Mitigating the risks of Bullying & Harassment – What does the evidence say and how do we do it?

What do we mean by bullying?

○ Different terms used to describe similar behaviour

○ Different definitions in the academic literature

○ Employee interpretations

○ Different measurement instruments

○ Makes it very difficult to accurately assess prevalence rates

Fair Work Act: (1) A worker is *bullied at work* if:

    (a) the worker is at work in a **constitutionally-covered business:**

       an individual; or a group of individuals; repeatedly behaves unreasonably towards the worker, or a group of workers of which the worker is a member; and that behaviour creates a risk to health and safety.

(2) To avoid doubt, subsection (1) does not apply to **reasonable management action carried out in a reasonable manner.**

o   Behaviour that a reasonable person, having regard for the circumstances, would see as unreasonable, including behaviour that is victimising, humiliating, intimidating or threatening.

NOT reasonable management action carried out in a reasonable manner.

"reasonable management action" under section 789FD(2):

o "Determining whether management action is reasonable requires an objective assessment in the context of the circumstances and knowledge of those involved at the time."

o The consequences that flowed from the management action taken, and the emotional state and psychological health of the worker involved, may also be relevant.

o The test is whether management action was reasonable, not whether it could have been undertaken in a manner that was more reasonable; nor whether the applicant perceived it to be unreasonable.

o Management actions do not need to be perfect or ideal to be considered reasonable. However, they do need to be lawful and rational.

Reasonable management practices

o   Commissioner Danny Cloghan found that a mining company's general manager did not bully an IT application developer when he directed him to take on a project that was not referred to in his job description.

o   ….it was not unreasonable for the general manager to allocate the project to the employee and monitor his performance on it.

o   … it was not uncommon for position descriptions to be "couched in general terms and not contain each and every current or projected task to be undertaken",

Bullying

o   Misuse of power

o   Intentionality – debated

o   Repeated behaviours

o   Escalating process

o   Unavoidable

o   Health and safety risk

Because of the interaction of these factors there is a real risk of psychological (and/or physical) harm

Types of bullying

o   Conflict escalation (most common)

o   Predatory bullying

o   Victimisation of a whistle blower

o   Normalised behaviours

o   The overlap between bullying, sexual harassment and unlawful discrimination

o   Mobbing

o   Upwards bullying

Bullying, discrimination and sexual harassment

o   Escalated bullying often involves elements of discriminatory or sexually harassment behaviour

o   Escalated sexual harassment and repeated acts of discriminatory behaviours often fit the definition of bullying

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The background of workplace bullying

Organisational / industrial factors and the way the work is organised	Work groups and workgroup culture
Systems and processes within the organisation and within departments	Characteristics of targets and perpetrators

Organisational / Industrial factors

o   Normalized inappropriate workplace environments
(i.e. commercial kitchens)

o   Industrial problems create 'us and them'

o   Organisation has grown very quickly (culture, policies and process
haven't kept up with the growth)

o   Lack of proper induction for new employees

o   Different types of employment agreements that favor some workers and
disempower others

   o   Labor hire vs permanent employees

Organisational /Industrial Factors

o   Roles are ambiguous (no or out of date job descriptions, multiple reporting lines)

o   High demand / low control jobs

o   Inadequate training (including policies and procedures)

o   Job insecurity

o   Lack of consequences for poor performance including consequences for poor behaviour (especially senior staff)

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Policies and training

o   No policy in regard to bullying, sexual harassment and discrimination;

o   Out of date polices, so no direction in relation to changes (i.e. Facebook, Information technologies);

o   No training in relation to the responsibilities that senior staff have in implementing the policy

o   Policies are not disseminated to staff, or accessible;

o   Policies are not linked (i.e. respectful behaviour, managing performance, etc..);

o   Policies not adhered to by senior staff who set the standard

Policies continued..

o   Complaint processes are complainant driven rather than both organisational and complainant (the organisation only acts when there is a formal complaint)

o   Lack of understanding about what the different complaint options involve (pro's and con's) – i.e. mediation, investigation, external options.

o   Poor training or lack of training for staff and managers in relation to appropriate polices or processes

Workgroup culture

o   A Laissez faire management style has allowed inappropriate behaviour to become the norm

o   There is sexual banter, or a sexualised workplace

o   Marginalised employees are not allowed to fit in or accommodated (race, sexuality, sex, disabled workers...)

o   Initiation practices provide a 'rite of passage' to apprentices or new workers

o   Inappropriate jokes and use of sarcasm is considered OK

o   **Lack of consequences for poor behaviour**

Work-group culture

o   A 'mono- culture' that has *taken for granted* ways of doing things that potentially excludes others

o   Lack of clarity of team roles and vision

o   Meetings held in 'high risk' venues

o   Geographically isolated workgroups ("what happens on the mine, stays on the mine..")

o   The culture is highly competitive

o   Blurred boundaries between work and home

Individual Characteristics

○　Protection of self esteem – highly defensive, poor communicator

○　Inappropriate behaviours that are not managed correctly

○　Lack of management training or mentoring with a priority given to technical skills rather than people management skills (especially new and middle managers)

○　Managers who find it hard to have those 'difficult or critical' conversations with staff about their behaviour

○　Autocratic management style – the perpetrator (lack of insight or consequence)

○　BBQ manager – wants to stay 'friends' with staff

Individual characteristics continued..

- Vulnerable employees / employees with mental health issues

- Employees who don't fit in..

- Poor communication / conflict management/reciprocity of high conflict behaviours

- Lack of insight into own behaviour (target and perpetrator)

- High conflict personality style

A risk management approach

1. Identify the hazard

2. Assess the risks within the organisation, and within discrete departments

3. Intervene by carrying out specific control measures

4. Evaluate and review control measures and interventions

Controlling the Risks

- Risks should be identified, and then specific strategies implemented to control them.

- Not tick box, but risks relevant to your organisation that may not be present in others -

➤ Organisational level

➤ Team or department level

➤ Individual level (new managers / staff / mental health)

What risks did you identify?

- What strategies can you put in place to mitigate or control those risks?
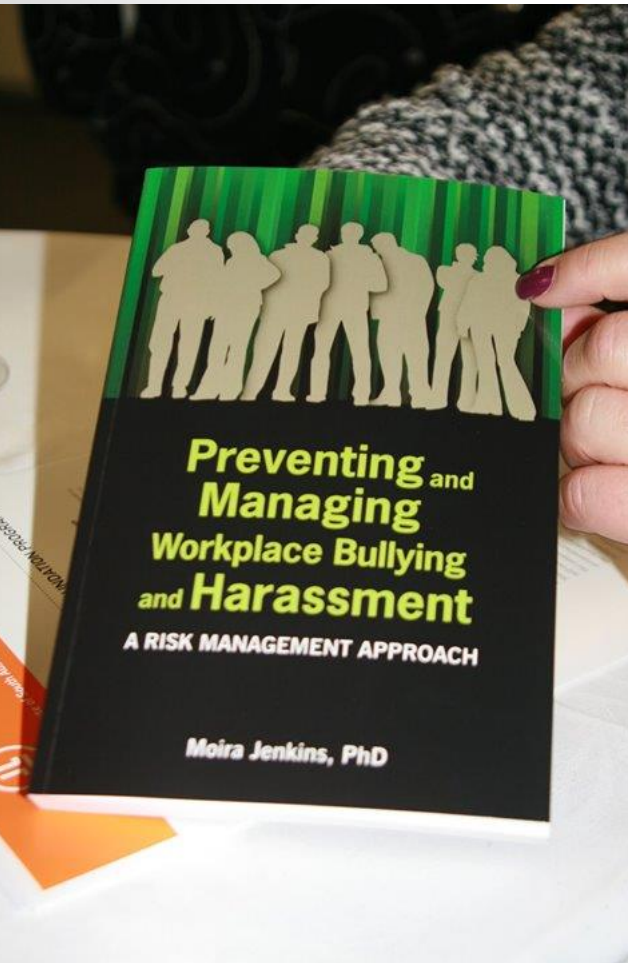
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