

# Don't ignore work place bullying

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## LEGAL MATTERS

**W**orkplace bullying has increasingly become a ground of grievance in employment problems.

Employers need to ensure their workplaces are safe and have a positive culture that makes the presence of bullying unlikely.

If bullying is observed or notified in a workplace, there is a clear legal duty on an employer to immediately assess and manage the behaviours that cause distress to any employee, and act to protect employees.

The employer has a duty to stop the offending behaviour and re-establish a healthy working environment free from bullying.

What amounts to workplace bullying is generally seen by Worksafe as "repeated and unreasonable behaviour directed towards a worker or a group of workers that creates a risk to health and safety".

Employee can take grievances

against employers, not only for unjustifiable dismissal but for "disadvantage" suffered as a consequence of "unjustifiable actions" as well as on grounds of "discrimination", "harassment", or "duress".

Bullying sits within the scope of many of the grounds for grievance if there was unwelcome behaviour toward the employee that had a detrimental effect on their employment, job performance or job satisfaction.

Workplace bullying may arise from the actions of the employer directly, but can arise out of the employment environment generally, when the complainant has been subjected to such behaviour from another employee, or potentially even an outsider.

The Human Rights Act specifically recognises "clients" or "customers" as people able to affect employees detrimentally and from which employers need to protect their workers.

Under the Human Rights Act, if an employee makes a complaint of unwelcome or offensive behaviour against them, and that was established to have occurred, the employer has an obligation to take whatever steps are practicable to prevent any repetition of such behaviour.

The same applies under specific employment legislation.

The Health and Safety laws



There has been much increased emphasis on eliminating workplace bullying in recent years.

place obligations upon employers in relation to bullying and provide significant fines for employers who allow such conduct in the workplace to continue.

An employer must manage any hazards in the workplace and ensure they eliminate, isolate, or

minimise them, and monitor the health of employees to ensure that their work is not having a detrimental effect on their health.

Thus when issues of workplace bullying arise there is a strong positive obligation placed upon the employer that these matters

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are dealt with and attended to promptly and properly.

The remedies for an employee who has been found to have suffered workplace bullying are potentially very high, as are the potential fines against employers who allow such harms to occur, or fail in their duties to prevent them.

If employers become aware of such a problem in the workplace, they need to act swiftly and properly to deal with that.

A failure to act will also have an adverse impact on business through high attrition, low morale and poor reputation.

■ Contact courtesy of Rainey Collins Lawyers, phone 0800 733 484 or go to [raineycollins.co.nz](mailto:raineycollins.co.nz). If you have a legal inquiry you would like discussed, email [ainowlesley@raineycollins.co.nz](mailto:ainowlesley@raineycollins.co.nz).