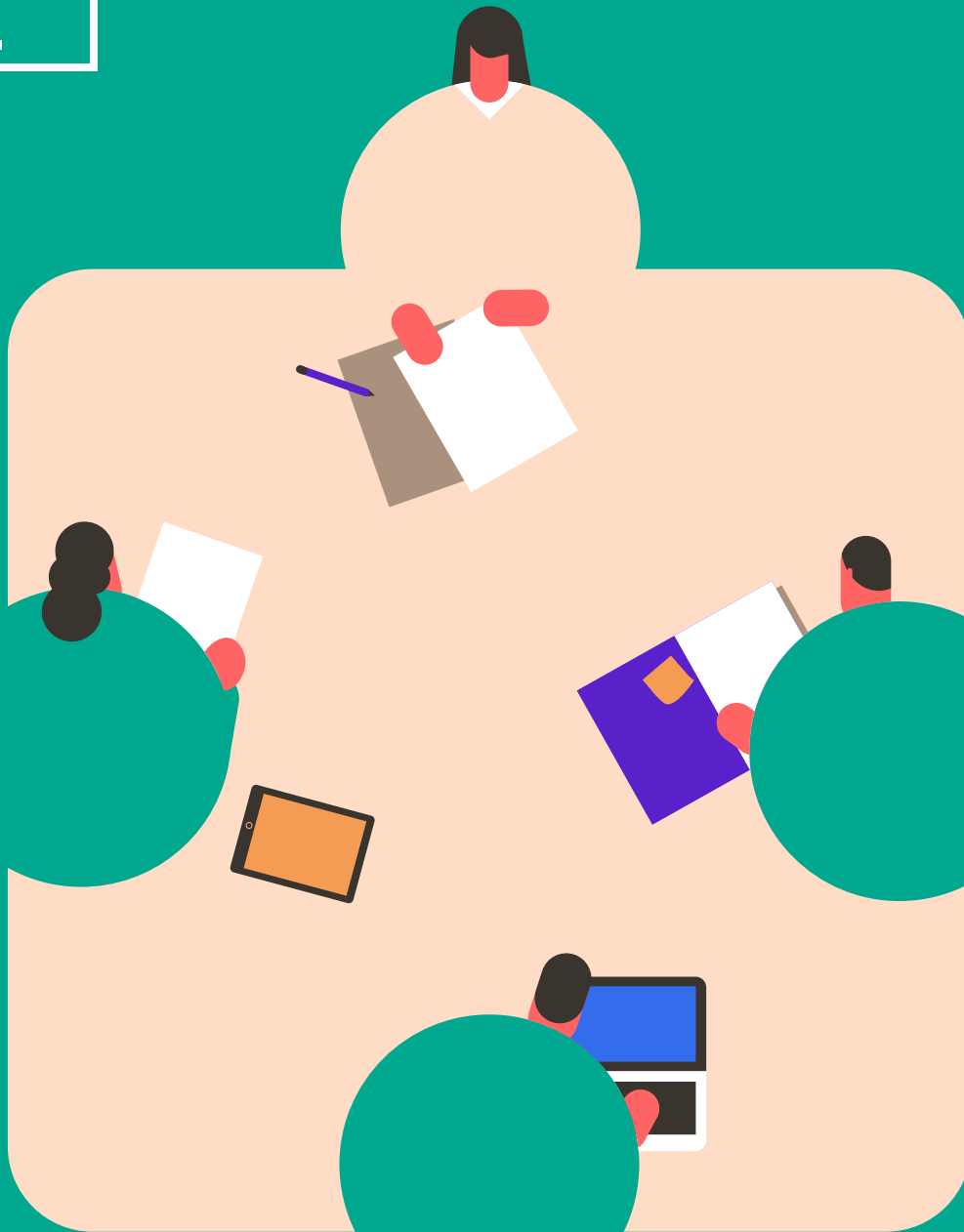


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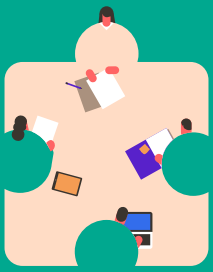


Public
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Commission



Positive and Productive Workplaces Guideline

A guide for the NSW government sector to prevent and manage unreasonable behaviour and bullying.



Positive and Productive Workplaces

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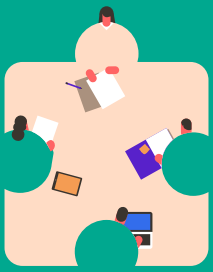
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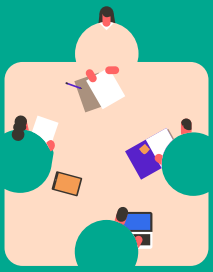
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2	June 2017	Updated People Matter Employee Survey and Workforce Dashboard Minor edits



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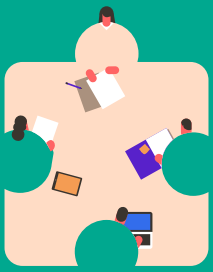
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Commissioner's Foreword

Respect.
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The purpose of this guide is to support agencies, their leaders and their employees in preventing, identifying and responding to workplace bullying.

Bullying in Australian workplaces is rightly an issue of great concern. There is strong evidence that bullying can adversely affect the health and safety of employees, reduce the productivity of individuals and workplaces, have a detrimental impact on workplace culture and impede the capacity of organisations to provide quality services to consumers. There is also strong evidence that bullying is a manifestation of poor workforce management practice and culture.

Bullying, defined as repeated and unreasonable behaviour directed towards a worker or a group of workers that creates a risk to health and safety, is contrary to the principles set out in the Ethical Framework for the government sector¹ and *The Code of Ethics and Conduct for NSW government sector employees*.²

Agencies, unions, government sector leaders and employees have already made great efforts to prevent bullying in the workplace, as there is clear common recognition of its potential negative effects, on individuals and on the organisation as a whole.

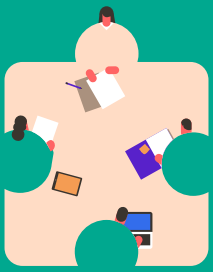
In 2014, I established the NSW Public Service Commissioner's Roundtable on Bullying, comprising key public sector leaders and unions, to work collaboratively to tackle the issue of bullying in NSW government sector workplaces. The Roundtable has been helpful in identifying priorities for a program of whole of sector initiatives aimed at improving prevention and management of workplace bullying. This guide is one of the tools developed as a result of that initiative.

This guide sets out the principles for addressing incidents of bullying where it occurs; however, its major focus is on prevention and early intervention. This is based on the evidence that bullying is less likely to occur in organisations that have a positive, respectful and productive workplace culture, coupled with a strategy of immediate response to any symptoms of behaviour likely to escalate into bullying. Prevention and early response to unreasonable behaviour are more effective in eradicating bullying than lengthy formal investigation processes after the bullying has occurred.

Graeme Head, Public Service Commissioner

¹ The Ethical Framework for the government sector is set out in Part 2 of the Government Sector Employment Act 2013 (the GSE Act).

² The Code of Ethics and Conduct for NSW government sector employees contains mandatory conduct requirements and good practice guides for NSW government sector employees and heads of government sector agencies.



1. Introduction

Respect.
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NSW government sector agencies have a responsibility to provide work environments that are safe, ethical, inclusive and productive. This means they must be free from bullying, harassment and other unreasonable behaviour.

This guide explains how to create and maintain positive and productive work environments. This includes identifying and managing workplace bullying when it occurs. The guide is part of a suite of resources developed by the Public Service Commission (PSC).

Leaders, managers and employees have a shared obligation to create and maintain a positive workplace environment.

The purpose of this document is to provide guidance for leaders, managers and employees to treat each other with dignity and respect. In this way, neither bullying nor any other form of unreasonable behaviour will be tolerated by anyone.

Several key documents set out the foundations for such work environments:

- The Ethical Framework for the government sector: *Part 2 of the Government Sector Employment Act 2013* (GSE Act)
- The responsibilities and obligations of managers and employees under the *Work Health and Safety Act 2011* and *Work Health and Safety Regulations 2011*
- *The Code of Ethics and Conduct for NSW government sector employees*
- The *Dignity and Respect in the Workplace Charter, 2007*
- The *NSW Public Sector Capability Framework*

While the guide focuses on bullying in particular, its approach and principles apply more broadly to addressing all forms of unethical or unreasonable behaviour in the workplace.

1.1 What is workplace bullying?

Definition:

“Workplace bullying is repeated and unreasonable behaviour directed towards a worker or a group of workers that creates a risk to health and safety”.³

³ from Safe Work Australia's *Guide to Preventing and Responding to Workplace Bullying*

Introduction

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.

Bullying can be:

- intentional or unintentional – people who behave in this way may be unaware of the impact of their behaviour or do not appreciate its importance to the individual who is subject to such behaviour
- overt or covert – bullying can be out in the open or concealed
- active or passive – bullying behaviours include actions, such as shouting or negative body language, and non-actions, such as not passing on information necessary to doing a job.

Bullying can occur at all employment levels including:

- between an employee and another employee or group of employees
- between employees at the same or different levels – it can be directed sideways, upwards at supervisors or managers, as well as downwards from managers and supervisors to employees
- between employees in the same or a different work area or agency
- between employees and external contractors and/or clients.

Bullying can happen:

- during daily work activities, at work-organised events held on-site or off-site and outside work hours
- face to face, over the telephone, online (e.g. via social networking forums), via email or SMS messages.

Bullying can pervade an organisation's culture or be confined to a particular work area.

Employees at all levels, including leaders and managers, need to know the following behaviours are not accepted:

- shouting, swearing, intimidating, threatening and throwing things
- deliberately not sharing information that is necessary or would significantly assist someone in the performance of their job
- intentionally excluding people from informal discussions or workplace social activities
- ignoring and isolating people
- not letting someone express their opinion

- criticising or ridiculing someone's work or opinion in front of others
- setting tasks that are unreasonably below or beyond a person's skill level
- excessive monitoring and checking
- unreasonably withholding or delaying approval of leave
- criticising or ridiculing someone's work or behaviour without giving them an opportunity to provide information or their own view
- patronising behaviours based on assumptions about their culture, age, skills, knowledge, ability, socioeconomic background, sexual orientation or gender
- spreading rumours
- colluding with others in denigrating someone or a group of people.

Bullying behaviours are manifested verbally, physically and/or through body language. They can take the form of action or lack of action.

1.2 What is not workplace bullying or unreasonable behaviour?

Management and employment functions are not bullying if carried out lawfully and reasonably. Examples include:

- leading, directing and controlling how work is done
- monitoring work flow and work quality
- giving feedback and managing performance
- recruitment, assignment, transfer and termination of employment
- differences of opinion and disagreements.

In a positive workplace culture, differing viewpoints contribute to healthy debate about issues if offered in a respectful and appropriate way. Innovative solutions and workplace improvements are often the result. However, disagreement that escalates into unmanaged conflict may become unreasonable behaviour or bullying.

1.3 Why do we need to be concerned about workplace bullying?

Bullying and other unreasonable behaviour should be regarded and managed as a serious organisational risk. These behaviours demonstrably lead to poor personal and organisational outcomes:

- **Personal cost to the employee:** the effect on an individual's well-being and that of their family can be profound, both psychologically and professionally. It can also lead to financial disadvantage if they need to take time off work, are denied developmental/promotion opportunities or ultimately leave their employment.

- **Loss of productivity:** there is ample evidence that organisations with lower employee engagement levels have lower productivity.⁴ A negative workplace environment can diminish the extent to which employees are prepared to go above and beyond the basic requirements of their job. There is also direct loss of labour if an employee stays away from work on sick leave or workers compensation.
- **Less innovation:** It is probable that workplaces that tolerate bullying and unreasonable behaviour are less inclusive and less open to alternative ideas and innovation as employees fear speaking up or disagreeing. Bullying engenders compliant behaviours that avoid challenge or suggesting alternative ideas, losing the value of a diverse workforce and leading to 'group think'.
- **Financial cost to the organisation:** psychological injury is a major category of workers' compensation claims in the NSW Public Service and the sector more generally. There is abundant evidence that employees with psychological injuries typically take longer to return to work, increasing the cost of managing their cases.⁵ In addition to the impact on insurance premiums in cases where workers compensation claims are lodged, other resource costs are incurred: managing the conflict, the claim, any return to work processes and the inevitable impacts on other team members.
- **Effect on workplace culture:** a workplace culture that tolerates unreasonable behaviour, including bullying, has a negative effect on the whole team. There is a proven association between the level of bullying, and workplace morale and employee engagement in organisations.⁶ This also affects retention – employees leave due to poor culture, and the organisation's reputation as an employer can be damaged. This is significant because prospective employees increasingly use social media platforms to find out about an employer's workforce values and culture.
- **Reduced quality of service to clients:** disaffected employees who do not feel proud of their organisation are less likely to provide confident and positive client service, or to advocate positively about their organisation to the wider public.

1.4 The approach taken in this guide

This guide is based on some core assumptions:

- Early warning signs of bullying can surface as a one-off or isolated practice within a particular part of an organisation, whether in a particular team or as part of senior leadership culture. If left unaddressed it can spread to become the dominant culture of an organisation. If not addressed, bullying becomes a clear pointer to the standard of behaviour accepted by those in leadership roles and by employees.

⁴ See, for example, 2012 article by [Insyncsurveys: Impact of employee engagement on productivity](#) reporting on a number of analyses

⁵ For example, see the [Australian Government Comcare fact sheet on Psychological Injury and Performance](#)

⁶ The PMES data and PSC's Workforce Dashboard clearly show the correlation between incidence of bullying and negative trends in indicators such as supportive leadership, performance management, workplace morale, etc.

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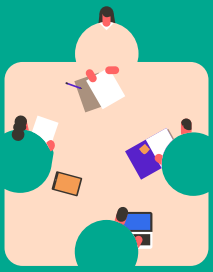
- Bullying behaviour does not generally occur in isolation – it is part of a culture that, at a minimum, tolerates its existence and may indeed foster its manifestation. Therefore, it is unlikely the incidence of bullying will reduce if the sole response is to react to individual instances. Freedom from bullying is more likely to be achieved where a proactive, systemic approach is taken to a range of workforce management and workplace culture factors.
- Positive and productive workplaces are beneficial to managers, employees, the organisation and its clients. Leaders and managers have the primary role in creating positive organisational culture, monitoring workplace climate and promptly addressing poor behaviour. Better outcomes will be achieved where employees at all levels also take responsibility for creating, maintaining and promoting a positive work environment.
- The aim should be to take informal action as soon as unreasonable behaviour occurs and before it becomes an entrenched pattern. Formal investigation will determine the facts and the need for any appropriate interventions or sanctions. However, it will rarely achieve the desired outcome of mending workplace relations. Formal action necessitates the person against whom the allegation has been made taking a defensive stance given the possibility of sanction; the complainant is rarely satisfied with the outcome; the process is liable to generate conflict between different groups within the team; and there is rarely a lasting positive effect on the incidence of bullying over time.
- Formal action is the right approach if matters have progressed to the point of an allegation of serious harm and/or there is no prospect of returning to reasonable relations through informal action. In these cases employees should be supported by management and formal action should be taken.
- Higher incidence of bullying tends to be associated with negative trends in key aspects of workforce management practice. This was confirmed by the PSC's sector-wide data analysis (made available to agencies as the Workforce Dashboard resource). Important management practices to prevent bullying include supportive leadership, role clarity, performance management, work manageability, workplace morale, development and growth, and staff engagement. Falling trends in these characteristics are valuable warning signs of an existing or emerging poor work environment, in which bullying behaviour is more likely to arise.
- Bullying is a work health and safety issue under the *Work Health and Safety Act 2011*. The logic of the Work Health and Safety hierarchy of risk control requires that risk is eliminated so far as is reasonably practicable, and where not reasonably practicable, the risk must be minimised.⁷ This risk assessment approach applies to the management of bullying, with prevention as the preferred strategy and clear processes to manage and minimise the impact of any risk that does arise.

⁷ [Work Health and Safety Act 2011, s17](#); [Safe Work Australia, How to Manage Health and Safety Risks, 2011](#)

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In line with these assumptions, the major emphasis in this guide is on preventing the emergence of bullying and other unreasonable behaviours. This is done by establishing and maintaining a positive, respectful and productive work environment based on sound values and workforce management systems.

Section 2 sets out the characteristics of such an environment, together with some recommended actions to make it a reality. Section 3 describes the principles to be applied in the event that preventive action has failed and there is a need to manage a complaint or allegation of bullying.



2. Prevention

Creating and maintaining a positive and productive workplace culture, free from bullying

**Respect.
Reflect.
Reset.**

Every workplace culture and relationship is unique and dynamic, influenced by the nature of its business, its leadership style and its workforce mix.

Within the NSW government sector workforce there are different perceptions and expectations around the culture of an organisation and human behaviour. However, it is a fundamental requirement that the conduct and management of all government sector workplaces is in accordance with the core values of the government sector.

To meet the core values, all government sector employees should be able to say some common things about their workplaces:

- We consider people equally without prejudice or favour.
- We appreciate difference and welcome learning from others.
- We build relationships based on mutual respect.
- We respect each other's dignity, regardless of the seniority of the roles we have in the organisation.
- There is goodwill between us and we work collaboratively towards clear common objectives.
- We are all responsible for creating and maintaining a positive and supportive workplace.
- We all understand how to give and receive feedback in a constructive way, to improve the way we do our work.
- We don't tolerate disrespectful behaviour, including bullying.
- We recognise that the prevention of bullying is a legislative duty under the [Work Health and Safety Act 2011](#) and [Work Health and Safety Regulations 2011](#).
- We recognise that bullying can have significant adverse impacts on the long term health and well-being of affected employees.
- If we see or experience poor behaviour, we take action to have it addressed without unnecessary formality, and without blame or reprisal.
- We can see that our leaders and managers are modelling the highest standard of conduct and giving high priority to creating and maintaining positive and productive working culture and systems.
- We can see that our leaders and managers do not tolerate unreasonable behaviour and bullying – they deal with observed or reported instances in a prompt, clear and supportive way.

- We treat each other with respect, even when we hold different opinions or feel under pressure.

It is understood that no workplace is free from occasional conflicts, outbursts of bad temper and disrespectful interpersonal behaviour. These arise for a variety of reasons including impatience, stress, insensitivity to impact, etc. A crucial part of a pro-active positive work culture is the attitude and response to such incidents. If unreasonable behaviours are ignored or deemed to be acceptable by the perpetrator(s), individual(s) subjected to the behaviour, witness(es), or management, the ground is laid for repetition of unreasonable behaviour over time. This may then escalate into a degraded work culture in which bullying is considered acceptable and becomes the norm.

There are four important characteristics of positive, inclusive and constructive workplaces:

- Characteristic one: Establishing organisational values and a code of conduct
- Characteristic two: Being clear about expected behaviours
- Characteristic three: Responding promptly to one off incidents of poor behaviour
- Characteristic four: Using data to understand correlations with sound workforce management systems

These four characteristics are set out below, together with some recommended actions to achieve them.

2.1 Characteristic one: Establishing organisational values and a code of conduct

2.1.1 What is needed

Under the GSE Act, each Department Secretary and agency head is responsible for the general conduct and management of the functions and activities of their organisation in accordance with the government sector core values.

Each agency and all employees are required to conduct themselves in ways that are consistent with *The Code of Ethics and Conduct for NSW government sector employees* under the Public Service Commissioner's Direction No 1 of 2015. This Code sets out the standards of good conduct required of all employees, and the roles of managers, executives and agency heads in developing and maintaining an ethical workplace culture. The Code may be supplemented by the agency's code of conduct to reflect the organisation's operating environment and business risks. Advice on the relationship of the sector-wide Code to the agency code is provided in *The Code of Ethics and Conduct for NSW government sector employees*.

The organisation's values, and code of conduct, contribute to its' Employee Value Proposition (EVP), i.e. the set of conditions and cultural characteristics the organisation offers to its employees. The EVP is also an important part of employees' work experience. Any disconnect between the stated conditions/ values/ culture and the reality is always perceived negatively.

“Inauthentic” commitment to values and standards of behaviour, the difference between what is said and what is done, never passes unnoticed by employees. If not immediately addressed, this can have significant negative consequences on morale and engagement.

2.1.2 Recommended actions

- Ensure leaders understand the importance of values and organisational culture to achieve business outcomes, giving top priority to their implementation in their areas of responsibility.
- Require leaders to behave in an exemplary fashion, as a priority aspect of their personal performance on the job.
- Ensure leaders implement the organisational values in their areas of responsibility.
- Establish the agency’s organisational values, in consultation with the workforce. These values may be compatible with the NSW government sector core values of integrity, trust, service and accountability, or they may extend to the agency’s business priorities. The other values must be compatible with the NSW government sector core values.
- Publish and implement *The Code of Ethics and Conduct for NSW government sector employees*, together with the agency’s organisational values and code of conduct on the internal and external organisation websites.
- If appropriate, develop the agency’s code of conduct with requirements and advice specific to the organisation’s operating environment and business risks. The agency code of conduct supplements *The Code of Ethics and Conduct for NSW government sector employees*.
- Publish and promote the agency’s values and code of conduct to supplement *The Code of Ethics and Conduct for NSW government sector employees*.
- Display the core values and principles of conduct in other prominent organisational media and publications, for example letterhead or business cards.
- Remind all employees on a regular basis about the government sector core values and *The Code of Ethics and Conduct for NSW government sector employees* through induction, team meetings, staff bulletins, training, acknowledgment programs, performance feedback.
- Extend the application of *The Code of Ethics and Conduct for NSW government sector employees* to contractors and volunteers engaged by the agency.
- Build role descriptions and develop employee performance agreements using the NSW Public Sector Capability Framework, which expresses the values in behaviours.
- Develop and publicise a Statement of Business Ethics to alert clients, customers, suppliers and contractors about the values and culture of the organisation and the standard of behaviour expected of them when dealing with the organisation and its employees.

- Incorporate the government sector core values and *The Code of Ethics and Conduct for NSW government sector employees* in the EVP and other material used to promote the agency and attract applicants to roles in the agency, for example in advertisements, information packages, website information.
- Incorporate the government sector core values and principles of the *Ethical Framework* in all development activities related to communications, performance management and supervision/ management/ leadership skills.
- Assess adherence to, and understanding of, the values and the code of conduct as part of performance management.

2.1.3 Resources

- Part 2 of the GSE Act sets out the core values for the NSW government sector which are integrity, trust, service and accountability. Other agency organisational values must be compatible with the government sector values.
- *Behaving Ethically: A guide for NSW government sector employees* – see section on *The Code of Ethics and Conduct for NSW government employees*.
- The *NSW Public Sector Capability Framework*, which embeds the core government sector values in the core capabilities and behaviours expected of public servants.

2.2 Characteristic two: Being clear about expected behaviours

2.2.1 What is needed

The government sector core values and *The Code of Ethics and Conduct for NSW government sector employees* must be lived. They must be reflected in the decisions and behaviour of all employees, from the most senior executive to the entry-level employee.

However, it cannot be assumed that everyone understands the same thing when thinking about high-level values such as integrity or trust, and particularly what those values look like when turned into behaviours. Different backgrounds, experiences and expectations may result in different worldviews, including what constitutes acceptable behaviour.

For these reasons, naming and publishing the organisation's values and code of conduct alone will not be sufficient to reach a common understanding of their meaning and how they are expected to translate into day-to-day behaviour.

Employee information and training should include explicit descriptions, and discussion, of actual behaviours that are not acceptable even as single instances and would be labelled as bullying if repeatedly demonstrated.

All employees, including managers and leaders, need to avoid the temptation to excuse or avoid confronting poor behaviour on grounds such as:

- personality – “he/she is just like that; you can’t change their nature”
- high achievements or value to the organisation – “they get things done; this is just their way of doing it/ we can’t afford to lose them”
- stress – “they have such a demanding job; they are just letting off steam/ having a bad day”.

It is also detrimental to ridicule or blame those who call out poor behaviour on grounds such as:

- over-sensitivity
- lack of sense of humour – “it was just a joke; you know me, I’m not a racist/ some of my best friends are gay” etc.
- political correctness
- not understanding the local culture/ not fitting in
- unreasonable challenging of authority
- not wanting to face up to feedback on poor performance.

Managers and leaders need to understand the significant weight of power relationships. Their own behaviours have a critical impact on organisational culture, and employee attitudes and behaviours. When managers or leaders excuse or avoid dealing with poor behaviour, or exhibit those behaviours themselves, they fail to build a positive and respectful workplace.

Managers and leaders need to be particularly aware of the magnified impact of their own behaviours when directed at employees occupying roles with less status or power than their own, including within executive ranks. The potential negative repercussions of complaining about a manager will frequently deter employees from arguing directly with the offending manager or reporting the manager’s unreasonable behaviour.

However, the absence of complaint does not mean that employees see the behaviour as acceptable. On the contrary such behaviour, if left unaddressed, is very likely to lead directly to a negative view of the organisation’s management, fear of speaking up, poor morale, compliant rather than creative contribution, lack of pride in the organisation, lower productivity and, potentially, loss of valuable staff. As employees talk with each other about their experiences, it will also inevitably lead to sharing of negative views about the manager concerned and the organisation as a whole.

2.3 Characteristic three: Responding promptly to one off incidents of poor behaviour

Prompt responses to apparently isolated or one-off instances of poor behaviour are vital for preventing workplace bullying. If poor behaviour is tolerated by managers, employees assume it is acceptable and over time one-off instances become entrenched, normal behaviour. Each action contributes to setting the accepted standard of behaviour for the workplace. The 2016 Australian of the Year Lieutenant General David Morrison summed this up in his now well-known 2013 video address to members of the army: “The standard you walk past is the standard you accept.”

2.3.1 What is needed

Prevention and early intervention is essential. All employees, and particularly managers, share responsibility for creating and maintaining a positive and constructive work environment based on inclusion, shared values and a culture of collaboration. This means personally avoiding disrespectful or undermining behaviour. This also means not walking past or ignoring any unreasonable behaviour they observe in others and raising the issue, either directly or via an intermediary. A low key and private discussion with the person(s) who behaved unacceptably, focused on raising awareness of the impact of the behaviour itself (on individuals and the group) rather than blaming or attributing motives, is often highly effective in preventing recurrence.

2.3.2 Individual responses to allegations of bullying

Research and experience shows that people who are told their behaviour is seen as unreasonable respond in different ways. Different approaches are required depending on the response.

For example:

- The person might be unaware that their behaviour is considered to be unreasonable and having a detrimental impact on the employee or other employees. They might be shocked when it is brought to their attention and genuinely sorry.
- The person might consider that the employee who has concerns about the behaviour is overreacting, being overly sensitive or should be more resilient. In speaking to the person it might become apparent that their understanding of acceptable workplace behaviour differs from the standard set out in *The Code of Ethics and Conduct for NSW government sector employees* and/or the organisation's code of conduct. Group or individual discussion about what is acceptable behaviour, and which aspects of the identified behaviour are unacceptable because of their impact on others, can assist in resolving the situation.
- The person might consider that the employee who has raised concerns about the behaviour is being vindictive or 'can't face the truth', reacting to negative feedback about their performance or conduct. A discussion about the performance management process and nature of the discussions between the employee and their manager will help to determine if the identified behaviour is unreasonable or part of normal management responsibilities. Clarifying the roles of supervisors and employees in relation to performance monitoring and review and assisting them to hold respectful and productive conversations about performance can help to resolve the situation.

2.3.3 Recommended actions

- Recognise the need to build strong and cooperative workplace cultures based on sound ethical frameworks; applying practical strategies to enhance positive behaviours.
- Establish an organisation-wide expectation that all employees, particularly workplace leaders, demonstrate respectful behaviour, including apologising for any intemperate behaviour.

Prevention

- Encourage acceptance of diversity and the needs of individuals in the workplace, respecting people's differences, such as cultural background, abilities, vulnerabilities and responsibilities outside the workplace.
- Encourage a 'speak up culture' in which employees feel safe to provide low key, informal feedback on behaviour they find to be unreasonable, either directly to the person who behaved that way, or to a manager or other intermediary they trust to do so on their behalf.
- Encourage employees to raise workplace concerns with their supervisor, manager or colleagues at an early stage, knowing that their concerns will be taken seriously and acted on appropriately.
- Encourage a 'listen culture' in which employees, and managers in particular, are encouraged to seek out alternative views to their own, ask for feedback on their manner of interacting, and listen to any feedback that is given with an open mind and constructive attitude.
- Discuss behaviour and acceptable standards of ethics and conduct at regular team meetings.
- Expect leaders and managers to see it as their responsibility to use data and other information, and to be alert to any signs or reports of unreasonable behaviour and to take quick, informal, discreet action to draw it to the person's attention. Employees are often afraid to raise such issues but have a right to expect that managers will be alert and prompt in identifying any unreasonable behaviour and doing something to prevent it happening again or escalating.
- Expect leaders and managers to treat instances of complaints or workers compensation claims as potential symptoms of systemic issues rather than seeing them as vexatious or, indeed, the cause of poor workplace culture.
- It is essential that all leaders at all levels 'walk the talk'. If, for example, a leader or manager is known to shout at people, throw objects, demean staff in front of others, refuse to allow any discussion of their views, or exhibit other types of unreasonable behaviour, they should be provided with evidence and the opportunity to reflect on the personal reputation they acquire amongst employees. Note that their personal reputation can potentially affect the reputation of the whole organisation.
- Provide development for managers in holding respectful conversations, managing workplace conflict, providing constructive feedback on work performance, and speaking candidly to employees about unreasonable behaviour.
- Provide development for employees in holding respectful conversations with supervisors, managers and other employees, accepting performance feedback, resolving workplace conflict and expressing concern about issues including unreasonable behaviour.
- Provide information and training materials that offer broad principles as well as concrete descriptions of behaviours that are not acceptable. This information should be available as part of induction and in development activities focused on supervision/ management/ leadership and communication.

- Use scenario-based exercises to foster discussions amongst employees and managers about the expected standard of behaviour and organisational culture.
- Promote an understanding of diversity and inclusion based on assisting all people to participate in the workplace and make a valued contribution to the group, rather than just tolerating individuals who are different from the dominant, established cohort.
- Expect managers who observe or hear about unreasonable behaviour to act quickly and fairly. They need to have a confidential, clear and direct conversation with the person who engaged in the behaviour about the behaviour, its impact on others, the expected standards of behaviour, the need for the behaviour to stop, and how the organisation can assist the person in changing their behaviour. The focus of the conversation must be on the behaviour and the message must be clear and consistent: the behaviour is not acceptable and it must stop.
- Incorporate 360-degree feedback in performance management for all leaders and managers.

2.3.4 Resources

- [Section 3: Ethics good practices of *Behaving Ethically – A guide for NSW government sector employees*](#)
- The '[personas](#)' produced by the Public Service Commission to illustrate desired behaviours for each organisational stakeholder, from the Secretary to the individual employee.

2.4 Characteristic four: Using data to understand correlations with sound workforce management systems

The People Matter Employee Survey (PMES) provides NSW public sector employees an opportunity to comment on bullying in their organisation and survey results are available to all employees through their agency, or the PSC website. PMES data supports the view that positive workforce management practices impact the incidence of workplace bullying. Specifically, statistically significant correlations have been observed between a number of indicators derived from the PMES data and reported experience of bullying in the survey. The indicators, and the survey questions on which they are based, can be found as part of the 'Understand Bullying' app of the Workforce Dashboard produced by the PSC. The indicators and survey questions are:

- **Supportive Management:**
 - My manager encourages and values employee input
 - My manager assigns work to people in my workgroup based on their skills and expertise
 - My manager communicates effectively with me
 - My manager provides acknowledgement or other recognition for the work I do

- **Senior Leadership:**
 - I believe senior managers provide clear direction for the future of the organisation
 - I feel that senior managers keep employees informed about what's going on
 - I feel that senior managers listen to employees
 - I feel that senior managers model the values of my organisation
- **Performance Management:**
 - My performance is assessed against clear criteria
 - In the last 12 months I received useful feedback on my work to enable me to deliver required results
 - My manager appropriately deals with employees who perform poorly
- **Workplace Morale:**
 - I receive help and support from other members of my workgroup
 - There is good team spirit in my workgroup
- **Development and Growth:**
 - My organisation is committed to developing its employees
 - I am satisfied with the opportunities available for career development in my organisation
 - I am able to access the right learning and development opportunities as required
- **Engagement:**
 - I would recommend my organisation as a great place to work
 - I am proud to tell others I work for my organisation
 - I feel a strong personal attachment to my organisation
 - My organisation motivates me to help it achieve its objectives
 - My organisation inspires me to do the best in my job
- **Work Ease:**
 - My workload is acceptable
 - I am able to keep my work stress at an acceptable level

- **Role Clarity:**
 - I understand what is expected of me to do well in my role
 - I have the tools I need to do my job effectively
 - I get the information I need to do my job well
- **The survey questions measuring experience of bullying are as follows:**
 - In the last 12 months I have witnessed bullying at work
 - In the last 12 months I have been subjected to bullying at work

These PMES questions cover aspects of employees' work experience that correspond to the characteristics of a positive and constructive work environment described earlier in this section.

Provided the proportion of respondents is sufficient to yield meaningful results, the PMES results, and those of other rigorous organisation climate surveys, are some of the most powerful tools available to measure 'organisational health' and the likelihood of bullying behaviour. These early indicators of poor or deteriorating workplace culture provide objective information and the opportunity to take remedial action before problems escalate.

2.4.1 What is needed

Agencies have access to PMES data that assists understanding of their workplace culture and its impact on achieving organisational objectives. This data informs analysis and development of workforce strategies that address the real issues at a system level. Cluster and agency leaders should review the data on a regular basis to monitor trends and initiate any necessary action.

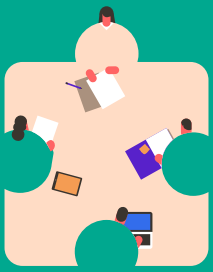
Organisations should use PSC Workforce Dashboard data to take a pro-active, preventive approach to workplace culture and prevent the emergence of unreasonable behaviour, including bullying.

2.4.2 Recommended actions

- Leaders and managers seek evidence of workforce management practices. Ensure leaders and managers are aware of the range of measures covered by the PMES questions, or other climate surveys, and the implications for their own management practice.
- Ensure leaders and managers understand the correlation between poor workforce management practice and the incidence of bullying observations and complaints, using the Understanding Bullying app on the PSC Workforce Dashboard.
- Determine the appropriate level of organisational coding for the PMES data to obtain meaningful results, to be used by the relevant leaders and managers to identify areas for improvement and take tailored action.

Prevention

- At the organisation and business unit level: monitor workforce practice indicators, such as the rate of completion of performance reviews, turnover, absenteeism, exit survey information, and workers compensation data on psychological injury involving bullying on a regular basis.
- Identify trends and undertake root cause analysis to identify systemic issues, such as structures, processes, systems, workload, leadership and skills gaps, that might be contributing to poor results. Develop tailored strategies relevant to those findings.
- Always consider the systemic factors that may have given rise to unreasonable behaviour or bullying. For example, friction between employees may be due to lack of clarity about respective roles or unfair distribution of workload.
- Measure the effectiveness of workforce management strategies aimed at improving negative trends.
- Report back to the whole organisation on results and encourage employees to discuss the results and help develop strategies for improving in areas of weakness.



3. Responding to Bullying

**Respect.
Reflect.
Reset.**

Section 2 described how to prevent bullying by finding and dealing with early signs of poor organisational culture, and one off individual level behaviours that would be considered bullying if repeated. Prevention is the preferred approach.

This section outlines the principles for dealing with observed or reported bullying if it does occur. Bullying is “repeated and unreasonable behaviour directed towards a worker or a group of workers that creates a risk to health and safety”.

Reports (concerns or complaints) about bullying can come to the attention of agencies in a number of ways including through:

- Observation of the behaviour by a manager or employee
- Conversations between an employee and their supervisor, manager or another employee
- Contact with an agency’s HR function or specialist advisory services or with a third party during an independent review of a function or unit
- Grievance or complaints processes or lodgement of a work health and safety incident
- Information from an exit survey.

Agencies will need to consider the most appropriate course of action for the particular situation following the principles detailed in this section. This section includes:

1. Factors to consider
2. Taking action to resolve the issue
3. Best practice features of complaints resolution processes

3.1 Factors to consider

3.1.1 The behaviour

- Is the alleged behaviour a repeated pattern (bullying) or is it a single incidence of unreasonable behaviour, which doesn’t meet the definition of bullying but is nonetheless inconsistent with the government sector core values and code of conduct and/or agency code of conduct?
- Is there a pattern of such reported behaviour by other individuals in the work unit involved? If so, besides dealing with the specific reported incident, a review of workforce management practices in the area should be undertaken.

3.1.2 The parties

- What are the roles and working relationship of the parties?
- Are there any system or individual factors that might help to explain why the behaviour occurred?
- Are there any factors (such as power relationships, longstanding conflict between the parties or discontent with the agency in general) which could facilitate or impede resolution of the situation?

3.1.3 The expectations of the complainant

- What are the expectations of the complainant about how the matter can and should be resolved?
- Does the complainant want to draw attention to the behaviour but resolve the issue himself/herself by asking the other party to stop the behaviour?
- Is the complainant seeking the assistance of a supervisor or manager, human resources officer, their health and safety representative or union representative in resolving the matter?
- Does the complainant have an expectation that there should be a detailed investigation of the complaint, irrespective of the seriousness of the matter, the likely evidence or whether the alleged behaviour is bullying?
- Is there a need to discuss expectations with the complainant, including the option of resolving the matter quickly and effectively through informal remedial processes rather than by a lengthy formal investigation of the matter?

3.1.4 Assessment and management of risk

- The initial assessment should involve an assessment of the risks to the person reporting the behaviour, employee(s) whose behaviour is the cause of concern, work colleagues and the agency.
- The risk assessment might identify the need for interim measures to minimise the risk to health or safety of the complainant and/or other parties. This could involve temporarily reassigning tasks, separating the parties, changing reporting arrangements or granting leave.
- The ongoing assessment and management of risk during and after the complaint resolution process are important in minimising adverse impacts on employees and the workplace.

3.1.5 Additional requirements

- Measures to resolve incidents of bullying should comply with the Work Health and Safety Act 2011 s.81 and Work Health and Safety Regulations 2011 Part 2.2.

Responding to Bullying

- Potentially criminal behaviour should be referred to the Police and investigated in liaison with the Police and in accordance with the agency's procedures for managing criminal allegations against staff.
- Complaints meeting the definition of a Public Interest Disclosure (PID) should be handled in accordance with the agency's procedures for managing PIDs. For further information on the requirements around managing PIDs, refer to the NSW Ombudsman's website www.ombo.nsw.gov.au.
- Complaints that include fraud or corruption should be referred to ICAC.

3.2 Taking action to resolve the issue

Inaction is not an acceptable option.

An initial assessment of a report of bullying will determine the appropriate method of resolution, and whether the matter can be managed at the local level or requires higher level or external intervention.⁸ Actions taken will fall somewhere on a spectrum between an informal or formal process. When deciding which action to take prompt and effective action to rectify the issues should be the priority.

In all cases, managers and others involved in resolving complaints of unreasonable behaviour or bullying need to be very aware of the need to support people, especially in instances where they feel vulnerable or are otherwise involved in an interpersonal difficulty. This may be the case with both the complainant and the person alleged to have behaved unreasonably.

The manager should always start by listening to the complainant's concerns and what they want done, clarifying relevant policies or procedures, reiterating that bullying or unreasonable behaviour will not be tolerated, discussing options for handling the situation and offering support to the person. Where realistic, the person who made the complaint should be encouraged to raise and resolve the matter directly with the individual concerned. Managers have a key role in supporting and empowering employees to resolve issues between themselves wherever possible and prevent unnecessary escalation of matters.

A review of potential systemic issues should also be undertaken, using available information on workforce management practice, regardless of the method chosen to manage the complaint.

Following is a range of approaches for resolving buying issues:



⁸ For example, where the alleged behaviour involves physical assault, violence or other potentially criminal action it might be necessary to seek the advice of and/or refer the matter to the police.

Preference should be given to less formal resolution where that is an option. However, cases involving a serious breach of appropriate conduct require a formal investigation.

3.2.1 Direct resolution by the affected person

- The ideal outcome of the initial discussion with the responsible manager is that the complainant feels confident to approach the other party on a private and confidential basis to discuss the situation and try to resolve the matter between themselves, supported by the supervisor or manager if needed.
- The manager or other trusted persons may suggest how to approach the matter in a firm but positive way, drawing attention to the impact of the behaviour without blaming or imputing intent to harm, and emphasising a desire for good working relations.
- However, this direct approach may not be feasible because of particular dynamics in the case such as personalities or power differential.

3.2.2 Manager-assisted resolution

- If it is not possible for the complainant to raise the issue directly with the person whose behaviour has caused concern, managers should assist the parties to resolve their differences, agree on ways of working together and how the situation will be reviewed. This may include adjustments to workplace management systems, such as clarifying roles or adjusting workloads, to address underlying systemic causes.
- This requires managers to take a clear leadership role in guiding the parties, remaining objective and fair to all, providing support and focusing on resolution of the issue rather than assigning blame.
- It also requires employees to focus on resolution of the matter and take ownership for the outcome, rather than assuming intent to harm, assigning blame, being defensive or insisting on lengthy adversarial processes.
- A first step would normally involve the manager speaking separately with both parties to listen to their concerns and/or perspectives on the matter, clarify policies and procedures, reiterate that bullying or unreasonable behaviour is not tolerated, discuss options to resolve the matter, and counsel both parties to take an open approach to the discussion. The ideal outcome is that both parties agree to work together to resolve the issue, calling on the manager for assistance if needed.
- Where direct discussion between the parties is not possible or likely to succeed, the manager may facilitate a discussion between the parties. The agreed outcome might involve an acceptance that the behaviour was inappropriate and unreasonable, an apology, improved work practices, mentoring and training.
- Changes to reporting arrangements may be necessary if good working relations can't be re-established but should be an option of last resort and not to the detriment of the complainant if the problem they raised was substantiated.

3.2.3 Mediation

In some cases, the supervisor or manager might engage the assistance of a mediator to facilitate discussion between the parties. However, mediation is only effective in some circumstances and can, if inappropriate to the specific case, worsen rather than improve the situation. There is particular risk where there is a power differential between the persons concerned. This option should only be adopted if the parties have had full opportunity to understand the process and expectations.

- Mediation is a voluntary process where an impartial trained and skilled mediator assists the parties to put their respective cases before each other and talk about the issues and how they could be resolved. Some agencies have trained employees to facilitate mediation of matters within the agencies. Other agencies engage external mediators to assist in resolving issues.
- Mediation has been found to be effective when used early in the process and where the parties are willing to try to resolve the issue. Mediation can assist in resolving matters and prevent escalation of the problem. However, as mentioned above, there are situations where mediation is not appropriate (e.g. where the nature of the conflict is destructive or violent, or where there is a power imbalance between the parties and they cannot equally participate in the process).
- Researchers have also found that if mediation is to be successful in achieving a sustainable and long-term resolution, it must address not only the interpersonal dynamics between the parties but the broader organisational dynamics underlying the unreasonable or bullying behaviour.

3.2.4 Formal investigation

Research and leading practice suggest that formal investigation of minor workplace issues can inhibit resolution of the issue and have a detrimental impact on the parties and the workplace. Lengthy investigations can widen the gap between the parties making it difficult for them to continue to work together at the completion of the investigation.

Therefore, formal investigation should be limited to the very small number of matters where the complaint involves a very serious breach of conduct. In such cases, a formal investigation must be instigated immediately.

An agency may decide that a formal investigation is needed, due to the nature of the alleged behaviour. Formal processes are appropriate if the behaviour is serious, where disciplinary action may be required or where the behaviour might involve breaches of criminal or other legislation.

Depending on the investigation findings, the formal process may lead to further action under the misconduct provisions of [Section 69 of the GSE Act](#) or other statutory frameworks.

Responding to Bullying

The NSW Ombudsman has published guidelines⁹ and fact sheets to assist agencies in conducting formal investigations of complaints.¹⁰ The guidelines cover steps in an investigation and guiding principles.

Investigations should be carried out by persons who:

- are suitably qualified, trained and skilled to lead the investigation properly and carefully analyse the evidence
- are unbiased and able to demonstrate objectivity, impartiality and fairness in respect of all parties
- have experience and knowledge in dealing with workplace conflict or bullying matters
- have the time needed to undertake the investigation within the agreed time period
- are able to treat all affected persons with respect and have the capacity to communicate effectively with all parties during the process.

3.2.5 Managing outcomes

- Regardless of the action chosen, the manager must monitor the situation on an ongoing basis to ensure that the matter is resolved ethically, that the behaviour stops and does not recur.
- The manager should continue to review key aspects of their workforce management to identify any contributing systemic factors.
- Where a matter proceeds to investigation further action might be necessary if unreasonable behaviour or bullying is substantiated.
- It is also important to consider the implications for employees and the workplace where unreasonable behaviour or bullying is not substantiated. It may be that the complaint was vexatious or there was insufficient evidence to uphold the complaint. Strategies to minimise the possibility of ongoing conflict, harm to individuals, workplace disharmony and adverse impacts on service delivery are important in these situations.
- After a concern or complaint of unreasonable behaviour or workplace bullying is resolved there should be a follow-up review to check the health and safety of the parties involved, offer support, find out whether actions taken to stop the workplace bullying have been effective and whether additional action such as training, counselling or mentoring, is required.

⁹ NSW Ombudsman (2004) *Investigating Complaints: A manual for investigators*.

¹⁰ NSW Ombudsman (2010) *Investigation of Complaints, Public Sector Agencies Fact Sheet 9*, Reprinted March 2012.

3.3 Best practice features of complaints resolution processes

3.3.1 Clear process, focused on early resolution

- The complaints resolution process is transparent and makes good common sense, without unnecessary bureaucratic complexity.
- Managers and employees are encouraged to raise and discuss issues informally as they arise, before behaviours escalate into a bullying pattern, or become entrenched in the organisation's culture.
- Managers and employees know the process for making a complaint and the expected steps and timeframes if they raise an issue. The organisation's intranet and other sources of advice on the subject provide easily accessible information.
- The emphasis in communications about the process is on resolving issues early and with the minimum level of formality, aimed at restoring a positive workplace culture for all concerned.
- The [NSW Ombudsman's Complaint Management Framework](#), published in June 2015, provides useful principles for managing complaints.

3.3.2 Accessible

- Seek to ensure the process for lodging reports and having them dealt with is as accessible as possible to all staff. Overly bureaucratic processes should be avoided.

3.3.3 Responsive, objective and fair

- All reports (concerns and complaints) are treated seriously and, wherever possible, resolved informally immediately.
- Concerns and complaints are dealt with fairly, and impartially. They should be managed by persons who have not been directly involved in the issues and who have neither conflict of interest nor bias.
- Concerns or complaints are assessed on their merits based on established facts, avoiding pre-conceived views. The focus should be on stopping the alleged behaviour, restoring workplace harmony and productivity and preventing recurrence of the behaviour. All efforts should be made to prevent people assigning intent or blame to an individual.
- All parties must be protected from victimisation.
- Complaints that appear to be frivolous or vexatious are managed quickly, firmly and fairly following sufficient inquiry to establish (or refute) that the complaint is frivolous or vexatious. This may involve determining that the behaviour causing complaint is legitimate and reasonable management action, such as requiring work to be done or providing feedback on performance.

Responding to Bullying

- Each case of complaint is examined for potential systemic factors causing negative workplace culture or friction between employees.
- Workplace culture, leadership, systems and processes are examined, reviewed and improved.

3.3.4 Timely and clear communications with affected employees

- All responses to reports of bullying should be promptly delivered. Agencies should determine reasonable expected time frames in their policies for dealing with bullying, noting that timeliness is the single most important driver for satisfaction when a complaint has been made.¹¹
- Keep parties informed of progress in the matter. Any delay should be avoided. Should the process be delayed for any reason, advise all parties of the delay and when the process is expected to resume.
- Explain to the parties as soon as possible reasons for actions that have been taken and in some circumstances not been taken.

3.3.5 Confidentiality and record keeping

- The confidentiality of all parties involved must be maintained and details of the complaint are made known only to persons directly concerned.
- The management of the resolution process is confidential whilst ensuring procedural fairness for all affected parties.¹²
- Records are managed in accordance with the record keeping and information protection principles of the *State Records Act 1998* and the *Privacy and Personal Information Protection Act 1998*.

3.3.6 Clear roles and responsibilities, for which there is good support

- Roles and responsibilities for responding to reports of bullying are clear.
- Managers and employees need easy access to advice on available support and assistance when dealing with concerns or complaints about bullying. This could include:
 - an employee assistance program
 - nominated contact officers within the agency
 - human resource specialists

¹¹ NSW Ombudsman's Complaint Management Framework

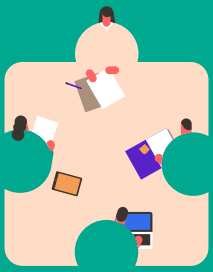
¹² See the NSW Ombudsman's advice on [Natural justice/Procedural fairness](#)

Responding to Bullying

- work health and safety representatives
- union representatives.
- In all cases, managers and others involved in resolving complaints of unreasonable behaviour or bullying need to be very aware of the need to support people, especially in instances where they feel vulnerable or are otherwise involved in an interpersonal difficulty. This may be the case with both the complainant and the person alleged to have behaved unreasonably.
- Managers have a key role in supporting and empowering employees to resolve issues between themselves wherever possible and prevent unnecessary escalation of matters.

3.3.7 Transparency

- The agency provides de-identified regular reports to its employees on the number of issues raised and their status (resolved/not resolved), together with any systemic changes to address the issues.
- The level of employee trust in the complaints management system is monitored on a regular basis (the PMES includes some questions in this area) and strategies are implemented to address negative opinion.



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Reset.

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