

## Legal update - Bullying prevention guidelines released by WorkSafe

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25 February 2014

WorkSafe New Zealand (WorkSafe) last week released best practice guidelines on *Preventing and Responding to Workplace Bullying*. The [guidelines](#) are in a comprehensive (72 page) document and include information for employers and employees on identifying and preventing bullying in the workplace, and responding to bullying allegations.

The guidelines define workplace bullying as:

*"Repeated and unreasonable behaviour directed towards a worker or a group of workers that creates a risk to health and safety.*

*Repeated behaviour is persistent and can involve a range of actions over time.*

*Unreasonable behaviour means actions that a reasonable person in the same circumstances would see as unreasonable. It includes victimising, humiliating, intimidating, or threatening a person."*

This definition comes from Australian legislation and [Safe Work Australia's guidelines on bullying](#), released in November 2013.

To be classified as bullying, behaviour must meet all three criteria: it must be unreasonable, repeated, and a risk to health and safety. Examples of bullying and non-bullying behaviour are provided. One-off incidents, low level workplace conflict, and reasonable management actions taken in a reasonable way are not considered bullying under the guidelines.

The guidelines describe various forms of bullying, including institutional/corporate bullying: where the organisation's norms, culture or practice allows undesirable behaviour to occur, or where structures, practices, policies or requirements create unreasonable burdens on staff, without concern for staff well being.

A range of responses to bullying are described, with a helpful focus on low level and informal workplace based resolution initially. Employees are encouraged not to label conduct 'bullying' unnecessarily. Formal investigations, mediation and other resolution forums including the Employment Relations Authority and Human Rights Commission are also discussed.

A range of tools for employers and employees are provided in the guidelines (including process flow charts and a sample bullying policy), and there is a suite of documents available [online](#) including, for employers:

- Advice on preventing workplace bullying
- A recommended process for dealing with bullying allegations
- A workplace assessment tool
- A workplace bullying cost calculator.

Part 2 of the guidelines provides advice for employees, and online there is a questionnaire "Am I being bullied?" and a flowchart explaining different ways to try and resolve workplace bullying. Employees can use the questionnaire to generate a form to notify their employer about alleged bullying.

While the guidelines are not legally binding on employers, they indicate the Ministry of Business, Innovation and Employment and WorkSafe's view of best practice. The Authority and Courts may also reflect on the guidelines and adopt the definition of bullying in subsequent cases. As a result, employers should familiarise themselves with the guidelines, and consider their current approach to preventing and managing workplace bullying. Larger employers may consider the guidelines' recommendation to appoint and train a designated contact person to deal with bullying issues.

Health and safety legislation requires employers to take all reasonable and practicable steps to provide a safe working environment by managing bullying as a workplace hazard and preventing physical and psychological harm (including stress) which can result from bullying. Further, an employer's responsibility extends beyond managing bullying to addressing other forms of undesirable and potentially harmful behaviour in the workplace.

Please contact us if you would like advice about any workplace bullying issues or other undesirable behaviours, assistance in managing bullying allegations, or if you would like us to review or create an appropriate policy for preventing and dealing with

bullying in your workplace.

## **Minimum wage rates to increase from 1 April 2014**

Labour Minister Simon Bridges announced on Monday 24 February 2014 that the adult minimum wage will increase from \$13.75 to \$14.25 an hour from 1 April 2014. The Starting-Out and training minimum wages will increase from \$11.00 an hour to \$11.40 an hour (80 percent of the adult minimum wage).

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