



I'm being bullied!

Dealing with the new anti-bullying provisions in the Fair Work Act

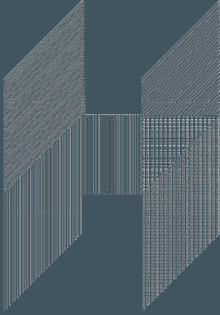
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Introduction




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Bullying in context



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The Fair Work Act Jurisdiction



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What is bullying?

- Bullying occurs:
 - while the worker is at work
 - if an individual or a group of individuals
 - repeatedly behave unreasonably towards the worker or a group of workers of which the worker is a member
 - the behaviour creates a risk to health and safety
 - the behaviour is not reasonable management action carried out in a reasonable manner.



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The who and where questions

- Who is a "worker"?
- What is "at work"?



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When is a worker "bullied"?

- Repeated & unreasonable behaviour that creates a risk to health and safety
- Repeated behaviour can refer to a range of behaviours occurring over time
- Unreasonable nature of behaviour is judged objectively.

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Unreasonable behaviour towards a worker

- Does not include reasonable management action carried out in a reasonable manner
- Adopts the same definition of the exemption as is commonly found in workers' compensation legislation.

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When will the Fair Work Commission become involved?

- Where a worker reasonably believes that he or she has been bullied at work
- The Fair Work Commission must find that there is a risk of the bullying continuing
- The Fair Work Commission must start to deal with the application within 14 days.

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What orders can the Fair Work Commission make?

- The individuals or group to stop the specified behaviour
- The employer to regularly monitor behaviours
- Compliance with the employer's workplace bullying policy, if any
- The employer to provide information and additional support and training to workers
- The employer to review its workplace bullying policy.

Coalition's position on the Anti-Bullying jurisdiction

- Originally proposed to move amendments requiring an applicant worker to have sought assistance from another independent regulator (e.g. WHSQ) before being eligible to bring an application
- Now adopting a "wait & see" approach for the first 6 months of the amendments before finalising their position.


Alternatives to FWC application

- Employer's grievance procedures
- Complaint to health & safety representative
- Complaint to WHSQ
- Workers' compensation claim.


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Questions?



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