



## Guide for preventing & responding to Workplace bullying

This guideline is to be read & understood by all Beach Burrito Co employees.

### Safe Work Australia

Workplace bullying is a risk to health and safety.

'Health' is defined in the WHS Act as both physical and psychological health.

Failure to take steps to manage the risk of workplace bullying can result in a breach of Work Health and Safety (WHS) laws.

All Venue Managers are responsible for ensuring no workplace harassment occurs and that these guidelines are followed by all to the best of their ability.

Workplace bullying can occur wherever people work together and in all types of workplaces.

It is best dealt with by taking steps to prevent it from occurring and responding quickly if it does occur.

The longer the bullying behaviour continues, the harder it becomes to repair working relationships and the greater the risk is to health and safety.

### **What is workplace bullying:**

Workplace bullying can adversely affect the psychological and physical health of a person. Workplace bullying is a psychological hazard that has the potential to harm a person, and it also creates a psychological risk as there is a possibility that a person may be harmed if exposed to it.

**Workplace bullying** is *repeated*, and *unreasonable behaviour* directed towards a worker or a group of workers that *creates a risk to health and safety*.

**Repeated behaviour** refers to the persistent nature of the behaviour and can involve a range of behaviours over time.

**Unreasonable behaviour** means behaviour that a reasonable person, having considered the circumstances, would see as unreasonable, including behaviour that is victimising, humiliating, intimidating or threatening.

Examples of behaviour, whether intentional or unintentional, that may be workplace bullying if they are **repeated**, **unreasonable** and **create a risk to health and safety** include but are not limited to:

- abusive, insulting or offensive language or comments
- aggressive and intimidating conduct
- belittling or humiliating comments
- victimisation
- practical jokes or initiation
- unjustified criticism or complaints
- deliberately excluding someone from work-related activities
- withholding information that is vital for effective work performance

- setting unreasonable timelines or constantly changing deadlines
- setting tasks that are unreasonably below or beyond a person's skill level
- denying access to information, supervision, consultation or resources to the detriment of the worker
- spreading misinformation or malicious rumours, and
- changing work arrangements such as rosters and leave to deliberately inconvenience a particular worker or workers.

**If the behaviour involves violence, for example physical assault or the threat of physical assault, it should be reported to the police.**

### **What is not workplace bullying?**

A single incident of unreasonable behaviour is not workplace bullying; however, it may be repeated or escalate and so should not be ignored.

### **Reasonable management action taken in a reasonable way:**

-It is reasonable for managers and supervisors to allocate work and give feedback on a worker's performance. These actions are not workplace bullying if they are carried out in a lawful and reasonable way.

-A manager exercising their legitimate authority at work may result in some discomfort for a worker. The question of whether management action is reasonable is determined by considering the actual management action rather than a worker's perception of it, and where management action involves a significant departure from established policies or procedures, whether the departure was reasonable in the circumstances.

### **What is reasonable:**

- setting realistic, achievable performance goals, standards, deadlines
- fair, appropriate rostering and allocation of hours
- transferring a worker to another area of the business for operation reasons
- decisions on promotions made in a fair and reasonable way
- informing worker about unsatisfactory work performance in a fair, constructive way
- informing worker about unreasonable behaviour in fair, reasonable way
- implementing changes or restructuring
- taking disciplinary action, incl suspension, or terminating employment where appropriate or justified.

### **Unlawful discrimination and sexual harassment**

Unreasonable behaviour may involve unlawful discrimination or sexual harassment which, by itself, is not bullying.

Discrimination is unlawful under anti-discrimination, equal employment opportunity, workplace relation and human rights laws – but it's not bullying.

The WHS Act prohibits a person from engaging in 'discriminatory conduct' for a 'prohibited reason'. For example, it is unlawful for a person to terminate the employment of a worker for raising health and safety concerns or performing legitimate safety-related functions in relation to their workplace.

Generally, sexual harassment includes unwelcome sexual advances, requests for sexual favours or other unwelcome conduct of a sexual nature that could be expected to make a person feel offended, humiliated or intimidated.

### **Workplace Conflict:**

**\*Differences of opinion & disagreements aren't bullying. People can have differences & disagreements in the workplace without using repeated, unreasonable behaviour that creates a risk to health & safety.**

Some people do take offence to action from management, BUT this doesn't mean the management's action was unreasonable.

However, in some cases, this does mean the conflict that arises from this may escalate to the point where it becomes workplace bullying.

### **How can workplace bullying occur:**

Through a variety of ways including –

- verbal or physical abuse
- email, text messages, online groups, instant messages, social media etc.
- it can be directed at an individual or a group.
- it can be sideways between workers
- downwards from Management to workers
- upwards from workers to Manager
- it can come from people outside the business, e.g. customers, suppliers, tradespeople.

### **Impact of Workplace bullying:**

\*It can be very harmful to those experiencing it and those observing it.

The effects are varying depending on the situation, and can include:

- distress, anxiety, panic attacks or sleep disturbance
- physical illness, for example muscular tension, headaches, fatigue and digestive problems
- loss of self-esteem and self-confidence
- feelings of isolation
- deteriorating relationships with colleagues, family and friends
- negative impact on work performance, concentration and decision-making ability
- depression, and
- thoughts of suicide.

It can also have the following negative impacts on the work environment:

- high staff turnover and associated recruitment and training costs
- low morale and motivation
- increased absenteeism
- lost productivity
- disruption to work when complex complaints are being investigated
- costs associated with counselling, mediation and support
- costly workers' compensation claims or legal action, and
- damage to the reputation of the business.

## **Who is responsible for addressing workplace bullying?**

**PCBU** (Person conducting business or undertaking) – usually Restaurant Manager

-The PCBU has a primary duty of care under the WHS Act to ensure as far as is reasonable, that workers and others aren't exposed to health & safety risks in the workplace.

**Officers** (Company directors) must exercise due diligence to ensure the business complies with WHS Act.

**Workers** incl employees, contractors, apprentices have a duty to take reasonable care for their own health & safety at work and take care their actions do not adversely affect the health of others. They must also co-operate with all reasonable policies & procedures of the PCBU e.g. a Workplace bullying policy.

## **Preventing Workplace bullying:**

There is always a risk of bullying, where ever people work together.

Best practice is to take steps of prevention before occurrence.

-regular communication with workers in all venues to see if workplace bullying is occurring.

-seek feedback from workers in Exit interviews

-seek feedback from Restaurant & Kitchen Managers regularly

-monitor incident reports, workers comp claims, patterns of absenteeism, sick leave, staff turnover for patterns or unexplained changes.

## **Research indicates these factors are huge contributors:**

-limited job control

-Organisational change (restructuring)

-role conflict/ambiguity

-job insecurity

-an acceptance of unreasonable workplace behaviour or lack of behaviour standards

-Bad leadership styles: autocratic behaviour, little or no guidance, abusive or demeaning behaviour incl. bad language or malicious criticism/feedback.

-Poor systems: lack of training, unreasonable performance measures, inappropriate or poor scheduling.

-Poor workplace relations: bad communication, isolation, hostility.

## **Controlling the risks:**

Minimise the risks as much as possible through creating a positive work environment where all workers are treated fairly with respect.

## **Management must be the Example!**

Senior management, including Operations Manager, Area Managers, and HR Manager must effectively model Beach Burrito Company's values and standards as a shining example to all employees.

This sends a clear example to workers that the company is serious about workplace bullying and will also contribute to a positive workplace culture where unreasonable behaviour is not tolerated.

-Managers must deal with unreasonable behaviour as soon as they become aware of it, to prevent bullying developing.

-Beach Burrito company has a Workplace bullying Procedure, which should be used.

This policy must be easily accessible by all restaurant staff in the venue.

## **Respectful, productive relationships**

Good management practice means Managers having effective communication with all their staff and aiming for respectful relations at all times.

- Managers should mentor and support new and also poor performing staff
- facilitate teamwork, consultation and co operation
- ensure that management decisions and actions are defined and understood by all
- ensure managers act swiftly when dealing with unreasonable behaviour

\*If a worker is being bullied, they are more likely to report it if they know there is a transparent reporting process in place and that it will be followed up as soon as a report is received.

Reporting can be encouraged by:

- making it clear victimisation isn't tolerated
- fast decisive response to reports

Workers must be clear on who in the business they can talk to about bullying, that their report will be taken seriously and that it will be confidential.

\*Workplace bullying must be reported and dealt with fast, and in the same way every time.

The report must outline how the issues will be dealt with, clearly outline the role of management in the process and offer the victim external avenues available for when internal avenues aren't successful.

### **Employee training:**

#### **Anti-bullying training is proven as valuable through research.**

- Early intervention in workplace conflict is key – before it escalates into bullying.
- Restaurant and Kitchen Managers should be aware of their roles in the company in relation to preventing bullying and also responding to conflict and potential bullying and have the skills to take action where needed.
- All employees must be aware of the standards of behaviour Beach Burrito Company expects – this is outlined in the New Employee Handbook.
- All employees must understand how to report workplace bullying, who to report it to and how reports are managed.
- \*We should consider a Workplace bullying training program for all Managers. It would aim to reduce staff turnover and absenteeism through bullying & workplace conflict.
- \*Emma to produce a Toolbox talk on Workplace bullying & also Sexual harassment.
- Display poster around restaurant/kitchens, info on bullying.

### **Monitoring & Reviewing:**

Once employees are trained in Workplace procedures, all venues must ensure they are regularly reviewed to ensure the procedures are effective.

Monitoring can occur through meetings with HR Manager or Area Managers on a quarterly basis but MUST occur when an incident of bullying has been reported.

These meetings will aim to reduce staff grievances and staff turnover.

Head Office management should review incident reports often to identify any trends in employee behaviour.

\*A review must occur when bullying has been reported.

#### **Questions to ask:**

- Are Managers trained to recognise and deal with workplace bullying?
- Are staff aware of what workplace bullying is?
- Do staff speak up about it?
- Has there been a change in workplace morale and behaviour over time?
- Are bullying policies enforced effectively?
- Are reports of bullying dealt with quickly enough?

### **Responding to Workplace bullying:**

-It may be identified or reported by the subject or a witness. This can be verbally or in writing. The person may inform a manager or Head Office (Ops Mgr., Area Mg, HR Mgr. or CEO)  
-It may also be reported through a Manager observing a situation. E.g. increase in absenteeism, change in work performance, low staff morale)

-Response must be as soon as possible.  
-Actual response will vary, depending on the situation.  
-First attempt will be to resolve situation within the workplace, regardless of whether bullying occurred or not.

### Questions to ask now:

#### -Is the behaviour bullying?

You need to determine the type of behaviour: is it violent, or unlawful or sexual harassment or workplace bullying? These are all different, separate behaviours.

#### -Does the situation warrant measures to minimise risk of ongoing harm?

If necessary, interim measures should be taken, like reassigning roles, tasks, shifts.

#### -Do I have a clear understanding of the issues?

Gather all the information possible, from all parties involved.

#### -Do I need additional information or assistance?

You may need to get advice from an external source like AFEI, Fair Work or Safe Work Australia.

#### -How do I resolve this issue?

It may be possible to resolve it between the parties with a “no blame” approach. A proposed resolution with the person who reported the behaviour should be discussed to make sure they are comfortable.

#### -Do we need an investigation?

This will depend on the severity of the incident.

An incident may be resolved with the person self-managing the situation, by telling the other person their unreasonable behaviour isn't welcome and to stop. If they don't feel safe or confident doing this, they should ask for management help.

Everyone involved must use a confidential & non-confrontational approach.

The person accused must be told as soon as possible, in a report, and be given a chance to explain themselves. They should also be treated as innocent until reports are proven to be true.

-Employees need to be trained in how to understand how to deal with issues like conflict, confidentiality etc.

**Role of Managers:** to intervene when witness to unreasonable behaviour or if asked to by a worker. If Manager approaches a worker about their behaviour, they must record the actions taken.

**Role of WHS Manager:** to give advice to workers about how to approach an issue. They are not responsible for trying to resolve the matter.

### Steps for responding to bullying:

- 1) Act promptly: respond to reports quickly, within set timelines. Advise all parties of how long it will take to respond.
- 2) Treat all matters seriously
- 3) Maintain confidentiality: details should only be known by those directly involved or those resolving it.
- 4) Ensure procedural fairness: alleged person to be treated as innocent unless reports proven to be true. Reports must be shown to person accused, so they can be given chance to explain their version of events. Person reporting the bullying to be listened to respectfully and their report treated as credible and reliable unless proven otherwise.
- 5) Be neutral: Impartiality towards all is crucial.
- 6) Support all parties: once a report is made, advise all parties of support available and to bring a support person to meetings if they wish.

- 7) Do not victimise: person reporting, and person accused not to be victimised.
- 8) Communicate process and outcomes: keep everyone informed of the process and timeframes around it, also keep them informed of why or why not decisions are made.
- 9) Keep records: record who reported it, when report was made, who report was made to, the details of the issue, action taken to respond to the issue, any further action taken. Also keep records of any conversations, meetings, interviews detailing who was present and the agreed outcomes.

### **Confidentiality & transparency:**

Workplace bullying must be treated as confidential apart from those involved.

Failure to maintain confidentiality leads to mistrust of the reporting process and the company. Limit the people involved in the investigation, and always ask permission of those involved before speaking with others about the incident. Conduct discussions in a private location and be aware of photocopying and disposing of written materials.

\*All parties involved must be made aware of maintaining confidentiality – who they can and cannot speak to about the incident.

Transparency of the report handling process promotes accountability within Beach Burrito Company. All parties must be made aware of the timeframes, steps to be taken, name of contact person, outcome of the review and reasons why and their right of review if not satisfied with the outcome.

### **Transparency for Beach Burrito Company:**

Beach Burrito Co can show it is committed to managing the risk of workplace bullying by highlighting activities, they have been or will be undertaking to resolve workplace bullying.

After a report of workplace bullying is resolved there should be a follow-up review to check the health and safety of the parties involved, to offer support and to find out whether actions taken to stop the workplace bullying have been effective.

### **Reviewing the systems of work**

After addressing a specific case of workplace bullying, the work situation should also be examined to identify and address any underlying factors that may increase the risk of workplace bullying occurring. For example, review the systems of work including workloads and staffing levels and the effectiveness of procedures and training.

Keeping records on reports of workplace bullying and actions taken as recommended in section 3.2 can be useful in analysing trends to help prevent bullying from recurring in the future. Records must remain confidential.

### **Investigations:**

Must be carried out for serious, complex reports. This includes:

- covering a long period of time
- involving multiple workers
- where the alleged behaviours are in dispute
- involving bullying by senior managers
- when other processes have failed

**Aim of investigation is to look at circumstances of matter & work out what has occurred.**

**Once it is decided to do an investigation the PCBU must decide:**

-Who will conduct it (must be an impartial person, unbiased who has experience in this. If chosen internally, all parties must have confidence in their neutrality.

-informing the parties: they must be told who is conducting the investigation, if the person has a conflict of interest (must be declared before starting), inform them of their obligations and the obligations of the investigator, their right to seek independent advice and representation, how the issues will be investigated, e.g. interviews with people involved or witnesses. Who will receive copies of records of interviews and what support mechanisms will be in place for all parties e.g. health and safety measures for a party.

-details of behaviour to be investigated

-timeframes

-goals for investigation

-what support needs to be provided to involved parties

-how outcomes will be communicated

**Outcome of investigation:**

If the investigator is not the decision maker, they must inform the PCBU with an objective report. The PCBU will use the findings to make their decision. The report must outline:

-that the report was investigated

-the investigation process

-all relevant evidence

The findings of the investigation must then be communicated to all parties, and if the report is substantiated then action can be taken consistent with relevant policies and procedures. The actions will be different depending on the situation & severity of the report.

Actions include:

- directing the person to cease the behaviour and gaining a commitment that the behaviour will not be repeated and monitoring this over time
- providing information to workers to raise the awareness of workplace bullying and standards of behaviour expected
- providing training or coaching e.g. leadership, communication and inter-personal skills and conflict management
- providing counselling support
- reviewing the workplace bullying policy and prevention measures
- addressing organisational issues that may have contributed to the behaviour occurring
- requesting an apology
- providing a verbal or written warning
- transferring a worker or workers to another work area, or
- demotion, dismissal or other actions subject to workplace relations laws.

It is likely a combination of strategies will be appropriate to prevent bullying behaviour from re-occurring. If an investigation finds a report of workplace bullying is not substantiated, assistance may still need to be provided to resolve outstanding issues. This may involve mediation, counselling or changing working arrangements. Mediation is a voluntary process where an impartial third party, preferably a trained mediator, assists the parties put their respective cases before each other. The role of a mediator is to help both parties understand each other's perspective and to try to find an agreement the parties are willing to abide by.

If the report is found to be vexatious or malicious, disciplinary action or counselling may be considered against the person who made the report. Any action taken should be consistent with the organization's policies on misconduct and disciplinary action.

**External avenues:**

Reports of workplace bullying should be raised within the workplace, and reasonable attempts should be made to resolve the matter internally before referring to external agencies. Most external agencies



encourage complainants to attempt to resolve the situation within the workplace through an informal or formal process (where available) prior to seeking their assistance.

WHS Regulators and the Fair Work Commission may be contacted where reasonable attempts to resolve a workplace bullying complaint through internal processes within the workplace have failed. The most appropriate agency will depend on the nature of the complaint and the desired outcome.

Workers who reasonably believe they have been bullied at work may apply to the Fair Work Commission for an order to stop the workplace bullying.

The Fair Work Commission's anti-bullying jurisdiction is limited to preventing the worker from being bullied at work. The Fair Work Commission cannot issue fines or penalties and cannot award financial compensation. The focus is on resolving the matter and enabling normal working relationships to resume.

*Emma Read,*

Emma Read

HR Manager

[emma@beachburritocompany.com](mailto:emma@beachburritocompany.com)

