

Best Practice Guide - Prevention and Management of Workplace Bullying for Doctors in Training and Medical Specialists in Public Sector Health



*This Best Practice Guide has been jointly developed between the Victorian Hospitals' Industrial Association, AMA Victoria and ASMOF (**the parties**) and concerns employees covered by the Doctors in Training (Victorian Public Health Sector) (AMA Victoria) (Single Interest Employers) Enterprise Agreement 2021-2025 and the Medical Specialists (Victorian Public Health Sector) (AMA Victoria) (Single Interest Employers) Enterprise Agreement 2021-2025.*

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1. About workplace bullying

Workplace bullying is:

repeated, unreasonable behaviour directed at an employee or group of employees that creates a risk to health and safety

All doctors are entitled to a safe workplace. Workplace bullying is an occupational health and safety risk, and it is the responsibility of both employers and employees to prevent or, if it does occur, address it.

The *Occupational Health and Safety Act 2004 (OHS Act)* imposes duties on Employers and doctors with respect to a safe work environment. In particular, Employers must implement measures to eliminate or reduce workplace bullying, so far as reasonably practicable.

Workplace bullying... is best dealt with by taking steps to prevent it from occurring and responding quickly if it does occur. Fundamental to this is the need to create a positive workplace culture where everyone treats each other with respect.

VAGO Report on Bullying and Harassment in the Health Sector (2016)

Workplace bullying is not new, but our understanding of and response to workplace bullying has developed over time.

A behaviour that is **long-standing** or considered normal may be workplace bullying. A doctor who has experienced a certain type of behaviour earlier on in their career does not justify them directing similar behaviour towards another employee or group of employees if it is workplace bullying. An individual may not be aware that their behaviour constitutes bullying, in which case this must be promptly discussed and addressed.

An established culture of bullying in the workplace or a failure by previous employees to report the behaviour in the past is not a defence.

Doctors of all levels of experience are not exempt from the legal requirements regarding workplace bullying.

Where a doctor is experiencing workplace bullying, it is likely that the person subjecting to workplace bullying is also a doctor.

Bullying can have serious negative outcomes for those who experience and those who witness it. They include physical, psychological and financial harm.

Prevention

The most effective measure to address an occupational health and safety issue, including workplace bullying, is **prevention**.

This requires that health services develop and support a strong workplace culture where identifying and discussing workplace bullying is proactively encouraged and effectively followed up without real or perceived negative consequences to employees. It also requires that health service employees, including doctors, understand what kind of behaviours are inappropriate for the workplace, even if some behaviours are long-standing.

Early intervention

Early intervention is critical. Efforts should be directed to addressing safety issues arising from workplace bullying in the most direct way possible, and in a way that does not directly or indirectly punish or harm the person who has brought the behaviour to attention.

Early intervention will be more likely where Employers understand, take into consideration and address the perceived or actual professional risks for doctors who speak up about bullying that they have witnessed or experienced.

Managing complaints

Complaints must be managed in a manner that is fair and reliable and that meets the objective of ensuring a safe workplace for all parties involved.

There are also legislative provisions regarding workplace bullying.

More information about the legislative provisions can be found at part 2 of this Guide.

The Agreements applying to both **Doctors in Training** and **Medical Specialists** contain terms regarding Preventing and Managing Workplace Bullying.

More information about those enterprise agreement terms can be found at part 3 of this Guide.

The issue of workplace bullying in the health sector was the subject of a report by the Victorian Auditor General's Office in 2016.

More information about the Report by the Victorian Auditor General's Office can be found at part 4 of this Guide.

There are a range of existing resources covering workplace bullying currently available to Employers and doctors. In particular, the Department of Health (as it is now known) developed a range of materials and resources that are available for use.

More information about resources can be found at part 5 of this Guide.

To assist understanding of what constitutes workplace bullying, there are a number of case studies in this guide for discussion.

The case studies can be found at part 6 of this Guide.

2. Legislation and WorkSafe

Workplace bullying is an occupational health and safety issue.

The OHS Act sets out the duties of an Employer to Employees. It also contains duties of Employees to Employees.

Duties of an Employer to Employees

Section 21 of the OHS Act provides, in part:

An employer must, so far as is reasonably practicable, provide and maintain for employees of the employer a working environment that is safe and without risks to health.

A breach of this obligation can result in a penalty of 1800 penalty units for a natural person and 9000 penalty units for a body corporate. A breach of this requirement is an **indictable offence**.

What must an Employer do?

Section 21 of the OHS Act also sets out some actions that outline what an Employer must do to meet its obligations under the Act. Some that may be relevant to workplace bullying include but are not limited to:

- provide or maintain **systems of work** that are, so far as is reasonably practicable, safe and without risks to health;
- **maintain**, so far as is reasonably practicable, **each workplace** under the employer's management and control **in a condition that is safe and without risks to health**;
- provide, so far as is reasonably practicable, **adequate facilities** for the welfare of employees at any workplace under the management and control of the employer;
- provide such **information, instruction, training or supervision** to employees of the employer as is necessary to enable those persons to perform their work in a way that is safe and without risks to health.

The OHS Act also provides that an Employer must monitor the conditions at a workplace under their management and control.

What must a Doctor do?

Section 25 of the OHS Act describes the duties of an Employee. In summary, while at work a Doctor must:

- take reasonable care for:
 - their own health and safety; and

- the health and safety of persons who may be affected by the employee's acts or omissions at a workplace; and
- co-operate with their employer with respect to any action taken by the employer to comply with the OHS Act.

A breach of this obligation can result in a penalty of 1800 penalty units. A breach of this requirement is an **indictable offence**.

What is Workplace Bullying?

As previously stated, workplace bullying is:

repeated, unreasonable behaviour directed at an employee or group of employees that creates a risk to health and safety

Unreasonable behaviours that may, if repeated, constitute workplace bullying include (note, this is not an exhaustive list):

- Verbal abuse
For example, belittling and humiliation, being sworn at, threatened, insulted, continual inappropriate and/or invalid criticism, name calling, practical jokes, unjustified threats of punishment, gossip and malicious rumours, inappropriate language, yelling.
- Unreasonable demands, unnecessary pressure and impossible deadlines, which are targeted at an employee or group of employees
- Unfair allocation of tasks and/or working hours.
For example, repeatedly requiring a particular person to stay back after hours or rostering them onto night duty
- Undermining a person's work performance, recognition or position, especially with their managers or co-workers
- Hostile behaviour toward an employee or group of employees. For example, excluding them from conversations or various activities

The *WorkSafe Victoria 'Guide For Employers – Workplace Bullying'* (**WorkSafe Guide**) includes other examples of unreasonable behaviours that, if repeated, constitute workplace bullying such as:

- Abusive or offensive emails or other correspondence,
- Threatening body language,
- Deliberately changing work rosters to inconvenience an employee

- Deliberately withholding necessary work-related information or resources or supplying incorrect information
- Inappropriate surveillance or monitoring,
- Inappropriate interference with personal belongings or work equipment
- Unequal or unreasonably exclusion from or access to training,
- Unequal application of work rules and benefits
- Unreasonably excluding employees from activities
- Unreasonably isolating an employee from others
- Setting tasks that are above or beyond a person's skill level without access to training or support.

Key point: *Although the definition of bullying refers to 'repeated' unreasonable behaviour, a single occasion of unreasonable behaviour may still be unacceptable.*

That is, even if something does not meet the definition of workplace bullying, it may still be inappropriate behaviour that should be addressed.

What is not workplace bullying

Reasonable management action carried out in a reasonable manner is not workplace bullying.

The Agreements gives examples of **reasonable management action** carried out in a reasonable manner including:

- Genuine and reasonable instructions
- Rostering and allocating working hours, where the requirements are reasonable
- Constructively delivered feedback or counselling intended to help employees to improve their work performance or the standard of their behaviour.

This is **not** an exhaustive list.

The *WorkSafe Victoria 'Guide For Employers – Workplace Bullying'* (**WorkSafe Guide**) also includes other examples of behaviours that may constitute reasonable management actions such as:

- Setting reasonable performance goals, standards and deadlines,
- Transferring an employee for genuine operational reasons
- Informing an employee about inappropriate behaviour in an objective and confidential way
- Deciding not to select an employee for promotion where a reasonable process is followed and documented
- Making organisational changes or restructuring, with consultation

- Constructive comments which are objective and indicate observable deficiencies in performance or conduct
- Reasonable grievances
- Justified termination of employment.

Causes of Workplace Bullying

Work-related factors, if left unaddressed can result in an increased risk of workplace bullying.

What is meant by ‘work-related factor’?

Work-related factors are anything in the management or design of work that increases the risk of work-related stress, and are also referred to as ‘psychosocial hazards’.

Examples of particular relevance for doctors may include:

- competitive career paths,
- duration of employment contracts

In particular, it is acknowledged that the connection between training, progression and supervision can result in a power imbalance between doctors which may be a relevant work-related factor.

Other examples of work-related factors that can result in an increased risk of workplace bullying are set out in the table below:

<i>Work related factor</i>	<i>Examples</i>
Work stressors	<ul style="list-style-type: none"> • high job demands • limited job control • organisational change, such as restructuring or significant technological change • role conflict and ambiguity • job insecurity • an acceptance of unreasonable workplace behaviours or lack of behavioural standards • unreasonable expectations of clients or customers
Leadership styles	<ul style="list-style-type: none"> • autocratic behaviour that is strict and directive and does not allow employees to be involved in decision making • behaviour where little or no guidance is provided to employees or responsibilities are inappropriately and informally delegated to subordinates,

	<ul style="list-style-type: none"> • abusive and demeaning behaviour that may include inappropriate or derogatory language, or malicious criticism and feedback
Systems of work	<ul style="list-style-type: none"> • lack of resources • lack of training • inappropriate work scheduling, shift work and poorly designed rostering • unreasonable performance measures or timeframes
Workplace relationships	<ul style="list-style-type: none"> • poor communication • isolation • low levels of support • work group hostility
Workforce characteristics groups of employees that may be more at risk of being exposed to workplace bullying can include:	<ul style="list-style-type: none"> • young workers • apprentices/trainees • employees in a minority group because of ethnicity, religion, disability, gender or sexual preferences • casual workers • new workers • injured employees and employees on return to work plans • piece workers • volunteers, work experience students and interns

Source: *WorkSafe Guide*, page 4

Impact of workplace bullying

The impacts of workplace bullying can be profound. Examples of the possible impact of workplace bullying include:

- distress, anxiety, panic attacks or sleep disturbance
- physical illness, such as muscular tension, headaches and digestive problems
- reduced work performance
- increased absenteeism
- loss of self-esteem and feelings of isolation

- changes in eating habits
- higher risk of illness
- deteriorating relationships with colleagues, family and friends
- increased risk of suicide
- depression
- increased risk of suicidal thoughts, suicide plans, and suicide attempts
- long-term anxiety disorders
- post-traumatic stress disorder
- poor general health
- self-destructive behaviour, including self-harm
- substance abuse
- difficulty establishing trusting, reciprocal friendships and relationships

Source: *WorkSafe Guide*, page 4

Key point: *These impacts are examples only. Other impacts may result from workplace bullying and they may be entirely different to the impact the person engaging in the behaviour might have anticipated. However, the primary issue is that the conduct – which creates an unsafe workplace – should not occur rather than the impact in a particular instance.*

Legislative Overview

Occupational Health and Safety Act 2004 (Vic)

Sections 21 and 22 set out the Employer's duties to employees including a safe working environment and monitoring the health of employees.

Fair Work Act 2010 (Cth) Part 6-4B – Workers bullied or sexually harassed at work.

Public Administration Act 2004 (Vic)

Section 8 of the *Public Administration Act 2004*, where applicable, sets out public sector employment principles including fair and reasonable treatment of employees, equal employment opportunity and recognition of human rights.

3. In our Agreements

The Agreements contain identical workplace bullying terms as follows:

- *Doctors in Training (Victorian Public Health Sector) (AMA Victoria) (Single Interest Employers) Enterprise Agreement 2021-2025* – at clause 14, and
- *Medical Specialists (Victorian Public Health Sector) (AMA Victoria) (Single Interest Employers) Enterprise Agreement 2021-2025* – at clause 13.

Why include workplace bullying terms in the Agreements?

With a few exceptions, the Agreement comprehensively sets out employment entitlements. By including terms regarding workplace bullying, it makes the Agreement more complete and provides greater transparency. Including this term in the Agreement means that more Employers and Doctors are aware of their rights and obligations.

What do the Agreements do?

The 'Prevention and Management of Workplace Bullying' terms in the Agreements do a range of things, all of which are directed towards providing a safe work environment for Doctors.

- **Subclause 1** identifies that workplace bullying is an occupational health and safety issue.
- **Subclause 2** defines key terms, including workplace bullying and gives examples of conduct that can constitute bullying.
- **Subclause 3** refers to the duty of the Employer to provide a safe workplace and the role of prevention
- **Subclause 4** concerns prevention more broadly and things required for inclusion in workplace policies.
- **Subclause 5** identifies that early intervention is critical.
- **Subclause 6** concerns managing complaints of workplace bullying including investigations
- **Subclause 7** concerns the appointment of an external investigator
- **Subclause 8** identifies sources of additional information.

By including these matters in an enterprise agreement:

- There is a consistent minimum standard applied across the sector,
- There is an avenue to resolve disputes, through the dispute resolution clause.

4. More information – VAGO report

Workplace bullying and harassment in the Victorian Health Sector were the subject of a report by the Victorian Auditor General's Office in 2016 (**VAGO Report**).

You can find that report [here](#).

The VAGO Report emphasised the need for a positive workplace culture and found that health service agencies were failing to respond effectively to bullying as a serious OHS risk.

The VAGO Report made 12 recommendations. Those recommendations focussed on improving **governance** and **leadership**, implementing a comprehensive approach supported by **improved capability**. An effective formal response system was a focus.

Safety culture

As well as identifying workplace bullying as a safety issue, the VAGO Report made the following observations regarding the impact of a safety culture:

The impact of poor OHS is felt not only by the affect staff, but also by the patients they are treating. Health sector organisations with strong staff safety cultures have fewer patient safety incidents, and the incidents that do occur are of shorter duration.

It is in the interest of all parties to acknowledge that the safety culture of a health service impacts both staff and patients.

Early intervention for minor inappropriate behaviours

The definition of workplace bullying includes a reference to 'unreasonable behaviour' which, if repeated, can constitute workplace bullying.

However, the VAGO report makes the point that bullying exists on a 'continuum' of inappropriate workplace behaviours and that early intervention is necessary to prevent that behaviour from escalating into workplace bullying.

'Evidence indicated that workplace conflicts or minor inappropriate behaviours can easily escalate into bullying or harassment. Early intervention can prevent this. In addition, minor inappropriate behaviours can cause harm and distress and pose a risk to health and safety and need to be appropriately resolved.'

Culture

An appropriate culture can only exist with appropriate leadership. This means that all levels of leadership have a responsibility to treat workplace bullying as a priority, consistent with its status as a serious safety risk.

The culture must be such that employees, including Doctors, are confident that any issues raised will be treated seriously and that real and perceived risks to them will be acknowledged and proactively addressed by their employer as part of the process.

The VAGO Report, however, identified poor accountability as an issue as follows:

There was poor accountability for inappropriate behaviour including bullying... within the audited agencies. This included a consistent failure to hold senior staff to account of inappropriate behaviours. Respondents described a 'double standard' within agencies, where some individuals are perceived as 'untouchable' despite widespread awareness of their consistently inappropriate behaviour.

Under-reporting can be an issue. The VAGO Report identified that this was driven by:

- **A lack of confidence in the process** – both in terms of those responsible for managing complaints and that it would make any difference,
- **A fear of consequences.**

Prevention

In addition to culture, policies and procedures are essential for reducing inappropriate behaviours such as workplace bullying.

To ensure effectiveness, these policies and procedures should be regularly reviewed and evaluated, including input from representatives of employees most likely to be affected, to ensure that they are functioning as intended and are not a barrier to the prevention or management of workplace bullying matters.

Response

Note: Sourced from VAGO report Item 4 'Responding to Bullying and Harassment'

Early Intervention

Early resolution of complaints regarding workplace bullying before they become more serious or damaging, or escalate into more serious bullying incidents, is critical for successfully responding to inappropriate behaviour.

Formal Investigation

While early intervention is preferred, the formal investigation of workplace bullying complaints may be necessary.

Observations from the VAGO Report on responding to workplace bullying should be taken into account when examining culture, policies and procedures in addressing workplace bullying:

- **Little knowledge of independent avenues of support** – particularly for junior doctors;
- **Lack of trust in the independence of the process or in the capability and authority of the human resources department**
- **Lack of support for complainants or feedback on the outcome of their complaint following investigation**

Despite the reported challenges , Employers should actively promote early intervention through culture, policies and procedures, particularly, Employers should:

- record issues related to inappropriate behaviour resolved through early intervention
- with staff feedback, develop strategies to address reporting barriers, and implement and monitor these strategies
- establish and deliver a robust formal complaints process
- review and strengthen the capacity and capability of their human resources departments to deliver a consistent organisational approach to preventing and responding to inappropriate behaviour including bullying and harassment.

5. Resources

This Guide has referred to the WorkSafe Guide on a number of occasions. That Guide can be accessed [here](#).

Additional WorkSafe resources are available at [Bullying - WorkSafe Victoria](#)

The Department of Health also developed a response and resources following the VAGO Report.

The Department has published its strategy for eliminating workplace bullying and harassment in the healthcare sector. That strategy is underpinned by the following elements:

- **Leadership and accountability** - *Leaders understand the risk of bullying, harassment and negative workplace cultures, and their responsibility to apply strategies that improve culture and reduce risks will be important to shift organisational responses.*
- **Capability building** - *Information is critical to ascertain the true prevalence of the problem and target actions and initiatives to address common issues from a system-wide perspective. Building capability to better collect and use information is a key enabler of the change we need. Actions will be taken that advance knowledge and support systems that enable the department, health service leaders and staff to act appropriately and learn and develop.*
- **Environment** - *Giving consideration to the environment to support initiatives in leadership and capability development is essential for culture change to occur.*

Source: [Eliminating bullying and harassment in Victorian healthcare - strategy](#)

Other materials include:

- A **framework** and related resources to support health services to build and strengthen a positive workplace culture.
- **Resources** to support the effective delivery of training to prevent and respond to workplace bullying and harassment
- **Know Better, Be Better** – a targeted awareness campaign developed by the Department and WorkSafe Victoria.

These materials can be accessed at [Bullying and harassment \(health.vic.gov.au\)](#)

6. Case Studies

Please **note** that these case studies have been developed for the purpose of encouraging discussion in the workplace with respect to workplace bullying and are not drawn from specific examples.

Case Study 1:

A Doctor working on a surgical unit is regularly the subject of remarks from a more senior colleague that the Doctor finds belittling and humiliating. When the Doctor attempts to discuss this with the senior colleague in private to ask if they could please stop, the Doctor is accused of being incapable of doing their job since they “seem to be struggling so much, when nobody else is complaining”.

Question 1: What issues arise from remarks that a Doctor who is the subject of them finds belittling and humiliating?

Question 2: What are the factors that may result in remarks by the more senior colleague being unreasonable conduct?

Question 3: What issues arise from the more senior colleague’s response when the Doctor raises concerns?

Question 4: What other options did the more senior colleague have in responding to those concerns?

Question 5: What steps are available to the Doctor following the discussion with the more senior colleague.

Case Study 2:

Doctors on a busy team are regularly reprimanded by a supervisor for being slow to finish their work, without any enquiry into their wellbeing or why they might be struggling. Despite the Doctors collectively raising their concerns about dangerous workload on the team and presenting collective ideas to increase efficiency and safety, the response from their supervisor is that they should “just get on with it”.

Question 6: What kind of issues arise from this case study?

Question 7: What kind of factors may be relevant to considering whether the circumstances described could constitute workplace bullying?

Question 8: What response could a supervisor give under these circumstances?

Question 9: What options are available to the team in this case study?

Case Study 3:

A Doctor receives a roster consisting of a much larger share of night and weekend shifts than their colleagues, without any explanation. The Doctor makes several attempts to raise this issue with their employer, which are ignored. It is implied to the Doctor that questioning the roster given to them is not acceptable and evidence that they are underperforming in their role.

- Question 10:** What issues may arise from these circumstances relevant to workplace bullying?
- Question 11:** What options are available to the Doctor in this example?
- Question 12:** What might a reasonable response from the Employer be?

Case Study 4A:

On several occasions when a Doctor presents at the weekly unit meeting, a senior colleague gives them unconstructive negative criticisms and asks them questions that are obviously beyond their scope of knowledge, leaving the doctor feeling humiliated in front of peers. After the meeting, the Doctor asks the senior colleague to discuss this repeated behaviour but any further discussion of the matter is refused. The senior colleague is the person responsible for their term performance report. The Doctor decides to stay quiet and just put up with the bullying in order to prevent bad feedback.

- Question 13:** What issues may arise that are relevant to bullying?
- Question 14:** What response could the senior colleague have given in these circumstances?
- Question 15:** What resources are available to both the Doctor and the senior colleague in these circumstances?

Case Study 4B:

On a busy team, a Doctor and a more senior colleague both work for the same Head of Department of a specialty which both doctors aspire to pursue. When rounding alone, the more senior colleague belittles the Doctor in front of patients and nurses. When the Doctor speaks to the senior colleague in private about

their concerns at being treated like this, the senior colleague responds threateningly and allocates even more jobs than they already had. When they round with the Head of Department later in the day, the more senior colleague takes credit for work done by the Doctor. The Doctor sees that the Head of Department thinks highly of the senior colleague, so does not feel they will be supported if they report how they are being treated.

Question 16: What issues may arise that are relevant to bullying?

Question 17: What response could the senior colleague have given in these circumstances?

Question 18: What resources are available to both the Doctor and the senior colleague in these circumstances?

Case Study 5:

A Doctor working in the Emergency department is regularly excluded by one particular supervisor. During their shifts, the Doctor is excluded from greetings, friendly conversations and discussion of interesting cases, which are offered to other colleagues in the department. Efforts by the Doctor to engage with their supervisor are ignored and their questions are met with cold or hostile responses.

Question 19: What issues may arise that are relevant to bullying?

Question 20: What options are available to the Doctor who is experiencing the conduct?