



# RESOURCES REGULATOR

INFORMATION RELEASE

## Workplace bullying

**Event** Bullying complaints at mining workplaces

**Location** Various NSW mines

### Overview

The Resource Regulator's Major Investigation Unit is investigating a number of workplace bullying complaints at mining workplaces. This information is to assist mine operators and workers to understand their duties and responsibilities in relation to workplace bullying.



## What is workplace bullying?

Workplace bullying is repeated and unreasonable behaviour directed towards a worker or a group of workers that creates a risk to health and safety. Repeated behaviour relates to the persistent nature of the behaviour and involves a range of behaviours over time. Unreasonable behaviour is behaviour that a reasonable person, having considered the circumstances, would see as unreasonable, including behaviour that is victimising, humiliating, intimidating or threatening.<sup>1</sup>

Examples of behaviour, whether intentional or unintentional, that may be considered to be workplace bullying if they are repeated, unreasonable and create a risk to health and safety include but are not limited to:

- offensive language or comments
- practical jokes at someone's expense, name calling and taunts
- unjustified criticism or complaints
- deliberately excluding someone from workplace activities
- withholding information needed for work.

A single incident of unreasonable behaviour is not considered to be workplace bullying, however it may have the potential to escalate and shouldn't be ignored.

The behaviour must also create a risk to health and safety. This can sometimes involve:

- dangerous acts which could harm someone
- causing a person to suffer from stress, anxiety, depression, fear or nausea.

If workplace bullying behaviour involves violence, such as physical assault or the threat of physical assault, it should be reported to the police.

## How workplace bullying happens

Workplace bullying can be carried out in a variety of ways including through email, text messaging, internet chat rooms or other social media channels. In some cases workplace bullying can occur outside normal working hours.

Workplace bullying can be directed at a single worker or group of workers and be carried out by one or more workers. It can also be directed at or perpetrated by contractors and members of the public.

## What is not considered workplace bullying?

### Reasonable management actions

It is reasonable for managers and supervisors to allocate work and to give fair and reasonable feedback on a worker's performance. These actions are not considered to be workplace bullying if they are carried out lawfully and in a reasonable manner, taking the particular circumstances into account.

Examples may include but are not limited to:

- changes to rosters for operational reasons
- performance management
- modifying a worker's duties including transferring or re-deploying the worker
- refusing a worker permission to return to work due to a medical condition.

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<sup>1</sup> Safe Work Australia, *Guide for preventing and responding to workplace bullying* (2013), 2.

## **Workplace conflict**

People can have differences and disagreements in the workplace without engaging in repeated, unreasonable behaviour that creates a risk to health and safety. However, in some cases, if conflict is not managed it may escalate to the point where it meets the definition of workplace bullying.

Not being friends, not sharing the same interests, differences of opinion and disagreements are generally not considered to be workplace bullying.

## **Discrimination and sexual harassment**

Behaviour that involves discrimination and sexual harassment in employment is unlawful under anti-discrimination, equal employment opportunity, workplace relations and human rights laws.

## **Safety observations**

The Resource Regulator's Major Investigation Unit is investigating a number of workplace bullying complaints.

Workplace bullying can be an offence under the *Work Health and Safety Act 2011* (WHS Act). An investigation may find that there has been a breach of the WHS Act and significant penalties can apply to persons conducting a business or undertaking, officers of the corporation and individuals.

Workers should also be aware that they can be held accountable for their behaviour under the work health and safety laws.

## **Prevention and management of bullying in the workplace**

Workplace bullying is best dealt with by taking steps to prevent it from occurring and responding quickly if it does occur.

Mine operators should:

- implement a comprehensive workplace bullying policy
- implement clear bullying reporting frameworks and processes
- provide comprehensive training to staff about the mine's bullying policy
- provide comprehensive training to staff about building a respectful workplace
- implement early intervention strategies
- undertake independent and impartial investigations into complaints
- inform complainants about the outcome of investigations
- offer an employee assistance program (EAP)
- ensure performance management processes are clearly documented.

The actions to manage workplace bullying may vary depending on the situation, the number of parties involved and the size and structure of the mining or petroleum operation.

## Further information

See relevant guidance material and information, including:

- [NSW Resources Regulator - Bullying in the workplace](#)
- [SafeWork NSW - Workplace Bullying](#)
- [Safe Work Australia - Guide for preventing and responding to workplace bullying](#)
- [Safe Work Australia - Dealing with workplace bullying - a worker's guide](#)

If you need immediate emotional support or want assistance:

- [SafeWork NSW - Bullying - know who to contact](#)

### About this information release

The Resources Regulator has issued this information to draw attention to the occurrence of workplace bullying in the mining industry. Bullying investigations are ongoing. Further information may be published as it becomes available.

The information contained in this publication is based on knowledge and understanding at the time of writing. However, because of advances in knowledge, users are reminded of the need to ensure that the information upon which they rely is up to date and to check the currency of the information with the appropriate officer of the Department of Industry, Skills and Regional Development or the user's independent adviser.

Information about the Investigation Unit and its publications can be found at:

[www.resourcesandenergy.nsw.gov.au/miners-and-explorers/safety-and-health/major-investigations](http://www.resourcesandenergy.nsw.gov.au/miners-and-explorers/safety-and-health/major-investigations)

For information about health and safety regulations for mine sites contact a mines inspector at one of our local offices

[www.resourcesandenergy.nsw.gov.au/miners-and-explorers/safety-and-health/mine-safety-offices](http://www.resourcesandenergy.nsw.gov.au/miners-and-explorers/safety-and-health/mine-safety-offices)

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