role in raising awareness.

¹ Section 31(2)(c) of the *Occupational Health and Safety Act 1985*.

² Refer to the *Code of Practice for Provision of Occupational Health and Safety in Languages Other than English* for guidance on providing information, instruction and training in multilingual workplaces.



PART ONE: PREVENTING WORKPLACE BULLYING

5 DEVELOP A POLICY

5.1 'No bullying' policy

A 'no bullying' policy outlines an organisation's standards of workplace behaviour and makes a clear statement that bullying will not be tolerated.

The policy can be developed on its own, or it may be included in relevant existing OHS policies. Another option could be to include it in a policy that covers workplace behaviour.

Some organisations may want to include reference to occupational violence in their 'no bullying' policy, instead of having a separate policy on this issue.

When developing a 'no bullying' policy, the employer should consult with elected health and safety representatives. It is a good idea to also consult employees directly on the policy. The policy should be:

- written in plain language
- provided in languages other than English³, where appropriate
- displayed where all employees can read it
- communicated to employees at relevant times

The size of an organisation will usually determine the level of detail needed in the policy. In large organisations, a more detailed policy may be required to cover the range of situations that may arise. Smaller organisations may prefer a simpler policy. Two example policies appear in Appendix B.

5.2 Building commitment to the policy

An employer can create commitment to the policy by:

- developing a policy that is specific to the workplace
- consulting employees on the development of the policy and providing an opportunity to comment on a draft policy
- securing the commitment of the chief executive/employer to the policy and involving them in policy development
- ensuring the policy is adhered to and consistently applied

6 INFORM, INSTRUCT AND TRAIN

Employers have a duty to make sure that their employees are provided with the information, instruction, training and supervision they need to do their jobs safely and without risks to health⁴.

The specific mix of information, instruction and training needed to reduce the risk of bullying in a particular workplace will depend on the specific needs of the employees and the workplace.

Bullying has been linked to situations of role conflict and uncertainty. Employers should make sure that employees understand their role and have the appropriate skills to do their job.

This includes making sure that employees who supervise others have appropriate skills and if necessary, giving them training to acquire the skills before starting supervisory duties.

Employees who have a designated role in handling reports of bullying will need specific training to assist them to carry out this task.

Employers should also ensure that information about workplace bullying, including any relevant policies and procedures, is readily available to all employees.

Topics to cover via information, instruction or training include:

- full details of the 'no bullying' policy
- how to comply with the policy
- measures used in the workplace to prevent bullying
- how to make a report
- how the organisation deals with bullying

Information, instruction and training may need to be tailored to meet the special needs of particular employee groups. "Special needs" may relate to work experience, gender, disability, ethnicity and/or literacy.

³ Refer to the *Code of Practice for Provision of Occupational Health and Safety in Languages Other than English* for guidance on providing information, instruction and training in multilingual workplaces.

⁴ Section 21(2) (e) of the *Occupational Health and Safety Act 1985*.



7 IDENTIFY RISK FACTORS

Workplace bullying is often subtle or hidden. Those with little direct experience of bullying may find it difficult to identify. Employers should not assume that the workplace is free of bullying simply because there are no immediately obvious signs. There are a number of risk factors that can increase the likelihood of bullying occurring in a workplace.

Bullying risk factors can be revealed through:

- reports from health and safety representatives
- workplace audits
- organisational climate/employee opinion surveys
- issues raised by workplace health and safety committees

Note: If an allegation of bullying is made, or an incident is observed, employers should act promptly to resolve the situation (see Section 10 – Responding to incidents/reports).

7.1 Indirect signs of bullying

In a workplace, bullying can sometimes be signalled indirectly. Because these signs may not always be connected with bullying, they need to be examined within the overall context of the organisation.

Indirect signs of bullying may include:

- employees leaving the organisation reporting dissatisfaction with working relationships (eg. at exit interviews)
- high levels of absenteeism associated with particular shifts
- an increase in workplace grievances or complaints
- negative results from employee surveys
- high levels of staff turnover
- issues raised at staff meetings
- deterioration of relationships between colleagues, customers or management
- regularly torn clothing/uniforms
- regularly damaged personal effects or work tools
- an employee experiencing a number of minor workplace injuries
- employees becoming withdrawn and isolated

7.2 Other factors that can contribute to risk

There are a number of workplace factors that can contribute to the risk of workplace bullying. The presence of these factors does not necessarily mean that bullying is occurring in the workplace, but may point to a greater risk of bullying taking place, or occurring at a future time. These factors are:

Organisational change

Research has identified that significant organisational change, such as major internal restructuring or technological change, may inadvertently create an environment that increases the risk of bullying⁵.

Workforce characteristics

Employers should be aware that some employees can be more at risk of workplace bullying. These employees may represent a minority in the workplace due to factors such as: age, gender, ethnicity, disability, parental status, religion or political views. They may also be new employees, apprentices, trainees, contractors or casuals.

Workplace relationships

Unsatisfactory workplace relationships and poor workplace communication, such as inadequate information flow or lack of consultation with employees, may create an environment in which workplace bullying is more likely to occur. Workplaces that tolerate teasing and practical jokes against employees, or tolerate initiation practices for new employees, are more likely to experience workplace bullying.

Work systems

Work system factors that may increase the risk of workplace bullying include:

- lack of appropriate policies and procedures
- a high rate and intensity of work
- staff shortages
- lack of experience and skill in dealing with employee groups
- poorly-defined jobs and high levels of uncertainty about job requirements

⁵ Taskforce on the Prevention of Workplace Bullying [2001], *Dignity at Work – The Challenge of Workplace Bullying*, The Stationery Office, Dublin and Hoel & Cooper, [2000], *Destructive Conflict at Work*, Manchester School of Management, Manchester. This observation was also drawn by the Queensland Workplace Bullying Taskforce.



PART ONE: PREVENTING WORKPLACE BULLYING

8 CONTROL THE RISKS

If risk factors have been identified, the employer should take action to eliminate or reduce the likelihood of bullying occurring in their organisation.

Preventative measures should target the source of risk, and may involve an organisation-wide response as well as addressing symptoms in a specific area. Where multiple risk factors are identified, there is a greater likelihood that a section or organisation-wide response is required. A combination of measures may need to be used. Action may include:

- providing appropriate training, particularly to those with supervisory responsibilities (see Section 6)
- consulting employees and health and safety representatives prior to and during organisational change
- redesigning and clearly defining jobs
- developing a conflict management process
- reducing excessive working hours
- reviewing resource availability
- reviewing staffing levels

Consultation with health and safety representatives and the health and safety committee (where appropriate) should precede all proposed action to reduce the risk of bullying. If there is no elected health and safety representative, direct consultation with employees will help an employer to identify which prevention action may be needed.

Where employees have been identified as being at a higher risk of bullying, such as apprentices, the employer may want to consider additional measures, such as:

- a 'buddy' system for new employees
- workplace relationships monitoring
- additional employee training (eg. workplace diversity and tolerance)
- specific training for supervisors/managers dealing with employees at higher risk

9 ENCOURAGE REPORTING

An employer should encourage reporting because there are factors that can make employees reluctant to report bullying (see Section 2).

Encouraging reporting can assist the employer to :

- develop an accurate picture of the nature and extent of bullying
- take action to address the issues being reported
- assess whether prevention measures are working
- nip emerging issues 'in the bud'
- provide prompt assistance and support to employees

9.1 Developing reporting procedures

Employers may find it helpful to examine the performance of existing workplace reporting procedures.

If there is no reporting procedure in place or the existing system is not appropriate, an employer should develop a reporting procedure to pick up and address reports of workplace bullying.

It is also important to identify and address any circumstances in the workplace that may make employees reluctant to report.

Procedures should be developed to suit the size and structure of an organisation. The procedure should be flexible enough to accommodate the various ways of dealing with a report of bullying, such as informal discussions or formal investigations. Any procedure should ensure confidentiality and fair treatment for those involved.

A reporting procedure can be developed and implemented in a number of ways. However, it should be developed in consultation with elected health and safety representatives (or with employees directly, if there is no health and safety representative) to ensure the system is used and trusted by employees.



10 RESPONDING TO INCIDENTS/REPORTS

An employer may find out about bullying in a number of ways, such as:

- written reports
- verbal reports
- hearing verbal abuse or offensive language
- directly observing bullying type behaviour

An employer should develop a workplace bullying resolution procedure in consultation with health and safety representatives. It is also a good idea to consult directly with employees, especially where there is no health and safety representative.

Note: Where no issue resolution procedures exist, an employer must follow the procedure set out in the Issue Resolution Regulations⁶.

10.1 Resolution process

Each situation that is reported or observed will usually be different. Therefore, to ensure a consistent approach, it is important to have an agreed procedure in the workplace for dealing with reports.

10.2 Resolution – key principles

Once a report has been made, there are a number of key principles that should guide the employer's response. These principles are outlined in Figure 2, and should also be built into any procedures developed for the resolution process.

Figure 2

KEY PRINCIPLES	
<i>Treat all matters seriously</i>	Treating all reports seriously encourages reporting and shows employees the organisation's commitment to its 'no bullying' policy.
<i>Act promptly</i>	Prompt intervention can assist in resolving reports as quickly and as fairly as possible.
<i>Non-victimisation of person who reports</i>	It is important to ensure that anyone who raises an issue of bullying is not victimised for coming forward.
<i>Support for both parties</i>	Once a complaint has been made, the person or persons involved should be told of the support systems available to them. These can include employee assistance programs and peer support systems. The person or people against whom the allegations have been made should also be informed of opportunities for support. In addition, all employees involved should be allowed to have a support person present at interviews or meetings (eg: health and safety representative, union representative or friend).
<i>Neutrality</i>	The person in charge of an investigation or resolution should never have been directly involved in the incident they are investigating or attempting to resolve. Impartiality towards all parties involved is critical. Everyone involved should have confidence in the person who is undertaking the resolution process.
<i>Communication of process</i>	All parties need to be informed of the resolution process, how long it will take and what they can expect will happen during and at the end of the process. Note: It is very important to communicate with the person who has made a complaint when any delays occur.
<i>Confidentiality</i>	Those involved need to be assured that confidentiality will be maintained. This is important in case the matter is not proven and to prevent the matter from escalating.
<i>Documentation</i>	Documentation is important to any formal investigation or resolution action. Even if the matter is not formally investigated, a record should be made of all meetings and interviews detailing who was present and the agreed outcome(s).
<i>Natural justice</i>	The principles of natural justice should be followed in all formal investigations. These principles are designed to protect all parties involved (see Figure 3).

6 Occupational Health and Safety (Issue Resolution) Regulations 1999.



PART ONE: PREVENTING WORKPLACE BULLYING

10.3 Suggested approaches for successful resolution

A resolution process should be flexible and enable a choice or course of actions to be undertaken which specifically suit the situation reported.

Below are three approaches that can be used to assist resolution. These approaches can be used in combination or on their own, depending on the situation involved. They can also be used as a step by step approach to resolution.

When developing a workplace resolution procedure for bullying, agreement should be reached on when each approach is appropriate.

The resolution approach taken by the employer should reflect the seriousness of the situation. It is important for the person who reported the situation to agree with the proposed approach or combination of approaches for resolution.

Direct approach

Assessing whether a direct approach will help resolve a report/incident of bullying is a positive first step.

Where serious allegations have been made, the direct approach is not appropriate. As an example, a report involving an escalation of bullying into violence or threats would not be suited to a direct approach.

The direct approach involves a clear and polite request for the behaviour to stop. This request can be made by the person affected, their supervisor or manager, or another relevant person.

Anyone requested to act on behalf of the person affected should adopt a confidential, non-confrontational approach with a view to resolving the issue.

Examples of the direct approach:

- the person affected directly approaches the person responsible for the inappropriate behaviour to discuss the matter
- the person affected, with the support of a person they trust (eg: health and safety representative, supervisor, friend or union representative), directly approaches the person responsible for the inappropriate behaviour to discuss the matter
- the person affected asks their supervisor (or another senior employee) to speak to the other person on their behalf
- a supervisor or manager directly observes bullying and intervenes, even though no report has been made

If the direct approach succeeds, and the offending behaviour stops, it may not be necessary to have a further step. In other circumstances, monitoring the situation for signs of recurrence may be appropriate.

Discussion involving an independent third party

The objective of this step in a process is to settle an issue with as little conflict and stress as possible.

The agreement of all parties to participate in this discussion is important for success, and the independence of the third party needs to be recognised by all parties involved.

The discussion should focus on resolving the problem and agreeing on actions that will be undertaken to assist the resolution.

This action can be undertaken at two stages in the resolution process:

- where the direct approach has not resolved the issue
- where an investigation has recommended discussion to assist resolution

There are some circumstances where it would not be appropriate to use this method.

Such circumstances include situations involving allegations of occupational violence, or where there is a significant difference in power between the parties.

Investigations

Where the behaviour does not cease after a direct approach or discussion, an investigation to establish whether or not the report is substantiated should be undertaken. Where a serious allegation has been made, an investigation should be the first step taken.

Prompt and careful investigation can lead to quick resolution and will demonstrate to employees that bullying is taken seriously.

Investigations should be conducted by an impartial and appropriately skilled person. The principles of natural justice (see Figure 3) and the key principles in Figure 2 should be followed throughout the process. Investigations and their outcomes should always be documented.

The parties affected should be kept informed and provided with all necessary documentation.



Figure 3

PRINCIPLES OF NATURAL JUSTICE

- **The person who is alleged to have committed the bullying should be treated as innocent unless the allegations are proved to be true.**
- **Any allegation of bullying should be investigated promptly.**
- **All allegations need to be put to the person who is alleged to have committed the bullying.**
- **The person alleged to have committed bullying must be given a chance to explain his or her version of events.**
- **If the complaint is substantiated, then any disciplinary action that is to be taken needs to be commensurate with the seriousness of the matter (the punishment should fit the crime). Mitigating factors⁷ should be taken into account when assessing what form of discipline will be implemented.**

At the end of an investigation, recommendations about the measures that should be undertaken to end the matter need to be made. In some circumstances, an investigation may find a report is not substantiated and no further action can be taken. In other situations, where a report/incident is substantiated, measures to assist complaint resolution should be assessed. This can involve looking at a range of strategies to see if they suit the situation.

10.4 Actions to assist resolution

Complaint resolution is a very important part of dealing with bullying in the workplace. Employers should make sure that the people affected by the behaviour are satisfied their concerns have been dealt with appropriately.

The options for resolving a complaint of bullying will vary on a case-by-case basis according to seriousness and other circumstances. Some options for resolution are outlined below.

A number of these may be used in combination.

Strategies for resolution

- gain commitment to cease the behaviour
- run an awareness update
- review the 'no bullying' policy with all employees and managers
- provide mediation between the parties (where **both** parties agree to mediation and to the mediator)
- provide training (eg. communication skills, diversity awareness, inter-personal skills)
- offer counselling to the perpetrator (where necessary)
- offer support and counselling to the affected person
- move the perpetrator away from the affected person
- discipline the perpetrator⁸
- require an apology

10.5 After resolution

After a situation has been resolved, an employer should also examine the work situation to identify and address any underlying risk factors that may have contributed to the bullying occurring. Sections 7 and 8 provide information on risk factors to look for and measures that can be used to address them.

⁷ Such factors can include an employee's disciplinary and work history, work performance and relevant personal circumstances.

⁸ An employer considering a course of action for disciplining a perpetrator needs to be aware of laws that cover industrial relations matters [eg. *Workplace Relations Act 1996 (Commonwealth)*].



PART TWO: PREVENTING OCCUPATIONAL VIOLENCE



PART TWO: PREVENTING OCCUPATIONAL VIOLENCE

11 WHAT IS OCCUPATIONAL VIOLENCE?

11.1 Defining occupational violence

Occupational violence is defined as any incident where an employee is physically attacked or threatened in the workplace.

Within this definition:

“threat” means a statement or behaviour that causes a person to believe they are in danger of being physically attacked

“physical attack” means the direct or indirect application of force by a person to the body of, or to clothing or equipment worn by, another person, where that application creates a risk to health and safety

The term “occupational violence” applies to all forms of physical attacks on employees, including:

- striking, kicking, scratching, biting, spitting or any other type of direct physical contact
- throwing objects
- attacking with knives, guns, clubs or any other type of weapon
- pushing, shoving, tripping, grabbing
- any form of indecent physical contact

“Physical attack” is defined without consideration of the attacker’s intent.

The definition of occupational violence covers situations where an employee is attacked by a person who may not be able to form intent, but is capable of violence.

For example, a nurse is punched by a patient who has an acquired brain injury. It is unclear whether the patient made a conscious decision to punch the nurse.

11.2 Sources of occupational violence

Occupational violence can be perpetrated by:

- a co-worker (including a supervisor, manager or employer)
- a customer or client⁹
- a person known to the organisation or employee
- a stranger (intruder)

Occupational violence can occur in a number of settings, including the usual workplace and off-site situations, such as attendance at training courses or in a client’s home.

⁹ In this guidance, customer or client includes people:

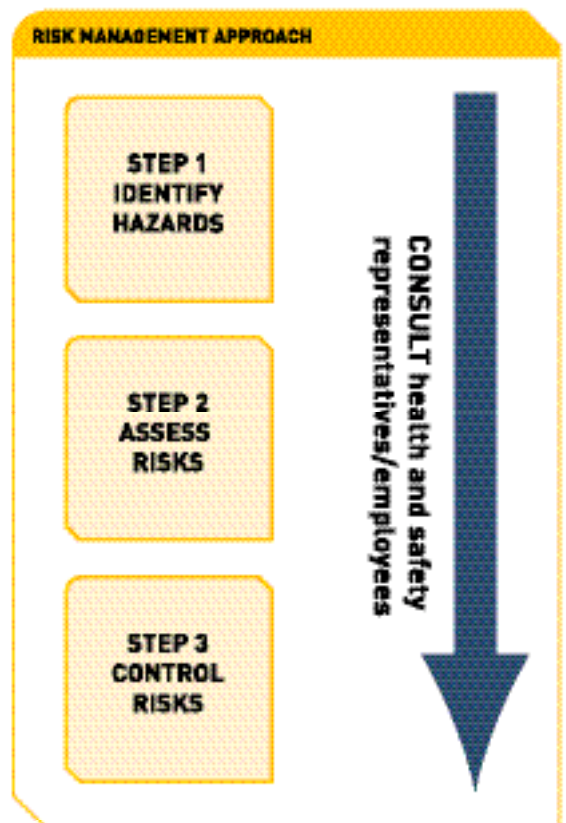
- in a commercial relationship with an organisation
- in the care of an organisation
- who must legally submit to inspection by an organisation
- who use or are seeking the services of an organisation

12 PREVENTING OCCUPATIONAL VIOLENCE

A risk management approach (see Figure 4 below) can be used for the prevention of reasonably foreseeable occupational violence from customers, clients and intruders.

While the information in this part of the guidance note focuses on addressing occupational violence, the approach may also assist employers to reduce the risk to employees’ health and safety from being bullied by clients and customers.

Figure 4



Note: The information in Part One can assist employers to prevent occupational violence between employees.



13 CONSULT

The guidance on consultation in Section 3 of this guidance note can also be applied to occupational violence. However, employers should consult with health and safety representatives about the risk management approach for occupational violence, as it is somewhat different from the approach to the prevention of workplace bullying.

It is helpful to consult directly with employees, particularly if there are no elected health and safety representatives in the workplace. Consultation should occur when:

- conducting hazard identification
- conducting risk assessments
- implementing risk control measures
- developing post incident procedures

14 INFORM, INSTRUCT AND TRAIN

Why are information, instruction and training necessary?

The *Occupational Health and Safety Act* requires employers to provide such information, instruction and training to their employees as is necessary to enable them to work safely and without risk to their health¹⁰.

Information, instruction and training are necessary to ensure that employees know how to do their jobs safely, and follow health and safety procedures.

Who should receive information, instruction and training?

Employees who require information, instruction and training include those who:

- carry out tasks that expose them to the hazard of occupational violence
- act as health and safety representatives for employees who carry out these tasks
- supervise or manage employees who carry out these tasks

To help identify employees who require information, instruction and training see Section 15.2 for details of situations in which the hazard of occupational violence can arise.

What types of information, instruction and training need to be provided?

The specific mix of information, instruction and training provided will depend on the particular needs of employees, the workplace and the severity of the hazards and risks.

Appropriate information, instruction or training should help employees to understand:

- risk factors associated with occupational violence
- motivation for aggression/violence
- signs of impending violence
- prevention measures in place to control risk
- workplace policy and procedures (including emergency and post incident responses) that are in place to prevent occupational violence

Depending on the risk involved and the types of control measures being used, other issues that may need to be covered include:

- communication strategies/skills
- defusing/de-escalating aggression and violence

When providing information, instruction and training, you should consider any special needs your employees may have, including, for example their specific skills, gender, disability, first language¹¹ and literacy level.

¹⁰ Section 21(2)(e) of the *Occupational Health and Safety Act 1985*.

¹¹ Refer to the *Code of Practice for Provision of Occupational Health and Safety Information in Languages Other than English* for guidance on providing information, instruction and training in multilingual workplaces.



PART TWO: PREVENTING OCCUPATIONAL VIOLENCE

15 IDENTIFY HAZARDS

15.1 What is hazard identification?

Hazard identification is the process of finding out whether there is a potential for clients or intruders to cause harm to your employees through acts of violence.

As an employer, consulting with your health and safety representatives and your employees, assists you to identify circumstances that are likely to expose your employees to risk of occupational violence from clients or intruders.

15.2 Hazardous situations

The nature and location of work, the types of clients, business hours and staffing levels can all affect the risk of exposure to occupational violence.

There is a potential for occupational violence when:

- working with patients or clients who are in distress
- investigating and enforcing specific legal requirements
- working with patients or clients who are likely to be intoxicated
- working with people who are disturbed or violent
- working where drugs are kept and handled
- dealing with frustrated customers
- denying someone a service
- working alone or in isolation
- working at night
- handling cash

The above list is not exhaustive. There may be other situations that expose employees to occupational violence, particularly where there is face to face interaction with the public.

15.3 Hazard identification methods

There are a number of common methods for identifying occupational violence hazards.

Conduct an initial audit of the workplace

Use a checklist to conduct a walk-through inspection of the workplace. Check for: security, access, lighting, visibility, means for communicating after an incident, work schedules, physical layout and service delivery processes. Also check the allocation of staff and the training they have received in dealing with clients or customers.

Review incident and injury reports

These would include injury records and also any complaint or dangerous incident reports.

Consult with employees and their health and safety representatives

You may need to provide information on the hazards of occupational violence from clients. Consultation can also alert you to potential problem situations.

Obtain information from relevant industry groups

This is particularly important if you are a small employer because it can alert you to issues experienced by similar businesses.

If an employer identifies employees exposed to hazardous situations, he or she should conduct a risk assessment (see Section 16 for further information).

15.4 Using reporting systems to assist hazard identification

It is important for organisations to match their reporting requirements to the features and culture of the workplace.

For example, employees working with clients with some psychological conditions may be regularly exposed to physical and verbal abuse. However, if this behaviour is consistent with the assessed conditions of the clients, employees may regard it as being "part of the job" and not report such behaviour until it becomes extreme. In these circumstances, employers should consult with health and safety representatives and employees about using established reporting systems to identify all occupational violence hazards.

As an example, incidents could be recorded on relevant patient case management forms. Employee concerns and the effectiveness of current prevention measures should be regularly monitored.

For high frequency situations, variations to traditional reporting systems can include:

- incident sampling (i.e. taking a detailed sample of incidents at regular intervals)
- regular review of existing patient/client treatment documentation

Why hazard and incident reporting is important

The reporting of conditions likely to give rise to occupational violence, or actual incidents, has a number of benefits for employers. Employers are able to:

- identify accurately the nature and extent of occupational violence
- act quickly on issues being reported to 'nip them in the bud'



- assess whether measures are making a difference
- ensure employees involved in an incident receive prompt assistance through employee assistance or debriefing programs

Factors that may inhibit reporting

As with bullying, there are factors that might make employees reluctant to report conditions which may lead to occupational violence or actual incidents.

Employees may believe that:

- violence and aggression from clients is “part of the job”
- nothing will be done if incidents are reported
- those who report will be seen as the cause of the problem
- people will think they do not have the skills to handle difficult situations
- people who make reports will be punished

Employees could be surveyed to see if such attitudes exist. Alternatively, these issues could be addressed in open discussions.

A case study illustrating hazard identification in a workplace situation follows. This case study will be used throughout this part of the guidance note to demonstrate how the risks to health and safety from occupational violence can be managed through the risk management approach.

CASE STUDY: HAZARD IDENTIFICATION IN AN AGED CARE FACILITY

Pleasant Place is an aged care facility with 60 residents and a total of 20 employees. It operates 24 hours a day. Many of the residents have special needs due to chronic illness, frailty, psychiatric conditions and some are suffering varying stages of Alzheimer’s disease.

Pleasant Place’s manager and the health and safety representative conduct hazard identification. They:

1. conduct a walk through of the facility and surrounding grounds to look for potential trouble spots and assess current security arrangements
2. review resident assessments and ask nursing staff and carers if they are always made aware of possible challenging behaviour
3. conduct a staff meeting with all employees to find out if they have ever felt threatened or experienced violence from residents or their families, and whether they ever worked alone
4. review the facility’s injury and incident reports
5. seek employees’ views on specific trigger points for aggressive behaviour

Through this process they determine that:

- a nurse working alone during a shift changeover that coincided with the end of visiting hours, had been subjected to a violent incident
- employees had felt threatened by residents’ family members on several occasions, such as at the unexpected deterioration of a resident’s health, and when staffing levels were low
- potential exists for further occupational violence from residents and their family members towards nursing staff, carers and food service staff
- trigger points for potential aggression are meal times, end of visiting hours and roster changeovers

PART TWO: PREVENTING OCCUPATIONAL VIOLENCE

16 ASSESS RISKS

16.1 What is risk assessment?

Risk assessment follows the identification of one or more hazards.

If a hazard is identified, the employer needs to establish the seriousness of the problem.

Risk assessment determines whether a hazardous situation is likely to result in harm – that is, whether a risk to employees' health and safety is likely to result from the system of work. It determines who is at risk and when.

The purpose of risk assessment is to:

- determine the risks that need to be controlled
- assist employers to make decisions about appropriate control measures

When assessing the risk of occupational violence, consider:

- how likely it is that an act of violence will occur
- how severe the impact of such an act of violence may be
- any information regarding previous incidents of violence or aggression in the workplace
- what existing control measures are in place
- whether such controls adequately protect the health and safety of employees

16.2 Risk assessment checklist

Using a risk assessment checklist is one way to conduct a risk assessment.

The checklist in Figure 5 can be used as a guide to assess the risk to employees of any identified hazard.

The more times you answer yes, the greater the risk of occupational violence unless adequate control measures are in place. Note: The list of items in the checklist is not exhaustive, nor may all of the factors described be relevant to all circumstances where occupational violence is a hazard.

16.3 Recording the outcomes of risk assessments

It is a good idea to keep a record of the outcomes of a risk assessment.

A written record should help when undertaking any subsequent risk assessments. Future risk assessments may be necessary because changes to work systems or the work environment could also change the risk profile of the workplace.

CASE STUDY: RISK ASSESSMENT IN AN AGED CARE FACILITY

Having identified potential hazards, Pleasant Place's manager and the health and safety representative conduct a risk assessment. They:

1. identify possible injuries and impacts of resident aggression on employees
2. assess work schedules and task allocation in relation to high risk residents and situations
3. hold a staff meeting with all employees to discuss and identify situations that may increase the probability of resident or family member aggression
4. assess the suitability of the facility layout for meeting resident needs while minimising possibilities for aggression
5. assess the suitability of the facility layout for escape/retreat points
6. test emergency procedures and devices
7. ask residents and their families if they are aware of the facility's policy on aggression

Through this process they determine that:

- nurses and carers have the highest risk of aggression from residents and their families
- family members are not aware of the policy on aggression
- some employees are not trained in aggression management
- past incidents were under-reported because employees felt being exposed to aggression was part of the job
- the emergency procedures were confused with a fire drill, so employees tried to evacuate residents and vacate the building

RISK ASSESSMENT CHECKLIST

Figure 5

KEY RISK AREAS TO ASSESS		NO	YES	IF YES adequate controls? Y/N
<i>Incident/injury records</i>	<p>Have there been any recorded incidents of occupational violence in the last 12 months?</p> <p>Have employees been threatened in the past?</p> <p>Have the recorded incidents of occupational violence resulted in serious injury or impact?</p>			
<i>Work environment</i>	<p>Is work performed in unfamiliar environments?</p> <p>Are employees working in isolated locations?</p> <p>Is it easy for an aggressor to get physical access to an employee?</p> <p>Is it difficult for an employee to retreat to a safe place?</p> <p>Is it difficult for employees to communicate when threatened?</p> <p>Is the environment uncomfortable for clients?</p> <p>Does the physical layout fail to provide privacy for clients?</p> <p>Would it be easy for an aggressor to break into the workplace after hours?</p> <p>Is access to alarms difficult or too obvious?</p> <p>Does the building have multiple access points?</p> <p>Is visibility impaired for awareness of potential threats to safety?</p> <p>Is external lighting inadequate?</p>			
<i>Work practices</i>	<p>Are there likely to be service delays?</p> <p>Are there likely to be circumstances that would frustrate clients?</p> <p>Are staffing numbers insufficient at demand times?</p> <p>Do employees have the responsibility for cash or other valuable items?</p> <p>Are employees providing community outreach services?</p> <p>Do employees ever work alone?</p> <p>Would it be difficult for an employee to seek assistance if threatened or attacked?</p> <p>Does the workplace lack security and emergency procedures?</p> <p>Does the workplace fail to regularly check and test security and emergency procedures?</p>			
<i>Employee training</i>	<p>Are there inexperienced employees in front line positions?</p> <p>Are there employees who have not received training in how to deal with aggressive clients?</p> <p>Are there employees who do not have the appropriate workplace knowledge and skills to deal with clients?</p> <p>Are any employees unaware of the policy on occupational violence?</p>			
<i>Client behaviour</i>	<p>Are clients likely to be distressed or aggressive?</p> <p>Is the behaviour of the client(s) unpredictable?</p> <p>Is the aggressor likely to have a weapon?</p> <p>Is there likely to be more than one aggressor?</p> <p>Is the aggressor likely to be under the influence of alcohol or drugs?</p> <p>There is no method to assess or identify potential for aggression or violence.</p>			



PART TWO: PREVENTING OCCUPATIONAL VIOLENCE

17 CONTROL THE RISKS

17.1 What is risk control?

Risk control involves implementing effective measures to eliminate or reduce the risk to health and safety from occupational violence.

Employers have a duty to eliminate any risk to health and safety caused by occupational violence. Where it is not practicable to eliminate the risk, they must reduce the risk so far as is practicable.

What does practicable mean?

“Practicable” does not just refer to the financial cost. To determine what is practicable, you must take into account:

the severity of the hazard or risk

- *How likely is it that occupational violence from clients or intruders will result in injuries or illnesses for your employees?*
- *How serious are the injuries or illnesses likely to be and how many employees could be affected?*

the state of knowledge about the hazard or risk and any ways of removing or mitigating that hazard or risk

- *What is known about the hazard and the ways of controlling the risk?*
- *How do similar businesses or workplaces control the risk of occupational violence?*
- *What information can industry professionals and organisations, unions and government agencies provide?*

the availability and suitability of ways to remove or mitigate that hazard or risk

- *Are the risk controls that you have identified readily available?*
- *Are they suitable for the workplace and the employees involved?*

the cost of removing or mitigating the hazard or risk

- *What are the costs of controlling the hazard or risk, now and in the future?*

17.2 Can the source of the risk be eliminated?

In working out which risk control measures to use, employers should first consider whether it is practicable to eliminate the source of the risk. Consider whether the hazard can be removed, or if the activity that gives rise to the risk can be discontinued or changed, so as to eliminate the risk.

Examples may include:

- remove the incentive for violence by not having valuables in the workplace
- consider changes to client contact arrangements – such as providing services over the phone or electronically
- withdraw service to a client who is known to be violent
- change the conditions under which the service will be provided to those known to be violent and advise them of this

However, the nature of the business undertaken in the workplace may mean that elimination of all risks associated with occupational violence is not practicable.



17.3 How to control risks

Where it is not practicable to eliminate the risk, employers should put in place control measures that reduce the risk as far as practicable.

In working out which risk control measures to use, it is recommended that employers follow the order below:

- make changes to the workplace or the equipment used, or make changes to the systems of work, so that risk is reduced
- provide personal protection from risks

The recommended order of control measures is based on the principle that risk control is most effective when it is applied at the source. Employers should make the workplace safer, rather than primarily placing the onus on employees to work safely in a hazardous environment.

Controls that work without relying specifically on employee behaviour or action are preferred over measures that require a high level of skill for safe use. For example, redesigning the way a job is done and/or altering the workplace are preferable to training employees in defusing aggression as the sole means to control risk of occupational violence.

Sole or primary reliance on personal protection to reduce risks to health and safety from occupational violence is not recommended.

The table in Figure 6 provides examples of risk control types.

After consulting with health and safety representatives (or employees directly if there is no elected health and safety representative) employers should apply risk control measures that are practicable for their particular circumstances.

It may often be necessary to use a combination of control measures to eliminate or reduce the risk.

When deciding which of the control measures to implement, you should consider whether the control measure(s) will introduce new risks that will need to be controlled.

For example, the installation of a security screen at a service counter may reduce the risk of physical assault to an employee, but may increase the potential for verbal abuse or threats from customers who perceive the screen to be alienating and a barrier to communication.

Once risk controls have been put in place, check that they have been implemented correctly and monitor their effectiveness.

You should check that your risk controls have eliminated or reduced the risk to health and safety from occupational violence without creating other hazards.

Figure 6

TYPE OF CONTROL	EXAMPLE
<p>Change the workplace or equipment</p> <p><i>(Use of design or engineering measures to change the physical characteristics of the workplace, including structures and equipment, to reduce risk.)</i></p>	<ul style="list-style-type: none"> • Widen service desks so that physical contact is made difficult • Install barriers (eg. security doors, unbreakable screens) • Secure employee areas • Provide secure retreat space for employees • Enhance visibility • Install security devices (eg. deadlocks, security passes)
<p>Change the systems of work</p> <p><i>(Change the systems of work or work practices to help reduce risk.)</i></p>	<ul style="list-style-type: none"> • Change interaction from face to face to telephone • Limit the quantity of valuables (eg. cash, drugs) stored at the workplace • Arrange meetings with difficult clients at times when most employees are available • Implement a client log-in system • “Flag” aggressive clients/customers • Train employees in aggression management
<p>Personal protection measures</p>	<ul style="list-style-type: none"> • Personal duress alarms • Mobile phones • Personal protective equipment

PART TWO: PREVENTING OCCUPATIONAL VIOLENCE

17.4 Examples of a range of control measures

Controls for occupational violence can be very diverse, depending on the work situation in which the hazard arises.

The examples in Figure 7 illustrate types of control measures that may be practicable for the example scenario described.

These examples do not cover all the possible occupational violence hazards nor all the risk control options for the situations described.

Figure 7

EXAMPLE SCENARIO	RISK CONTROL OPTIONS	
Client service centre dealing with payment inquiries		
Risk assessment finds: <ul style="list-style-type: none"> • Reception area enclosed • No cash handled • Reception area separate from customer service area • Interviews held in enclosed rooms with single door access and limited visibility • Frequent cases of verbal and physical assault associated with delays or dissatisfaction with service 	Redesign building and fittings <ul style="list-style-type: none"> • Open plan approach more welcoming for clients • Reception area with view to outside • Interview areas based on partitions with glass and open to natural light • Reception desk wider and sloping to reduce possibility of physical contact • Clear glass panels to protect receptionist but retain open feel • Security locks to prevent clients entering employee areas 	Change the systems of work <ul style="list-style-type: none"> • Physically move employees closer to interview areas to enable them to provide prompt assistance when needed • Improve initial inquiry service to answer basic client queries • Assignment of difficult clients to most experienced employees • Rotation of employees where possible to lower risk of injury • Provide all customer service employees with access to debriefing and/counselling support
A Call Centre complaints section		
Risk assessment finds: <ul style="list-style-type: none"> • One operator dealing with all complaints • Regular exposure to foul and abusive language • Sometimes exposed to threats from customers • Performance expectations are for calls to be processed within same time period as non-complaint calls • No intervention on abusive calls except in extreme circumstances 	Change the equipment used <ul style="list-style-type: none"> • Consider voice technologies and call processing menus to filter calls to specialist areas 	Change the systems of work <ul style="list-style-type: none"> • Review staffing levels at peak times to reduce predictable delays for clients • Supervisors made available "on line" to take over if required • Alternate employees between complaints calls and general calls • Provide competency based training that will assist employees to deal with abusive callers
Social welfare worker visits high risk client at home		
Risk assessment finds: <ul style="list-style-type: none"> • History of violent behaviour • Client unwilling to be interviewed at office 	Change the systems of work <ul style="list-style-type: none"> • Home visits only to be conducted where two workers available • Arrange visit for lowest risk time given client history • Call back protocol to ensure projected time of interview is not exceeded 	Personal Protection <ul style="list-style-type: none"> • Mobile phone or other means of communication • Emergency distress alarm • Appropriate clothing, non-slip footwear



CASE STUDY: RISK CONTROL IN AN AGED CARE FACILITY

After looking at the hazard and risks faced by employees at the facility, the Pleasant Place manager and health and safety representative decide that a mixture of risk control measures is best suited to their situation. The employer implements the following controls:

Change the workplace or equipment

- reception and waiting areas redesigned to eliminate possibility of employees being trapped by an aggressive patient or family member
- recreation area redesigned to allow patient movement and create private areas
- cutlery changed to lightweight material to minimise any impact if used in a physical attack

Change the systems of work

- new shift handover procedure developed to ensure that employees who are leaving, brief the next shift about any problems
- more employees working during visiting hours and meal times
- the centre's aggression policy on display in the reception, waiting and recreation areas
- a copy of the policy distributed to family members on admission of all new residents
- medication and treatment regimes planned to reduce the risk of aggressive behaviour
- employees trained on high and low risk aspects of treatment regime
- employees trained in emergency procedures, and drills scheduled on a regular basis
- employees trained in aggression management

Personal protection

- employees provided with personal duress alarms to summon assistance

18 RESPONDING TO INCIDENTS

Employers should have appropriate response measures in place where there is a risk of occupational violence.

Response actions are important because they can help reduce the harm caused to an employee by occupational violence and assist in preventing future incidents.

Responses will vary depending on the scale and severity of the incident, but a number of responses that may be appropriate are outlined below:

- provide first aid and medical treatment if required
- give any employees involved the option of being relieved of their duties
- give the target of occupational violence the opportunity to talk through immediate issues with a counsellor and/or other employees
- offer further debriefing or ongoing counselling to targets of violence and witnesses
- review control measures and, if necessary, conduct further risk assessments and implement further risk controls to prevent a recurrence
- notify health and safety representative and health and safety committee
- notify the Victorian WorkCover Authority¹²
- notify the police – an employer should contact the police in circumstances where criminal acts of violence have taken place

¹² Under the *Occupational Health and Safety (Incident Notification) Regulations 1997*, there are certain circumstances where an employer must immediately notify Victorian Workcover Authority. They include, becoming aware of an incident at a workplace which resulted in: the death of any person, a person requiring immediate treatment as an in-patient in a hospital, or a person requiring immediate medical treatment for a range of specified injuries.



APPENDICES





APPENDIX A

DUTIES UNDER THE OCCUPATIONAL HEALTH AND SAFETY ACT 1985

The *Occupational Health and Safety Act 1985* (OHS Act) imposes legal responsibilities on both employers and employees. These duties extend to the risks to health and safety from workplace bullying and occupational violence¹³.

The following outlines some of the duties under the OHS Act. Employers and employees should make themselves aware of all the laws that apply to them in the workplace.

Employer duties

Employers have a general duty under section 21 of the OHS Act to provide and maintain so far as is practicable a working environment for employees that is safe and without risks to health¹⁴.

Workplace bullying and occupational violence create an unsafe working environment and risks to the health of employees. Therefore, employers have a duty under section 21 to ensure, *so far as is practicable*, risks to health and safety from bullying and violence in the workplace are eliminated or reduced¹⁵.

The employer's duty to control risk only applies to situations of workplace bullying and occupational violence that are reasonably foreseeable.

Employee duties

Employees have duties under section 25 of the OHS Act to take reasonable care of their own health and safety, and the health and safety of others. They must cooperate in any action taken by their employer to comply with the OHS Act.

Section 25 also prohibits employees from wilfully or recklessly interfering with, or misusing, anything provided in the interests of health and safety. In addition, they must not wilfully place at risk the health and safety of any person in the workplace. If an employee bullies or attacks another employee, it is likely to amount to a breach of section 25.

¹³ There is other legislation that also may impact on a workplace when a situation of either bullying or violence occurs (see Appendix C).

¹⁴ Employers owe the same duty to independent contractors and their employees who are working at the workplace. The employer's duty to these employees extends only to matters over which the employer has or should have control.

¹⁵ According to the OHS Act, "what is practicable" can vary depending on a range of circumstances. These are explained in section 17.1 of this guidance note.



APPENDIX B

'NO BULLYING' POLICY EXAMPLES

Example 1

_____ is a bullying free workplace.

_____ is committed to providing all employees with a healthy and safe workplace free

from bullying and intimidation. Bullying is not an acceptable part of our work culture. Bullying can harm a person's health and well being.

Bullying is repeated and unreasonable behaviour directed towards an employee or group of employees that creates a risk to health and safety. It can include behaviour such as: deliberately changing work rosters to victimise particular employees, verbal abuse, initiation practices, sabotaging someone's work and ridiculing someone's opinions.

Anyone who experiences or witnesses bullying should report it as soon as possible. When bullying is reported, it will be investigated quickly and in accordance with our procedures. Where necessary, a formal investigation will be undertaken and disciplinary action may result.

Every manager and employee has a responsibility to comply with this policy and to treat everyone who works here with dignity and respect.

Signed: The employer

Example 2

The _____ Company is committed to providing all employees with a healthy and safe work environment free from bullying.

Bullying is repeated unreasonable behaviour directed toward an employee, or group of employees, that creates a risk to health and safety. Examples of behaviour that could be bullying include:

- *excluding someone from workplace activities*
- *giving someone the majority of unpleasant tasks*
- *verbal abuse*
- *humiliating someone through sarcasm or insults*
- *intimidation*

The _____ Company expects all employees to behave in a professional manner and to treat each other with dignity and respect when they are at work.

We encourage all employees who experience bullying to report it. When bullying is reported, it will be seen as a serious matter and will be investigated in a timely manner. The reporting and investigation procedures for dealing with bullying are set out in the personnel manual, as are disciplinary and appeals procedures. Managers and supervisors have a responsibility to ensure employees are not bullied.

Signed Chief Executive Officer



APPENDIX C

OTHER LEGISLATION ¹⁶

Occupational violence or bullying may also come within the scope of certain state and federal legislation. Obligations under such legislation are additional to any obligations under the *Occupational Health and Safety Act 1985* and WorkCover is not responsible for the administration of any of this other legislation.

Anti-discrimination legislation

State and federal anti-discrimination legislation prohibits behaviour that amounts to discrimination or sexual harassment. The relevant legislation includes:

Equal Opportunity Act 1995 (Victoria)

Racial and Religious Intolerance Act 2000 (Victoria)

Human Rights and Equal Opportunity Act 1986 (Commonwealth)

Racial Discrimination Act 1975 (Commonwealth)

Sex Discrimination Act 1984 (Commonwealth)

Disability Discrimination Act 1992 (Commonwealth)

Bullying and violence that occur within the workplace will be covered by the legislation if the bullying or violence:

- amounts to discrimination on the basis of a prescribed attribute
- meets the legislation's definition of unlawful harassment.

Criminal law

The criminal law in Victoria is a combination of common law and legislation. The key piece of legislation is the *Crimes Act 1958 (Victoria)*, which aims to punish all forms of criminal behaviour. Most forms of occupational violence will be criminal offences and as such, subject to investigation by the police. Relevant offences include: assault, threats to kill and threats to cause physical injury.

However, there are some examples of occupational violence that will not be offences under criminal law eg. where an employee is physically attacked by a person, such as a psychiatric patient, who is incapable of forming the necessary intent.

Industrial legislation

Industrial law in Victoria is primarily governed by the *Workplace Relations Act 1996 (Commonwealth)* which includes provisions relating to unfair dismissal and freedom of association. This Act can apply to bullying or violence in situations where:

- the bullying involves an employee, or employees, being unfairly dismissed
- employees are bullied, attacked, or threatened, because of their trade union membership or industrial activity

¹⁶ Other legislation may apply whether or not the bullying or violence falls within the definitions used in this guidance note.

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