

## Recognizing and Managing Risks Associated with Workplace Bullying

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### Introduction

When most of us hear the term “bullying” we tend to conjure up images of the schoolyard bully who mercilessly torments weaker classmates. However, greater attention is also being given to another type of bullying that occurs in the workplace. Some of us may have witnessed or experienced overt forms of bullying such as having a boss who assigns unpleasant work, imposes unrealistic deadlines, who teases/ridicules subordinates or delivers regular ultimatums or threats of dismissal. For many, this kind of bullying constitutes the “dark” side of their daily working life.

Workplace bullying, sometimes referred to as the “new truth” about contemporary workplaces, is pervasive and affects a substantial part of the global workforce. Indeed, the International Labor Organisation (ILO) reports that complaints of workplace bullying represent the fastest growing complaints from workers worldwide. Contemporary European, U.S. and Australian research indicates that emotional and psychological abuse rather than physical violence represents the greatest threat to workers — only 10 percent of bullying episodes involve any form of physical assault. In order to understand the bully’s attitude toward his or her act and the motivation to undertake it, researchers have profiled the characteristics of bullies and targets. Their findings suggest that impulsivity, emotional reactivity, cynicism, a low tolerance for ambiguity and aggressiveness are qualities that predispose some to bullying others. In comparison, targets appear likely to have low self-esteem, poor social competence and exhibit negative affectivity more commonly than other employees (Braithwaite, Ahmed & Braithwaite 2008).

Bullying is a legitimate risk exposure in the workplace as evidenced by a packed room for a session on “Workplace Bullying: The ‘New’ Type of Harassment” at the 2008 Risk and Insurance Management Society conference. Awareness of this abusive behavior is also heightened by such television programs as “The Apprentice” and “Hell’s Kitchen.” Bullying is receiving increasing news coverage by the print and electronic media. The *New York Times*, *The Wall Street Journal*, *USA Today* and *The Washington Post* have devoted features to workplace bullying. We are also seeing more awareness among major employment relations stakeholders — managers, human resource administrators and some trade unions are raising concerns about bullying at the negotiating table (Yamada 2008).

Increased use of the web has seen more incidences of cyber-bullying and harassment, sometimes with fatal consequences. Bullies are becoming more tech-savvy — using text messages, e-mails and social-networking sites to intimidate and harass, according to recent reports from the U.S. Centers for Disease Control and Prevention. However, many people are not aware that, since the 2002 Sarbanes-Oxley Act and other regulations, all publicly traded companies are required to archive all e-mail messages. Private sector employers also have complete authority to examine every e-mail, as long as they have established a written policy on the subject.

### Abstract

*Workplace bullying is pervasive and affects a substantial part of the global workforce. Complaints of workplace bullying represent one of the fastest growing types of complaints from workers worldwide. Bullying is a legitimate risk exposure in the workplace, as evidenced by case law building in the United States and elsewhere. The authors look at definitions of workplace bullying, risk exposures to employers, economic costs of bullying, and the current regulatory environment. They also provide suggested steps to reduce the frequency and severity of losses resulting from workplace bullying.*

The Society for Human Resource Management (SHRM) and the Ethics Resource Center (ERC) provide a list of the most commonly observed misconduct in the workplace in their report titled, “The Ethics Landscape in American Business Survey Report.” For 57 percent of HR professionals, abusive or intimidating behavior toward employees (excluding sexual harassment) tops the list. Statistics from the National Workplace Bullying Institute state that 37 percent of Americans (54 million people) have been bullied in the workplace. In addition, workplace bullying is four times more prevalent than other types of harassment, including sexual and racial harassment. Women are the targets of the behavior more often than men. By the same token, women were the perpetrators of workplace bullying in 71 percent of cases.

In this article, we look at definitions of workplace bullying, economic costs of bullying, risk exposures to employers and the current regulatory environment. We follow with suggested steps to reduce the frequency and severity of losses resulting from workplace bullying and end with concluding remarks.

## Workplace Bullying Defined

A flippant yet serious question posed by Stefan Stern of the *Financial Times* stated, “if waterboarding is an ‘enhanced interrogation technique,’ does that make bullying an ‘enhanced management technique?’” Realistically, it is difficult to determine the difference between a tough management style and bullying. That said, workplace bullies have variously been described as *conquerors* only interested in power and control, *performers* who enjoy belittling subordinates, or *manipulators* who lie, cheat, take the credit of others and who never assume responsibility for their errors (Hornstein 1999). And what about the targets? Australian research (Hanley & Bryant 2008) found that the metaphors used by bullying targets to describe their experience conceptualized the bully boss as a nasty dictator, the bullying process as a battle that left them feeling like a helpless, useless prisoner. One female reflected: ‘... I’d curl up in the corner, no sound, nothing — go into my own little world.’ Others characterized their experiences via inordinate power imbalances, organizational indifference, toxicity, sadness and hurt.

Most reported incidents of bullying were orchestrated by a supervisor/manager toward a subordinate. A recent U.S. survey found that 72 percent of bullies were bosses, and 55 percent of the bullied were rank- and file workers (2007 Zogby/Workplace Bullying Institute Survey). This scenario mirrors the findings of an Australian cross-national/cross-industry survey which revealed that 70 percent of bullying behaviour was inflicted by a supervisor or manager toward subordinates (ACTU 2003).

It is important to note that different kinds of dysfunctional supervision may have differing organizational impacts. One critical distinction between poor supervision and supervision that is either abusive or bullying is arguably the role of *intent*. Benson, Hanley & Gilbreath (2008) suggest that abusive and bullying supervisors have at least some degree of intent to inflict their behavior on subordinates, whereas poor supervisors are often simply “clueless” and lack any sense of specifically trying to inflict stress on others in the workplace.

Workplace bullying may be premeditated or not, overt or covert, emotional or not. Many factors cause it: manipulation, aggression, exploitation, coercive management styles and practices, personality clashes, machismo in the organizational culture, gender politics and stereotyping, power play and patterns originating from childhood (Hannabuss, 1998).

According to the *Bully in Sight* web page, there are numerous forms of bullying which include constantly criticizing, ridiculing or dismissing achievements, trivial fault-finding, sidelining and marginalizing, ostracizing, demeaning, threatening and shouting at, denying information necessary for undertaking work, overloading people with work, having employees’ responsibility increased but taking away their authority, denying annual or sick

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or compassionate leave, abusing the terms and conditions of a job description, inviting people to informal meetings which turn out to be disciplinary hearings, encouraging people to feel guilty, subjecting staff to warnings of specious or false changes and coercing people in reluctant resignation or early or ill-health retirement. A practical definition proposed by Einarsen, Hoel, Zapf, & Cooper (2003) explains that:

Bullying ... means harassing, offending, socially excluding someone or negatively affecting someone's work tasks ... it has to occur repeatedly and regularly ... over a period of time ... is an escalating process ... the person confronted ends up in an inferior position and becomes the target of systematic negative social acts.

What is the difference between harassment and bullying? Definitions of the two vary and there is much overlap. The essential differences between harassment and workplace bullying are described as follows:

<b>Harassment</b>	<b>Workplace bullying</b>
Has a strong physical component, e.g. contact and touch in all its forms, intrusion into personal space and possessions, damage to possessions including a person's work, etc.	Almost exclusively psychological (e.g. criticism), may become physical later, especially with male bullies, but almost never with female bullies.
Tends to focus on the individual because of what they are (e.g. female, black, disabled etc).	Anyone will do, especially if they are competent, popular and vulnerable.
Harassment is usually linked to sex, race, prejudice, discrimination etc.	Although bullies are deeply prejudiced, sex, race and gender play little part; it's usually discrimination on the basis of competence.
Harassment may consist of a single incident or a few incidents or many incidents.	Bullying is rarely a single incident and tends to be an accumulation of many small incidents, each of which, when taken in isolation and out of context, seems trivial.
The person who is being harassed knows almost straight away they are being harassed.	The person being bullied may not realize they are being bullied for weeks or months — until there's a moment of enlightenment.
Everyone can recognize harassment, especially if there's an assault, indecent assault or sexual assault.	Few people recognize bullying.
Harassment often reveals itself through use of recognized offensive vocabulary, e.g. ("bitch," "coon," etc).	Workplace bullying tends to fixate on trivial criticisms and false allegations of underperformance; offensive words rarely appear, although swear words may be used when there are no witnesses.
There's often an element of possession, e.g. as in stalking.	Phase 1 of bullying is control and subjugation; when this fails, phase 2 is elimination of the target.
The harassment almost always has a strong clear focus (e.g. sex, race, disability).	The focus is on competence (envy) and popularity (jealousy).
Often the harassment is for peer approval, bravado, macho image, etc.	Tends to be secret behind closed doors with no witnesses.
Harassment takes place both in and out of work.	The bullying takes place mostly at work.
The harasser often perceives their target as easy, albeit sometimes a challenge.	The target is seen as a threat who must first be controlled and subjugated, and if that doesn't work, eliminated.
Harassment is often domination for superiority.	Bullying is for control of threat (of exposure of the bully's own inadequacy).
The harasser often lacks self-discipline.	The bully is driven by envy (of abilities) and jealousy (of relationships).
The harasser often has specific inadequacies (e.g. sexual).	The bully is inadequate in all areas of interpersonal and behavioral skills.

Source: UK National Workplace Bullying Advice Line

In sum, while bullying can take many forms, it appears to have four specific features: intensity, repetition, duration and power disparity (Lutgen-Sandvik, Tracy & Alberts 2007; Hoel & Beale 2006).

## Risk Exposures

Workplace bullying is becoming a legitimate liability concern, with the case law building. In 2008, the Indiana Supreme Court upheld a \$325,000 verdict against a cardiovascular surgeon accused of being a workplace bully. This landmark case categorically supports the contention that there is a legal basis for workplace bullying claims. A 2005, 9th Circuit decision holds that bullying behavior can have a more severe impact on women than it does on men, because women are likely to be more intimidated due to factors such as size and power inequities. (See *EEOC v. National Education Association*, 442 F.3d 840, 846-47 (9th Cir. 2005).) As a result, workplace bullying can also potentially support gender discrimination claims.

Organizations often find it difficult to identify just where and whether bullying is taking place, because the distinction between bullying and bossiness is hard to draw, and because efficient bosses are usually of economic value to the company by achieving results. For example, Hall of Fame college basketball coach Bob Knight is legendary for his volatile temper and intimidating tactics, but he was allowed to continue as coach at Indiana University for many years, in no small part due to his three NCAA championships.

Workplace bullying is often hidden away because complaining is a sign of weakness, and people often don't want to admit they are having difficulty coping with pressure and workplace relationships. In today's challenging economic environment, workers often fear adverse consequences related to job security. Identifying those with bullying characteristics during the hiring process can be challenging as employers are increasingly skittish about providing information beyond neutral information because of potential defamation lawsuits (Panko, 2008).

There have been several cases where an employee who has been fired for engaging in bullying behavior has sought reinstatement and asserted that his or her termination was unfair and unreasonable (Knox, 2004). Employers have to tread the difficult line between preventing cases of genuine bullying and those that may be the target of vexatious complaints.

There may be coverage for bullying claims under some EPLI policies. However, EPLI is very fact specific and the facts of each case are important determinants of the coverage provided. Some policies have provisions covering "other workplace harassment" which is where workplace bullying might fall. However, other policies exclude acts done willfully or maliciously. If a claim is alleged on simply bullying conduct it would be tough to assert a negligent act.

## The Cost of Bullying

Employee turnover is a major cost to most organizations. The Corporate Leavers Survey, a nationwide study conducted by the Level Playing Field in 2007, found that more than two million managers and professionals voluntarily leave their jobs every year due *solely* to workplace unfairness, including bullying. This exodus of fed-up employees is estimated to cost corporate America approximately \$64 billion annually. These losses don't even include the indirect costs from these corporate leavers strongly discouraging others from accepting positions or doing business with their former employers. Interestingly, this cost is also equivalent to the settlements for all sex and race based lawsuits reported by the Equal Employment Opportunity Commission from 1997 until 2006.

According to the Workplace Bullying Institute, the critical defining characteristic of workplace bullying is that it harms the health of the targeted individual. The Institute contends that health endangerment distinguishes bullying from routine office politics, teasing, roughhousing, prickliness, incivility and boorishness. It maintains that bullying can cause high blood pressure, digestive problems, loss of sleep and stress-related health diseases such as clinical depression, general anxiety disorder, and even post-traumatic stress disorder. Given the worrisome increase in health care costs in the United States, this is a consequence of workplace bullying that warrants greater attention. Other costs resulting from workplace bullying include adverse effects on employee productivity, morale, workplace absenteeism, high staff turnover and decreased levels of commitment.

### **Current Legislative Activity**

According to an article in the *Insurance Journal* (2006), bullying is not currently a protected category under harassment law, but bullying is likely the next “evolutionary” step in harassment law. Some contend that workplace bullying is at the point where sexual harassment was 15 years ago. Existing laws require harassment to be discriminatory. Race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age or sexual orientation is required to be illegal. Approximately two-thirds of all harassment is “status-blind” and legal.

The National Coordinators of U.S. State Legislative Initiatives to Stop Workplace Bullying note that 16 states have now introduced anti-bullying legislation since 2003, with 10 states having current legislation pending.<sup>1</sup> While the bills vary slightly, they basically hold employers vicariously liable for workplace bullying, and generally prohibit employers from subjecting an employee to an abusive work environment. These bills also offer an affirmative defense, similar to the one provided by the Supreme Court regarding sexual harassment.<sup>2</sup>

### **Steps to Mitigate**

Developing an anti-bullying policy is part of a wider commitment to ensuring a safe and productive work environment and a healthy workplace. Creating an anti-bullying ethos is a comprehensive and challenging objective which needs to be carefully contemplated and understood before you start.<sup>3</sup>

Some suggested steps include:

- Keep in mind that for some organizations, this may be the equivalent of initiating a culture change, so patience may be required. There is a process of evolution that requires time for change to be achieved. Resist the temptation to use quick fixes, such as adding the words “and bullying” to your existing anti-harassment policy.
- Everyone needs to be on board with the process. This includes directors, management, personnel, staff, trade unions, health and safety reps, counseling and welfare department, workers’ representatives etc. The commitment, however, needs to come from the top of the organization.
- Ask staff for their views on bullying with an attitude survey (preferably anonymous). Be prepared for some uncomfortable responses, and it is possible certain names will come up repeatedly.
- Keep statistics on employee turnover, as they may indicate trouble spots. Exit interviews may also be a reliable source of information.

- Understand bullying. There are many misperceptions about bullying and you need to deal with these at the start. An increasing abundance of resources are available on workplace bullying. Consider sources from other parts of the world — such as Australia, Canada and Europe — as workplace bullying has been given relatively more attention in those areas than in the U.S. Also make sure you understand the different types of bullying. The way in which you deal with each will vary. For example, mediation is useful with unwitting bullying and organizational bullying, but it's wholly inappropriate for dealing with a serial bully. With unwitting bullying, bringing the two sides together may be appropriate, especially if mediation is used. With a serial bully, the default should be that there is no contact unless the target requests it.
- Make sure your human resources personnel are fully aware of all issues of harassment, discrimination and bullying. Targets of bullying will have lofty expectations of these people when the policy is invoked. Also make an appropriately trained staff member available to anyone who feels they are being bullied so they can discuss the situation with guaranteed confidentiality. Ideally, the presence of this person will deter genuinely poor performers who are claiming to be bullied from using bullying as an excuse.
- Try to determine how much bullying is costing you in terms of staff time wasted, staff turnover, sickness absence, poor productivity, low morale, poor customer service etc. Putting a cost on bullying will convince senior minds, should any persuasion be necessary.
- Ensure that you know how to investigate a case of bullying. Unlike harassment, assault etc., there will be little physical evidence. You may need to use an independent investigator who is experienced in dealing with bullying cases.
- Provide ongoing training for all staff covering bullying and harassment (bullying awareness, harassment and discrimination issues, etc.) and how to deal with it (assertiveness, interpersonal skills, confidence and esteem building, etc.). This might be part of a larger Employee Assistance Program (EAP). In recent years, where bullying and harassment appear in the workplace, many companies are turning to employee assistance programs.
- Sometimes the nature of intimidation and bullying is so severe, that police involvement will be required. In these instances, an employer should seek legal advice. It is suggested that the alleged perpetrator be asked in a general fashion to provide their version of events on specific dates. If the allegations are true, the perpetrator should be asked about what support he or she needs in order to improve their behavior. This might include anger management, counseling or stress management training. The person being bullied should be offered professional counseling support.
- Serial bullies are found to often lie about their qualifications and experience, or describe it in ambiguous terms which are misleading. Check everything in their résumé thoroughly, as lying and deception can be used as the basis for a disciplinary offenses.
- While not always effective, inquiring about the specific circumstances under which the bully left their previous job may be informative. However, often their behavior may have led to them being given the option of resigning or being sacked. Their previous employer, glad to be rid of the bully and fearful of legal action for giving a misleading reference, is unlikely to admit this has happened.

## Conclusion

Workplace bullying is a looming future risk exposure for employers. Perhaps the difficulty in defining exactly what constitutes workplace bullying has contributed to the lack of attention given to this issue by many employers. This is compounded by the dilemma of determining what is behavior enacted as a consequence of organizational control. Hence organizations may present a sanitized/skewed understanding of what transpires. The evolution of court cases seems to be trending toward increased acceptance of workplace bullying as an important issue organizations must address. However, it seems that regardless of policy initiatives or legal requirements, some organizational climates pre-empt bullying, thus rendering policies ineffective. Codes of conduct are a useful litmus test of the sincerity of management to address workplace bullying. Nevertheless, as Arnold (2008) points out, even when organizations espouse a commitment to best practice regarding HRM and articulate anti-bullying principles and protocols, some fail to effectively implement policies. This probably reflects the innate complexity of tackling workplace bullying, but as Fitzgibbon (2006) argues, bullying should be treated in a similar way to other unacceptable workplace behaviours such as sexual or racial harassment. To nurture a desirable workplace culture anti-bullying initiatives require ongoing broad-based support and effort; it is beholden on every individual in an organization to take collective responsibility for the problem and its resolution.

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## Endnotes

1. Those states with current Healthy Workplace Bills introduced include New York, Massachusetts, New Jersey, Vermont, Oklahoma, Utah, Illinois, Oregon, Connecticut and Nevada.
2. An employer could probably avoid liability if it can demonstrate that it "exercised reasonable care to prevent and promptly correct the abusive conduct and the aggrieved employee unreasonably failed to take advantage of appropriate preventive or corrective opportunities provided by the employer."
3. Many of these suggestions, along with others, can be found at [www.bullyonline.org](http://www.bullyonline.org).

## References

- ACTU National Health and Safety Campaign (targeting workplace bullying) at [www.actu.asn.au/campaigns/nobullying/surveys.htm](http://www.actu.asn.au/campaigns/nobullying/surveys.htm): accessed 4 February 09.
- Arnold, B. (2008), Caslon Analytic Bullying at [www.caslon.com.au](http://www.caslon.com.au): accessed 25 January 09.
- Benson, P., Hanley, G., & Gilbreath, B (2008) Variations of Dysfunctional Supervision: When is Supervision Bullying, Abusive, or Simply Bad? Paper presented at the 6th Conference on Workplace Bullying: Sharing our Knowledge, Ecole des Sciences de la Gestion, Université du Québec à Montréal, Canada. June.
- Braithwaite, V., Ahmed, E., & Braithwaite, J. (2008) Workplace Bullying and Victimization: The Influence of Organizational Context, Shame and Pride. *International Journal of Organisational Behaviour*, Volume 13 [2] 71-94.
- Bully OnLine, website of the UK National Workplace Bullying Advice Line at <http://www.bullyonline.org/workbully/>: accessed 2 February 09.
- Einarsen, S., Hoel, H., Zapf, D., & Cooper, C.L (2003). eds, *Bullying and emotional abuse in the workplace: International perspectives in research and practice*, p. 15. Taylor and Francis, London, England.
- Fitzgibbon, G. (2006). National equal opportunities network (NEON): [www.neon.org.nz/newsarchive/dealbullying](http://www.neon.org.nz/newsarchive/dealbullying). Accessed 5 February 09.
- Hannabuss, Stuart, 1998, "Bullying at Work," *Library Management*, vol. 19: 304-310.
- Hanley, G., & Bryant, M. (2008) .The use of conceptual metaphors as interpretive tools in qualitative research. Paper presented at the 6th Conference on Workplace Bullying: Sharing our Knowledge, Ecole des Sciences de la Gestion, Université du Québec à Montréal, Canada. June.
- Hoel, H., & Beale, D. (2006). Workplace bullying, Psychological Perspectives and Industrial Relations: Towards a Contextualized and Interdisciplinary Approach. *British Journal of Industrial Relations*, 44 [2] 239-262.
- Hornstein, H.A. (1996). *Brutal Bosses and their Prey: How to Identify and Overcome Abuse in the Workplace*. New York, NY. Riverhead.
- Knox, Martha, 2004, "Steps to a Positive Workplace Culture," Issue 1, Martha Knox and Associates newsletter.
- Lutgen-Sandvik, P., Tracy, S.J., & Alberts, J.K. (2007). Burned by Bullying in the American Workplace: Prevalence, Perception, Degree and Impact. *Journal of Management Studies*, 44 [6] 837-862.
- Ortega-Wells, Andrea, 2006, "Workplace Bullies May Be Next On Insurers' Watchlist," *Insurance Journal*, June 2006, p. 12.
- Panko, Ron, 2008, "Hidden Danger," *Best's Review*, April 2008, p. 104-106.
- Workplace Bullying Institute and Zogby International (2007). U.S. Workplace Bullying Survey, in Yamada, D. (2008). Workplace bullying and ethical leadership. *Journal of Value-based Leadership*, 1, 2, [48] 8-37.
- Yamada, D. (2008) [newworkplace.wordpress.com/2008/12/26/the-us-workplace-bullying-movement-at-10](http://newworkplace.wordpress.com/2008/12/26/the-us-workplace-bullying-movement-at-10): accessed 18 August 2009.
- An economic impetus to eradicating bullying in the workplace, posted by jswitzer on March 14, 2008 03:08 p.m. under Workplace Fairness <http://www.givingnoticethebook.com>.