



WORKPLACE BULLYING POLICY & PROCEDURE

Best Practice – Quality Area 4

PURPOSE AND SCOPE

Shine Bright EYM is committed to ensuring that educators work in an environment where all are treated with mutual respect. It is important for a productive and harmonious workplace that all are aware of the impact of their behaviours on others.

Bullying in the workplace is inappropriate and unacceptable behaviour. Staff found to have either committed or condoned such behaviour in the workplace will be subject to disciplinary action which may include the termination of employment.

POLICY STATEMENT

Shine Bright EYM will not tolerate bullying under any circumstances and will:

- **Promote appropriate standards of behaviour at all times.**
- **Treat complaints of bullying in a sensitive, fair, timely and confidential manner.**
- **Implement training and awareness-raising strategies to ensure all employees know their rights and responsibilities.**
- **Provide an effective procedure for complaints of bullying to be addressed.**
- **Encourage the reporting of behaviour which breaches the bullying policy.**
- **Ensure protection from victimisation or reprisals for persons reporting bullying.**

DEFINITIONS

Workplace bullying: is characterised by persistent and repeated negative behaviour directed at an employee that creates a risk to health and safety.

BACKGROUND AND LEGISLATION

OHS law places duties on employers to eliminate, so far as is reasonably practicable, risks to the health and safety of their employees. If it is not reasonably practicable to eliminate risks to health and safety, then an employer must reduce those risks so far as is reasonably practicable.

OHS law places duties on employees to take reasonable care for the health and safety of persons who may be affected by their acts or omissions at a workplace and to cooperate with their employer's actions taken to comply with the OHS Act 2004.

- *Preventing and responding to bullying at work (WorkSafe Victoria Guidance Note).*
- *How WorkSafe applies the law in relation to employing or engaging suitably qualified persons to provide health and safety advice (WorkSafe Victoria Guideline).*
- *Occupational Health and Safety Act 2004.*

- *Sex Discrimination Act.*
- *Race Discrimination Act.*
- *Disability Discrimination Act.*
- *Equal Opportunity for Women in the Workforce Act.*
- *Human Rights and Equal opportunity Commission Act.*
- *Workplace Relations Act.*
- *Crimes Act.*

SOURCES AND RELATED POLICIES

Sources

Early Childhood Australia, *Code of Ethics*: www.earlychildhoodaustralia.org.au

The Universal Declaration of Human Rights: www.un.org/en/documents/udhr/

Victoria Legal Aid: www.legalaids.vic.gov.au

United Nations, *Convention on The Rights of the Child*: www2.ohchr.org/english/law/crc.htm

Service policies

Code of Conduct

Complaints and Grievances Policy

Occupational Health and Safety Policy

Privacy and Confidentiality Policy

Social Media Policy

Staffing Policy

What are examples of bullying?

The following types of behaviour where directed towards an individual and repeated, or occurring as part of a pattern of behaviour, could be considered to be bullying:

- Demeaning language or verbal abuse, including inappropriate language (swearing).
- Threats, physical or verbal intimidation.
- Outbursts of anger or aggression.
- Excluding or isolating employees.
- “Ganging up” on an employee.
- Psychological harassment or intimidation.
- Giving employees impossible assignments.
- Deliberately changing work rosters to inconvenience particular employees.
- Deliberately withholding information that is vital for effective work performance.
- Undermining others in authority

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

What isn't bullying?

Reasonable management actions carried out in a fair and reasonable manner are not bullying. For example, actions could include:

- Setting performance goals, standards and deadlines.
- Allocating work to an employee.
- Rostering and allocating work hours.
- Deciding not to select an employee for promotion.
- Informing an employee about unsatisfactory work performance.
- Informing an employee about inappropriate behaviour.

- Implementing organisational changes.
- Performance management processes.
- Constructive feedback.
- Downsizing.

Responsibilities

All employees have a legal responsibility to care for their own health and safety and that of co-workers, and therefore must not engage in acts which constitute bullying behaviour. In addition, employees are required to follow instructions given by their supervisor/manager relating to the prevention of workplace injuries and illnesses. This applies to measures to prevent workplace bullying which includes monitoring the work environment to ensure acceptable standards of conduct are observed at all times.

Therefore, all staff are responsible for promoting this policy by ensuring:

- You treat other staff with respect and courtesy in line with the Code of Conduct & ECA Code of Ethics.
- Comply with the Workplace Bullying Policy & Procedure.
- Incidences of bullying are reported to the appropriate manager or supervisor.
- You fully participate in any investigation into an incident of bullying, and maintain confidentiality.

PROCEDURE

What can I do if I believe I am being bullied?

Employees may deal with bullying either by resolving the issues themselves by discussing the problem with the person involved, or by seeking assistance from their line manager.

It is important that you do not ignore circumstances where you feel you are being bullied, thinking it will go away. Ignoring the behaviour could be wrongly interpreted as approval by the person causing the bullying.

Below is a summary of the steps that can be taken to address individual concerns and who to contact:

- If you can, try to resolve the problem yourself with the person(s) involved as soon as possible. You may find that they didn't mean to do what they did.
- If you're unsure of how to handle the problem yourself, or you just want to talk about the problem with someone and get more information about what you can do, talk to your line manager
- The Early Years Advisors will be advised of the bullying complaint by your line manager. The Early Years Advisors may seek external advice and assistance from persons such as independent mediators or investigators.
- If the complaint is against the employer, employees should consult with their HSR.

If you do make a complaint about bullying, you are responsible for ensuring that you:

- Make the complaint honestly and in good faith.
- Provide all the facts relevant to the complaint.
- Co-operate with the investigation and resolution processes.

Shine Bright EYM may not assist you to deal with a complaint of bullying where:

- The complaint has been satisfactorily dealt with or resolved previously (unless another bullying incident has occurred since).
- The complaint is made anonymously without sufficient detail being provided so as to allow investigation or resolution of the matter.
- The complaint is frivolous, vexatious or malicious, for example where false or misleading information is provided, relevant information is withheld, facts are distorted or there is no demonstrated commitment to resolution. (Note: Depending on the circumstances, these types of complaints could lead to disciplinary action including dismissal action being taken against the person making the complaint).
- The complaint does not constitute bullying as defined by the policy.

If you observe an incident in which another employee is being bullied, bring it to the attention of your line manager. If a complaint of bullying has been made about you, you are responsible for ensuring that you:

- Cooperate with the investigation and resolution processes.
- Provide a written or verbal response to the complaint which has been made.
- Provide all relevant facts to the person conducting the investigation.

Confidentiality

Anyone involved in a complaint of bullying, or its investigation, must ensure that the circumstances and facts of the complaint are disclosed only to those people who are directly involved in progressing its investigation and resolution, or have a 'need to know'. In particular, it is important that staff who either make a complaint, or may be witnesses to the circumstances giving rise to the complaint, do not discuss the matter outside the investigation and resolution processes.

Management responsibility

If an employee brings an allegation of bullying to your attention:

DO NOT

- Ignore the complaint.
- Tell the employee making the complaint to sort it out themselves.
- Make a judgement about whether the complaint is true or not.
- Say that the employee should put up with the bullying.
- Talk to anyone about the issue except those involved in the investigation and resolution of the complaint.
- Prejudge the merits of the complaint.

DO

- Behave consistently with the Workplace Bullying Policy.
- Resolve the complaint as quickly as possible.
- Be sympathetic, sensitive and serious; the complaint is obviously serious to the person making it.
- Enquire into the matter within **2 working days**, and attempt to resolve it as soon as possible.
- Take preventative measures in the workplace (eg. staff education).

Early Years Advisor's action steps

1. Notify the CEO immediately.
2. Document the complaint using Incident Report Form for Bullying Complaints
3. In discussion with the CEO or their designate, determine who should investigate, and if possible, mediate the complaint.

Investigation and mediation

- Investigation of the complaint of bullying must commence within **2 working days** of receipt of the complaint.
- With the **CEO** or their designate, determine who is the appropriate person to investigate the complaint.
- The investigator must be someone who is impartial, suitably qualified and is competent to conduct investigations. This person may need to be sourced from outside the organisation.
- The investigator must speak to the parties involved, and all witnesses if any. The investigator must report on whether or not the complaint has been substantiated and the proposed action to be taken in response.
- The investigator must document all findings and outcomes on the appropriate forms (attachments 2 & 3) and keep detailed notes of conversations including messages left.
- Keep the complainant, and the person against whom allegations were made, informed of progress. This should be done in the form of written memos.
- Mediation should be the first consideration in resolving a bullying complaint. This form of dispute resolution is appropriate only if the person making the complaint agrees.
- The appropriate action, based on the findings of the investigation, must be undertaken promptly. Such action may include:

- ❖ An apology.
- ❖ Changes to work practices.
- ❖ Disciplinary action, (Which may include termination of employment).
- ❖ Training.
- ❖ Notes placed in personnel file etc.

Investigator's discussion with the complainant

1. Determine whether an interpreter is required.
2. The complainant may bring a support person with them (eg. Chaplin, family member, friend).
3. Arrange an appropriate venue to meet with the complainant. The venue should be private and free of interruptions, and wherever possible put the complainant at ease. The venue must be conducive to maintaining confidentiality.
4. Allocate enough time to discuss the complaint in full.
5. Explain how the investigation process is conducted, and the possible outcomes.
6. Advise the complainant that the matters discussed are confidential, and that the complainant must only discuss the issue with those persons investigating the complaint, or who are formally supporting them through the process.
7. Using the Incident Report Form for Bullying Complaints, obtain a broad outline of the complaint, followed by a detailed description of what is alleged to have happened, when it is alleged to have happened (including dates and times), where it is alleged to have happened and by whom. Obtain and record all relevant facts.
8. Ask the complainant whether there are any witnesses, or other evidence that supports their version of events. Record the names of any witnesses to the alleged bullying, and obtain copies of any documentation provided to support the allegations. Advise the complainant that witnesses will be interviewed, and that the complainant should not speak to the witnesses about the issues.
9. Explain any other action that will be taken, eg. speaking to the alleged bully.
10. Ask the complainant what they want done in regard to the alleged bullying. It is at this point that mediation should be offered as a means of resolving the complaint. If mediation is accepted, the mediation should be arranged to occur as soon as possible.
11. Counselling should be offered to the complainant. If accepted, this may be arranged through the Employee Assistance Program provider.
12. Advise the complainant when they can expect to be advised of an outcome to their complaint.

Investigator's discussion with the person about whom the complaint is made

1. Determine whether an interpreter is required.
2. The respondent may bring a support person with them (eg. Chaplin, family member, friend).
3. Arrange an appropriate venue to meet with the respondent. The venue should be private and free of interruptions, and wherever possible put the respondent at ease. The venue must be conducive to maintaining confidentiality.
4. Allocate enough time to discuss the allegation(s) in full.
5. Explain to the respondent your role in the investigation of the complaint against them, and that it is important that their version of events is obtained.
6. Advise the respondent that the matters discussed are confidential, and that the respondent must only discuss the issue with those persons investigating the complaint, or who are formally supporting them through the process.
7. Explain to the respondent exactly what it is that they have been accused of saying or doing, including names, dates, times and locations.
8. Provide the respondent with a written memo stating the allegations.
9. Ask the person to respond, either verbally or in writing, to the allegations.
10. Using the Incident Report Form for Bullying Complaints, take notes of the respondent's version of events. Obtain and record all relevant facts.
11. Ask the respondent whether there are any witnesses, or other evidence that supports their version of events. Record the names of any witnesses, and obtain copies of any documentation. Advise the respondent that witnesses will be interviewed, and that the respondent should not speak to the witnesses about the issues.

12. If the allegations are denied, ask the respondent if they can think of a reason why these allegations have been made.
13. Ask the respondent what they believe may resolve the matter.
14. Inform the respondent that they must not victimise or bother the complainant in any way. Doing so will result in immediate action against them, eg. being stood down pending the outcome of the investigation.
15. Counselling should be offered to the respondent. If accepted, this may be arranged through the Employee Assistance Program provider.
16. Advise the respondent when they can expect to be advised of an outcome of the investigation.

The outcome

- Determine whether or not the allegations are substantiated, or whether there is insufficient evidence or information to make a conclusion. Record in writing your conclusions, and the reason for them.
- If the alleged bullying is substantiated, there may be a basis for disciplinary action against the person responsible. If termination of employment is appropriate, this must comply with unfair dismissal laws.
- If the allegations of bullying are unsubstantiated, ensure that there is no action taken against the person whom the complaint was made.
- If there is insufficient information to make a determination in regard to an allegation of bullying, or the allegation of bullying is unsubstantiated, the report notes should be kept in relevant files, and no action is to be taken against either party.
- Advise the complainant and the person about whom the complaint was made of the investigation findings and actions. If the allegation is substantiated, action will include a written record of the investigation being placed in the perpetrators personnel file.
- Provide a written summary to the CEO.
- The OHS Manager will store all bullying complaints files securely and confidentially.

KEY PERFORMANCE INDICATORS

Number of bullying complaints per year per 100 employees.

ATTACHMENTS

Attachment 1: [Bullying Policy Acknowledgment](#)

Attachment 2: [Incident Report Form for Bullying Complaint](#)

Attachment 3: [Interview record for bullying Complaints](#)