



WorkCover

WorkCover Authority of NSW
92-100 Donnison Street, Gosford, NSW 2250
Locked Bag 2906, Lisarow, NSW 2252
DX 731 Sydney
Tel: 02 4321 5000 Fax: 02 4325 4145
WorkCover Assistance Service **13 10 50**
workcover.nsw.gov.au

5 September 2013

Ms Kate Minter
Unions NSW
Level 3 - Trades Hall
4-10 Goulburn Street
SYDNEY NSW 2000
Email: kminter@unionsnsw.org

Document tendered by <i>Shay Dequara</i> Christine Laing Unions NSW
Received by <i>Merrin Thompson</i>
Date: <i>11/11/13</i>
Resolved to publish Yes / No

Enquiries: Christine Laing
Tel: 4321 5538
Our Ref: 2013/014160

Dear Ms Minter

RIGHT TO INFORMATION – NOTICE OF DECISION

I refer to your formal request received on 9 August 2013, under the *Government Information (Public Access) Act 2009* (the Act), for access to the following information:

1. *Figures of 'rejected' and 'accepted' workers compensation claims that relate to bullying, from the last five years. These figures include an industry and 'reason for rejection' breakdown (For example, S11a)*
2. *The number WSMS interactions where workplace bullying is the reason for complaint, from the last five years. Including a breakdown by industry.*
3. *The number of 'improvement notices' related to bullying that have been issued to workplaces in the last five years and the number of 'improvement notices' related to bullying that have been withdrawn prior to compliance.*
4. *Unions NSW understands that phone calls received by WorkCover are responded to with the assistance of pre-prepared FAQ answers. Unions NSW would like to request a list of the 10 most used FAQ responses from the past five years where the reason for the call has been a hazard (i.e., not a process call such as photo ID renewal).*

A search of WorkCover's records was undertaken in accordance with your request and information was located. There being no public interest consideration against release of this information, my decision under Section 58(1)(a) of the Act, is to provide access to it, a copy of which is enclosed.

If you have any queries about this notice or require further information, please contact me on 4321 5538.

Review Rights

In accordance with the Act, WorkCover provides you with the following information:

If you disagree with my decision, you may seek review under Part 5 of the Act. Please refer to the enclosed leaflet for further information and note that any application for review must be made in written form.

Yours sincerely

Christine Laing
Right to Information
WorkCover Authority of NSW

Enc.

Workplace bullying

Number of Workplace bullying claims for the period 1 July 2008 to 30 June 2013

Industry	2008/09				2009/10				2010/11			
	Accepted	Denied	Provisional / Not yet determined	Total	Accepted	Denied	Provisional / Not yet determined	Total	Accepted	Denied	Provisional / Not yet determined	Total
A Agriculture, Forestry and Fishing	3	1		4	1	1	2	4	1	1	1	3
B Mining		1	1	2	3		2	5	2	6		8
C Manufacturing	28	36	25	89	40	30	19	89	46	49	15	110
D Electricity, Gas and Water Supply	3	4	1	8	5	7	2	14	4	8	2	14
D Electricity, Gas, Water and Waste Services												
E Construction	12	9	7	28	5	2	5	12	14	15	5	34
F Wholesale Trade	18	19	9	46	14	19	12	45	19	26	8	53
G Retail Trade	24	36	25	85	42	41	17	100	26	42	23	91
H Accommodation and Food Services												
H Accommodation, Cafes and Restaurants	18	22	5	45	18	23	14	55	24	24	13	61
I Transport and Storage	16	26	17	59	20	29	19	68	16	39	18	73
I Transport, Postal and Warehousing												
J Communication Services	1	1	3	5	2	2	1	5	1	5	2	8
J Information Media and Telecommunications												
K Finance and Insurance	23	18	12	53	33	18	5	56	28	37	10	75
K Financial and Insurance Services												
L Property and Business Services	28	59	24	111	64	58	20	142	73	85	25	183
L Rental, Hiring and Real Estate Services												
M Government Administration and Defence Services	23	24	38	85	29	39	38	106	39	58	18	115
M Professional, Scientific and Technical Services												
N Administrative and Support Services												
N Education	14	35	24	73	20	27	29	76	24	28	16	68
O Health and Community Services	63	68	42	173	72	56	45	173	68	77	42	187
O Public Administration and Safety												
P Cultural and Recreational Services	5	3	5	13	6	6	6	18	2	9	1	12
P Education and Training												
Q Health Care and Social Assistance												
Q Personal and Other Services	6	7	10	23	14	19	3	36	11	9	4	24
R Arts and Recreation Services												
S Other Services												
Unknown												
Total	285	369	248	902	388	377	239	1,004	398	518	203	1,119

Workplace bullying

Number of Workplace bullying claims for the p

Industry	2011/12			2012/13			5 Years Total				
	Accepted	Denied	Provisional / Not yet determined	Accepted	Denied	Provisional / Not yet determined	Accepted	Denied	Provisional / Not yet determined		
A Agriculture, Forestry and Fishing	2	5	7	3	4	3	10	10	12	6	28
B Mining	3	2	6	3	6	3	12	11	15	7	33
C Manufacturing	43	54	121	21	52	22	95	178	221	105	504
D Electricity, Gas and Water Supply								12	19	5	36
D Electricity, Gas, Water and Waste Services	2	9	18	1	9	1	11	3	18	8	29
E Construction	19	13	34	12	15	9	36	62	54	28	144
F Wholesale Trade	23	27	54	15	21	13	49	89	112	46	247
G Retail Trade	38	54	110	36	67	35	138	166	240	118	524
H Accommodation and Food Services	36	45	101	30	25	16	71	66	70	36	172
H Accommodation, Cafes and Restaurants								60	69	32	161
I Transport and Storage								52	94	54	200
I Transport, Postal and Warehousing	15	33	59	13	36	16	65	28	69	27	124
J Communication Services								4	8	6	18
J Information Media and Telecommunications	7	10	19	5	5	7	17	12	15	9	36
K Finance and Insurance								84	73	27	184
K Financial and Insurance Services	13	41	67	7	21	10	38	20	62	23	105
L Property and Business Services								165	202	69	436
L Rental, Hiring and Real Estate Services	15	7	26	8	6	7	21	23	13	11	47
M Government Administration and Defence Services								91	121	94	306
M Professional, Scientific and Technical Services	26	25	55	21	21	11	53	47	46	15	108
N Administrative and Support Services	26	32	70	13	27	11	51	39	59	23	121
N Education								58	90	69	217
O Health and Community Services								203	201	129	533
O Public Administration and Safety	35	78	146	18	54	38	110	53	132	71	256
P Cultural and Recreational Services								13	18	12	43
P Education and Training	38	37	89	15	22	13	50	53	59	27	139
Q Health Care and Social Assistance	100	121	274	60	103	59	222	160	224	112	496
Q Personal and Other Services								31	35	17	83
R Arts and Recreation Services	10	3	16	5	1	4	10	15	4	7	26
S Other Services	31	37	84	17	44	14	75	48	81	30	159
Unknown	2	5	15					2	5	8	15
Total	484	638	1,371	303	539	292	1,134	1,858	2,441	1,231	5,530

Workplace bullying

Number of Workplace bullying claims for the period 1 July 2008 to 30 June 2013

Year (entered insurers system)	Liability Status			Provisional / Not yet determined	Total
	Accepted	Denied			
2008/09	285	369		248	902
2009/10	388	377		239	1,004
2010/11	398	518		203	1,119
2011/12	484	638		249	1,371
2012/13	303	539		292	1,134
5 Years Total	1,858	2,441		1,231	5,530

Bullying Complaints and Notices

Safety, Return to Work and Support Division
INFRA: 372320
TRIM: 2013/008838

Requests for service where bully or harass is included in the narrative

Industry	2008/09	2009/10	2010/11	2011/12	2012/13	Total
Construction	24	30	40	34	32	160
Consumer & Business Services	153	219	314	310	331	1327
Government	49	76	107	82	104	418
Health & Community Services	95	122	222	151	210	800
Manufacturing	66	65	116	108	102	457
Mining	2	1			2	5
Retail & Wholesale	69	150	203	157	150	729
Retail/Wholesale/Transport	7					7
Rural	12	9	16	15	10	62
Transport & Storage	19	26	49	33	48	175
Unassessed				68	92	160
Union			1			1
Unknown	2	8	12	17	23	62
Total	498	706	1080	975	1104	4363

Improvement Notices issued where bully or harass is included in the notice details field

	2008/09	2009/10	2010/11	2011/12	2012/13	Total
Not withdrawn	156	183	250	160	115	864
Withdrawn	7	6	19	10	10	52
Total	163	189	269	170	125	916

Response to Unions NSW GIPA Request – Point 4

4. *Unions NSW understands that phone calls received by WorkCover are responded to with the assistance of pre-prepared FAQ answers. Unions NSW would like to request a list of the 10 most used FAQ responses from the past five years where the reason for the call has been a hazard (i.e., not a process call such as photo ID renewal).*

Top 10 FAQs used to answer callers by Info Centre relating to HAZARDS only (i.e. not taking into account calls related to workers compensation claims & benefits enquiries / license enquiries / publications requests / office addresses etc) are as follows:

1. How do I make a workplace complaint to WorkCover NSW?

Before WorkCover becomes involved in the issue:

Parties affected by the issue should first try resolving it within the workplace if possible, and if workers are involved in the issue this may include:

- raising the issue with their health and safety representative (HSR), or their health and safety committee
- direct negotiation with management
- raising the issue with their union representatives to raise with management.

Issue not resolved or unable to be resolved:

If the work health and safety (WHS) issue fits the criteria under WHS legislation where a risk to the health and safety of workers or other persons in the workplace is identified, a workplace complaint can be made to WorkCover to appoint an inspector to review and investigate as appropriate.

WHS Legislation:

Parties to resolve a WHS issue:

Section 81 of the *Work Health and Safety Act 2011*, (WHS Act), applies if a matter about work health and safety arises at a workplace or from the conduct of a business or undertaking, and the matter is not resolved after discussion between the parties to the issue. The parties must make reasonable efforts to achieve a timely, final and effective resolution of the issue in accordance with the relevant agreed procedure, or if there is no agreed procedure, the default procedure prescribed in the regulations.

The minimum requirements for an agreed procedure is defined in **clause 22** of the *Work Health and Safety Regulations 2011*, (WHS Reg.), while **clause 23** of the WHS Regulation defines the default procedure.

Parties to an issue are defined in **section 80** of the WHS Act, and these include:

- the person conducting a business or undertaking (PCBU), or their representative
- if the issue involves more than one business or undertaking, the PCBU from each business or undertaking, or their representatives
- if the worker or workers affected by the issue are in a work group, the health and safety representative (HSR) for that work group, or the HSR representative
 - if the worker or workers affected by the issue are not in a work group, the worker or workers, or their representative.

PCBU must ensure that the person's representative (if any):

- is not a HSR, and
- has an appropriate level of seniority, and is sufficiently competent, to act as the person's representative.

WHS issue not resolved:

Under **section 82** of the WHS Act , a party to a workplace health and safety issue that has not been resolved after reasonable efforts, can ask the regulator to appoint an inspector to attend the workplace to assist in resolving the issue.

Making the RFS / Complaint:

Persons wanting to make a formal complaint can do so by making a request for service (RFS) by telephone or email, using telephone: 13 10 50 or email: contact@workcover.nsw.gov.au.

2. What information is available for a worker suffering bullying in the workplace?

The following information applies to both workers and a person conducting a business or undertaking (PCBU).

Workplace bullying is defined as repeated, unreasonable behaviour directed towards a worker or a group of workers, that creates a risk to health and safety, such as:

- Repeated behaviour refers to the persistent nature of the behaviour and can refer to a range of behaviours over time.
- Unreasonable behaviour means behaviour that a reasonable person, having regard for the circumstances, would see as victimising, humiliating, undermining or distressing.

Whether it is intended or not bullying in the workplace is a health and safety risk that can come under the jurisdiction of Work Health and Safety legislation.

Types of unreasonable behaviour that may be considered as workplace bullying, when part of a repeated pattern of events, can include:

- abusive, insulting or offensive language or comments
- undue criticism
- excluding, isolating or marginalising a person from normal work activities
- withholding information that is vital for effective work performance
- unreasonably overloading a person with work or not providing enough work
- setting unreasonable timelines or constantly changing deadlines
- setting tasks that are unreasonably below or beyond a person's skill level
- denying access to information, supervision, consultation or resources such that it has a detrimental effect on the worker spreading misinformation or malicious rumours
- unreasonable treatment in relation to accessing workplace entitlements such as leave or training.

Workplace violence:

An actual incident in which a person is assaulted, harmed or injured in circumstances relating to their work is workplace violence. It is a criminal matter and should be reported to NSW Police, however WorkCover NSW should also be notified and discussed with an Information Officer on telephone: 13 10 50. If the issue can be dealt with as a workplace complaint the call can be transferred to SAC on # 4809.

If the workplace violence is a threat only, the worker should report it to NSW Police and they can lodge a bullying complaint as per normal procedures.

What is not considered workplace bullying?

There are five broad categories of behaviour that may **not** be considered workplace bullying:

1. Reasonable management action
2. Discrimination and harassment
3. Workplace conflict
4. Workplace violence
5. Discriminatory, coercive or misleading conduct due to raising or acting on WHS issues.

For full descriptions and examples of the five categories refer to K.4582.

What you can do when being bullied at work:

Request the behaviour to stop - If you consider it safe to do so, you can firmly and politely tell the person that their behaviour is unreasonable and ask them to stop. They may not realise the effect their behaviour is having on you and this gives the person the opportunity to change their actions. You may want to ask your health and safety representative, union representative or supervisor to be with you when you approach the person.

Check if there are workplace policies and procedures - Check if your workplace has a bullying policy and associated procedures in place. The policy should outline the standards of acceptable behaviour at work and how to raise bullying issues in the workplace. Ask your manager, supervisor or health and safety representative if you are not sure what the policy and procedure is.

Keep records - Keep a factual record of events that includes what happened, dates and times, who was involved, names of witnesses and, where possible, copies of any documents.

Report it - Formally report the situation in accordance with the agreed hazard reporting procedures. It may be under another name such as a grievance procedure. If your workplace does not have a policy or procedures it is still important to attempt to resolve the bullying issue internally at the workplace. If you feel safe to do so raise the issue of bullying with the person in control of your workplace.

Speak to someone you trust - Seek advice from someone you trust such as a friend, colleague, supervisor, health and safety representative, union representative or someone from human resources section. It may be helpful to describe the behaviour you are experiencing as they may be able to assist you in developing a personal intervention plan.

Seek support and assistance - Your doctor may be able to refer you for counselling under Medicare or to an appropriate professional such as a psychologist or counsellor. Eligible people can receive:

- Up to 10 individual sessions in a calendar year (1 January - 31 December). Your referring doctor will assess your progress after the first six sessions.

- Up to 10 group therapy sessions in a calendar year where such services are available and seen as appropriate by your referring doctor and the psychologist.

After you have reached the maximum number of allowable sessions for the calendar year you will not be eligible for any further Medicare rebates for treatment you receive from a psychologist until the new calendar year.

The organisations listed below can help you by listening and providing support:

- Lifeline on 13 11 14 – 24hrs, 7 days a week
- Salvo Care Line on 1300 36 36 22 – 24hrs, 7 days a week
- KidsHelpline on 1800 55 1800 – provides a free, confidential support service for children between 5 and 18 years.

Charlie Stansfield has also suggested the following contacts:

- Unifam (Parramatta Ph: (02) 8830 0700, Newcastle Ph: (02) 4925 6000 and Wollongong Ph: (02) 4229 9863. (low or free cost counselling).
- Relationships Australia Ph: 1300 364 277 (low cost sliding fee scale but often have a wait list).
- Reach Out (reachout.com) - for young people and young workers.
- Beyondblue infoline Ph: 1300 22 4636 - provides information on depression, anxiety and related disorders, available treatments and referrals to relevant services.

Workers Compensation:

Workers suffering incapacity from work because of psychological injury as a result of bullying behaviour in the workplace are entitled to make a claim for workers compensation with their PCBU's workers compensation insurer. Contact WorkCover on telephone: 13 10 50 to discuss the claims procedure.

What WorkCover can do about bullying at work:

WorkCover can ensure the PCBU meets their work health and safety obligations. These obligations and workplace complaint procedures are outlined in K.4585.

Bullying complaints can be made to WorkCover by completing the *Bullying in the workplace - Complaint form*, provided the bullied worker has written evidence that confirms the PCBU is not meeting these obligations either by not dealing with the workers complaint and/or the PCBU has no internal policy or procedure to deal with bullying and harassment complaints.

When WorkCover visits a workplace to investigate alleged bullying, the inspector may:

- consult with the parties involved
- provide advice on preventing and responding to bullying
- refer the matter to another agency – eg. if it is discrimination rather than bullying
- gather more information in relation to possible breaches of work health and safety legislation.

WorkCover does **not** have the authority to:

- order the PCBU to discipline the alleged bully or terminate their employment
- take sides
- provide legal advice about civil proceedings or claims.

WorkCover's approach to compliance and prosecution under the *Work Health and Safety Act 2011* is contained in the Compliance Policy and Prosecution Guidelines which is on our website.

WorkCover can also provide information and assistance about the prevention and management of workplace bullying through free workplace assistance visits available to small businesses.

Guidance publications:

Publications available on the WorkCover website includes:

- Preventing and Responding to Bullying at work
- Bullying Prevention Kit
- Employer checklist – Preventing and responding to bullying at work
- Bullying risk indicator
- No bullying policy
- Fact Sheet - Bullying in the workplace. (Available in various community languages).

External assistance or referrals:

Further assistance for a PCBU in developing bullying prevention policies, procedures and training programs, or for workers wanting further support and assistance, can be provided by the following organisations:

- Registered Training Organisations (RTOs) - (not registered or endorsed by WorkCover)
- Employer and industry Associations
- Unions
- Anti-Discrimination Board – website - Provides an enquiry service for people who want to know about their rights or responsibilities under anti-discrimination law and accepts complaints of discrimination (harassment), investigates complaints and conciliates complaints when appropriate.
 - General Enquiry Service & Employers Advisory Service – telephone: (02) 9268 5544, Toll Free - 1800 670 812 (for rural and regional New South Wales only).
- Human Rights and Equal Opportunity Commission (HREOC), telephone: 1300 656 419, or their website
- Community Justice Centres - provide free mediation and conflict management services to help people resolve disputes. Funded by the NSW Government as part of the NSW Attorney General's Department, their services are confidential, voluntary, timely and easy to use, telephone: 1800 990 777, or their website
- Police Assistance Line (PAL) - telephone: 131 444, (24 hours)
- Victims of Crime Access Line NSW - telephone: 1800 633 063, (24 hours).

3. What incidents need to be notified to WorkCover under OHS / WHS legislation?

Notifiable incidents that need to be notified to WorkCover are defined in section 35 of the *Work Health and Safety Act 2011*, (WHS Act), as follows:

- a fatality
- a serious injury or illness, or
- a dangerous incident that arises out of work carried out by a business or undertaking or a workplace.

Notifiable incidents may relate to any person, whether an employee, contractor or member of the public.

These calls must be transferred to the Response Coordination and Enforceable Undertakings (RCEU) Emergency Hotline on # 5222.

Only the most serious safety incidents are intended to be notifiable, and they trigger requirements to preserve the incident site pending further direction from Workcover.

A PCBU must notify WorkCover immediately if an incident **arises out of the conduct of a business or undertaking** and results in a death, serious injury or serious illness of a person, or involves a dangerous incident.

For afterhours notifications, the 13 10 50 number will provide options for callers to be diverted to WorkCover's After Hours Emergency Service.

Serious injury or illness:

A serious injury or illness is defined in section 36 of the WHS Act and includes a person having:

- immediate treatment as an in-patient in a hospital, or
- immediate treatment for:
 - the amputation of any part of the body, or
 - a serious head injury, or
 - a serious eye injury, or
 - a serious burn, or
 - the separation of skin from an underlying tissue (such as degloving or scalping), or
 - a spinal injury, or
 - the loss of bodily function, or
 - serious lacerations, or
 - medical treatment within 48 hours of exposure to a substance, and
 - includes any other injury or illness prescribed by the regulations but does not include an illness or injury of a prescribed kind. (See further details as follows).

An injury or illness **prescribed by the regulations** is specified in clause 699 of the *Work Health and Safety Regulations 2011*.

An injury or illness of a prescribed kind that is **not included** means if a medical practitioner diagnoses an injury or illness that is not prescribed in the WHS legislation, then it is **not** regarded as a serious injury or illness for the purposes of the legislation.

Further interpretation of the meanings defined above in section 36 is provided in the Incident Notification Factsheet.

Dangerous incident:

A dangerous incident is defined in section 37 of the WHS Act, and means an incident in relation to a workplace that exposes a worker or any other person to a serious risk to a person's health or safety emanating from an immediate or imminent exposure to:

- an uncontrolled escape, spillage or leakage of a substance, or
- an uncontrolled implosion, explosion or fire, or
- an uncontrolled escape of gas or steam, or
- an uncontrolled escape of a pressurised substance, or
- electric shock, or
- the fall or release from a height of any plant, substance or thing, or
- the collapse, overturning, failure or malfunction of, or damage to, any plant that is required to be authorised for use in accordance with the regulations, or
- the collapse or partial collapse of a structure, or
- the collapse or failure of an excavation or of any shoring supporting an excavation, or
- the inrush of water, mud or gas in workings, in an underground excavation or tunnel, or
- any other event prescribed by the regulations, but
- does not include an incident of a prescribed kind.

Further interpretation of the meanings defined above in section 37 is provided in the Incident Notification Factsheet.

General Information:

If the person is in doubt as to whether the incident has arisen out of the conduct of the business or undertaking, or they are not sure if it is serious enough to notify, its best to err on the side of caution and advise WorkCover.

For a notifiable incident occurring at a **Comcare site or workplace**, in addition to notifying Comcare, WorkCover should also be notified to allow an Inspector to decide if WorkCover needs to be involved. The caller can be transferred to # 5222.

Environmental pollution incidents are also transferred to # 5222.

The PCBU will be given a reference number by WorkCover when the incident is notified. This number should be used in all future correspondence.

Further information:

- Reporting an incident or injury - website
- *WHS incident notification: fact sheet* (Cat. no.: WC03060)
- A template: *Incident / Near miss investigation form*, can be used by the PCBU for investigating and acting on a serious and/or near miss incident, and is available on the website. This is for use by the PCBU for their own internal use, it is not for reporting to WorkCover.

4. Asbestos Removal

Chapter 8 of the *Work Health and Safety Regulation 2011*, (WHS Reg.), has particular requirements pertaining to friable and non-friable asbestos removal in a workplace location.

An asbestos register must be obtained (see K.3873) and an asbestos removal control plan prepared (see K.4774) by a licenced asbestos removalist before asbestos removal work can commence. A copy of the control plan must be given to the person who commissioned the work. The control plan must contain:

- details of the asbestos to be removed including the location, type and condition of the asbestos
- details of how the asbestos will be removed including methods, tools, equipment and personal protective equipment (PPE).

Removing non-friable (Class B) asbestos:

A non-friable (Class B) licence is required by an asbestos removalist when carrying out the removal of more than 10 square metres of non-friable asbestos (commonly called bonded asbestos).

An asbestos removal supervisor must be readily available to a worker carrying out the non-friable asbestos removal work.

Under clause 467 of the WHS Regulations licensed asbestos removalists are required to notify certain persons, including anyone occupying premises in the immediate vicinity of the workplace, before commencing removal work. The licensed removalist must, so far as is reasonably practicable, advise that asbestos removal work is to be carried out and when the work is to commence.

Note: If less than 10 sq. metres of bonded asbestos is to be removed, workers must still be trained to remove the asbestos safely (C.445 WHS Reg.).

A list of asbestos and demolition licence holders is available on the WorkCover website.

Removing friable (Class A) asbestos:

A friable (Class A) licence is required by an asbestos removalist when carrying out the removal of friable asbestos.

An asbestos removal supervisor must be present at the asbestos removal area the entire time friable asbestos is being removed.

Under clause 467 of the WHS Reg. licensed asbestos removalists are required to notify certain persons, including anyone occupying premises in the immediate vicinity of the workplace, before commencing removal work. The licensed removalist must, so far as is reasonably practicable, advise that asbestos removal work is to be carried out and when the work is to commence.

A list of asbestos and demolition licence holders is available on the WorkCover website.

Notification:

WorkCover must be notified at least five days before the licenced asbestos removal work starts. Asbestos removalists licenced in NSW can lodge the notification electronically using WorkCover's Asbestos and demolition online notification system or complete the notification form.

All work involving the removal of asbestos must have clear signage and barricades.

In an emergency, notification of the removal work must be given immediately by phone to 1310 50 and followed up with a written notification within 24 hours.

The licenced removalist must notify WorkCover immediately of any fibre count levels above 0.02 fibres/ml.

Clearance certificates:

Clearance certificates are required for all licenced asbestos removal work from 1 July 2012 (C.474 of WHS Reg.):

- all friable asbestos clearance certificates are to be provided by an independent licenced asbestos assessor
- all non-friable clearance certificates by an independent competent person.

An independent licensed asbestos assessor is also required to undertake air monitoring at a workplace where friable asbestos is being removed, and can issue an asbestos clearance certificate on completion.

Equipment that must not be used on asbestos:

High pressure water sprays (unless for fire fighting) and compressed air must not be used on asbestos. Power tools and brooms and any other equipment that may cause the release of the airborne asbestos may be used as long as there is a way of safely capturing the asbestos dust and fibre.

Demolition and refurbishment:

Asbestos must be identified and removed before any demolition or refurbishment can commence as per clause 457 of the WHS Reg .

The person with management or control of the workplace must review the asbestos register and if the register is inadequate for the proposed demolition work, then the asbestos register must be revised. For example, an asbestos register may identify an area that is likely to contain asbestos but the area is currently inaccessible. However, if the demolition or refurbishment work is likely to make that area accessible, then the asbestos register must be revised before any work is carried out.

If an asbestos register is not available, then the person with management or control of the workplace must take action to identify if any asbestos is present, before any demolition or refurbishment work can commence. These requirements also apply to domestic premises.

In an emergency, such as a burnt out building containing asbestos, the WorkCover licensed demolisher must contact WorkCover by phone on 13 10 50 to get permission to demolish the building. When permission has been granted, a written notification must be lodged with WorkCover within 24 hours.

Disposing of asbestos and contaminated personal protective equipment (PPE):

All asbestos waste must be contained and labelled in accordance with the Globally Harmonised System (GHS) for classification and labelling of chemicals, and must be disposed of at a site authorised to accept asbestos waste as soon as practicable.

Authorised disposal sites can be advised by Local Council, or the Environment Protection Authority (EPA) on telephone: 131 555, or via their website.

All PPE that has been contaminated with asbestos must be sealed in a container before being removed from the asbestos waste area and disposed of at a site authorised to accept asbestos waste. If it is not reasonably practicable to dispose of the PPE clothing then it must be laundered at a laundry equipped to deal with asbestos contaminated clothing. If it is not practicable to launder the clothing, it must be kept in a sealed container until it is reused for asbestos removal purposes.

Further Information:

- Heads of Asbestos Coordination Authorities (HACA) have created some useful FAQ's for home owners
- Technical issues can be referred in order to - Construction technical on # 5881, or then Zoran Sukara on # 5769, or then Kevin Murphy on # 5796.

5. How do I make an OHS / WHS technical enquiry?

WHS technical enquiries can be answered by the Information Centre if the specific issue can be identified and details are known to be covered in the Infra database.

However, if little or no details are covered in Infra or the caller requires further details than Infra provides, they can be referred to the relevant team Duty Officer Metro East, Metro West, Country North or South.

Construction technical enquiries can be directed to Ext 5881 and certain enquiries to a technical specialist in the relevant WorkCover area i.e. Chemical or Engineering Teams etc.

6. What are the requirements for working at heights (Scaffold, guardrail, working at heights)?

Managing the risk of a fall:

Under Chapter 4, Part 4.4 of the *Work Health and Safety Regulation 2011*, (WHS Reg.), a PCBU at a workplace must manage the risk of a fall by a person from one level to another that is reasonably likely to cause injury to the person or any other person.

These types of workplaces can include:

- in or on an elevated workplace from which a person could fall, or
- in the vicinity of an opening through which a person could fall, or
- in the vicinity of an edge over which a person could fall, or
- on a surface through which a person could fall, or
- in any other place from which a person could fall.

The PCBU must ensure, so far as reasonably practicable, that any work that involves the risk of a fall applies, is carried out on the ground or on a solid construction. In addition, the PCBU must provide safe means of access to and exit from the workplace and any area within the types of workplaces as above.

Solid construction means an area that has:

- a surface that is structurally capable of supporting all persons and things that may be located or placed on it, and
- barriers around its perimeter and any openings to prevent a fall, and
- an even and readily negotiable surface and gradient, and
- a safe means of entry and exit.

Specific requirements to minimise the risk of a fall:

If it is not reasonably practicable for the PCBU to eliminate the risk of a fall they must provide adequate protection against the risk by providing and maintaining a safe system of work, including by:

- providing a fall prevention device if it is reasonably practicable to do so, or, if it is not reasonably practicable to provide a fall prevention device, providing a work positioning system, or
- if it is not reasonably practicable to provide either of the above, providing a fall arrest system, so far as reasonably practicable.

Examples:

1. Providing temporary work platforms
2. Providing training in relation to the risks involved in working at the workplace
3. Providing safe work procedures, safe sequencing of work, safe use of ladders, permit systems and appropriate signs.

Note: Specific requirements to minimise the risk of a fall does NOT apply in relation to the following work, however clause 36 applies in relation to this work:

- the performance of stunt work
- the performance or acrobatics
- a theatrical performance
- a sporting or athletic activity
- horse riding.

A fall prevention device includes:

- a secure fence, and
- edge protection, and
- working platforms, and
- covers.

See clause 5 for definitions of: fall arrest system, and work positioning system.

Emergency and rescue procedures:

These requirements apply if the PCBU provides a fall arrest system as a control measure. The PCBU must establish emergency procedures, including rescue procedures, in relation to the use of the fall arrest system.

The PCBU must ensure that the emergency procedures are tested so that they are effective.

The PCBU must provide relevant workers with suitable and adequate information, training and instruction in relation to the emergency procedures.

Further information:

The Code of Practice: *Managing the risk of falls at workplaces*, provides practical guidance to PCBUs, and persons who design, construct, import, supply or install plant or structures, on how to manage fall risks. Topics covered include:

- identifying, assessing and controlling fall hazards, including reviewing control measures
- work on ground or solid construction
- fall prevention devices
- work positioning systems
- fall arrest systems
- ladders
- administrative controls
- emergency procedures
- design of plant and structures.

7. What information is available on emergency evacuation plans, fire extinguishers, fire hoses and fire door exits/escapes?

Legislation: (See also K.3735 and K.3350 - transitional arrangements)

Under clause 43 of the *Work Health and Safety Regulation 2011*, (WHS Reg.), persons conducting a business or undertaking (PCBU's) have a duty in relation to emergency planning.

The PCBU must ensure an emergency plan is prepared, maintained and implemented for the workplace by the PCBU.

The emergency plan must provide:

- emergency procedures including: an effective response to an emergency, evacuation procedures, notifying emergency service organisations promptly, medical treatment and assistance, effective communication between the authorised person who coordinates the emergency response and all persons at the workplace.
- testing of the emergency procedures, including the frequency of testing.
- information, training and instruction to relevant workers in relation to implementing the emergency procedures.

Factors to consider when preparing an emergency plan:

When preparing and maintaining an emergency plan, the PCBU must consider all relevant matters including:

- the nature of the work being carried out at the workplace
- the nature of the hazards at the workplace
- the size and location of the workplace
- the number and composition of the workers and other persons at the workplace.

Code of Practice:

Part 5.1 of the Code of Practice - *Managing the Work Environment and Facilities*, provides information on preparing emergency procedures as detailed below.

The emergency procedures in the emergency plan must clearly explain how to respond in various types of emergency, including how to evacuate people from the workplace in a controlled manner. The procedures should be written clearly and simple to understand.

Where relevant, the emergency procedures should address:

- allocation of roles and responsibilities for specific actions in an emergency to persons with appropriate skills, for example appointment of area wardens,
- clear lines of communication between the person authorised to co-ordinate the emergency response and all persons at the workplace
- the activation of alarms and alerting staff and other people at the workplace
- the safety of all the people who may be at the workplace in an emergency, including visitors, shift workers and tradespeople
- workers or other persons who will require special assistance to evacuate
- specific procedures for critical functions such as a power shut-off
- identification of safe places
- potential traffic restrictions
- distribution and display of a site plan that illustrates the location of fire protection equipment, emergency exits and assembly points
- the distribution of emergency phone numbers, including out-of-hours contact numbers access for emergency services (such as ambulances) and their ability to get close to the work area
- regular evacuation practice drills (at least every twelve months)
- the use and maintenance of equipment required to deal with specific types of emergencies (for example, spill kits, fire extinguishers, early warning systems such as fixed gas monitors or smoke detectors and automatic response systems such as sprinklers)
- regular review of procedures and training.

Emergency procedures must be tested in accordance with the emergency plan in which they are contained. Evacuation procedures should be displayed in a prominent place, for example, on a noticeboard. Workers must be instructed and trained in the procedures.

A more comprehensive plan may be needed to address high risk situations such as:

- people sleeping on site (for example, hotels)
- large numbers of people at the site at the same time (for example, stadiums)
- high risk chemical processes and major hazard facilities
- significant cash handling, particularly outside normal business hours.

Further Information:

- *Emergency Management Plan - Checklist*, available on the WorkCover website
- Guidance on emergency plans and procedures is available in Australian Standard - AS.3745:2010 – *Planning for Emergencies in Facilities*
- Guidance on service and maintenance of fire protection systems is available in Australian Standard AS.1851:2012 - *Routine service of fire protection systems and equipment*
- Emergency details such as developing evacuation plans, fire warden appointment and training, fire extinguisher and fire hose requirements and maintenance, as well as fire doors and exits, are under the legislative requirements of the *Environmental*

Planning and Assessment Act 1979 and the *EP&A Regulations 2000*. This legislation references the Building Code of Australia 1996 (BCA) for requirements such as building egress, access, emergency lighting, stairways and lifts etc.

- The BCA also calls up Australian Standards including AS.3745:2010, regarding requirements for types of extinguishers and other fire protection equipment. All technical enquiries regarding application of this Standard to buildings can be made to the Building Code Advisory Line on telephone: (02) 9228 6529 (operating hours: 9:30am - 11:30am; Tuesday, Wednesday, Thursday).

Local Councils or Government Building Inspectors administer and enforce the EP&A legislation, callers should be advised to consult with their local council controlling the location of the workplace to discuss details of the requirements for fire equipment, emergency exits and signs, lighting, and stairways etc.

For **fire emergency staff training**, eg. fire wardens etc., persons can contact:

- ComSafe on telephone: (02) 9742 7417 or 1800 78 78 48, (Div. of Fire and Rescue NSW).
- Further technical information and advice can be obtained from Fire and Rescue NSW and enquiries can be directed to their Fire Safety Division on telephone: (02) 9742 7400. A Small Business fire safety checklist is also available at the Fire and Rescue NSW website, link below.

Note: AS.3745:2010 was updated in 2010 where section 2.5 refers to "owners, managers, occupiers and employers should obtain professional advice on the level of indemnity provided to Emergency Planning Committee (EPC) members. The EPC members should be advised of the level of indemnity provided." As this Standard is not referenced in OHS legislation, WorkCover has no position on this issue, any such enquiries should be directed to Standards Australia (SAI Global) on telephone: 131 242. This same issue is to be addressed in the new WHS legislation to ensure national consistency.

8. What is duty of care?

Any issue that can affect the health and safety of people at work can be a duty of care issue.

The duty of care responsibility of a **person conducting a business or undertaking (PCBU)** includes any matter that may place people in the workplace at risk. This may include a range of issues such as bullying and personal safety (e.g. aggression from clients, working alone at night etc).

The specific primary duty of care of a PCBU is outlined under section 19 of the *Work Health and Safety Act 2011* (WHS Act) and includes:

- providing and maintaining a safe working environment without risks to health and safety
- providing and maintaining safe plant and structures and systems of work
- providing safe use, handling (including transport) and storage of plant, structures and substances
- providing adequate facilities for the welfare of workers at work including access to those facilities
- providing any information, instruction, training or supervision that is necessary to protect all persons from health and safety risks while carrying out the work
- monitoring the health of workers and the conditions of the workplace for the purpose of preventing illness or injury.

Further duties of a PCBU are outlined in Division 3 of the WHS Act (sections 20 - 26).

Section 27 of the WHS Act places a duty on **officers** to exercise due diligence which requires them to take reasonable steps that will support a positive health and safety culture, accountability, the allocation of resources and development of appropriate policies. These due diligence requirements enable an officer to ensure that the PCBU uses and applies appropriate resources, policies, procedures and health and safety practices in the conduct of their business or undertaking. If an officer fails to exercise due diligence requirements they can be held personally liable.

Section 28 requires a **worker** to:

- take reasonable care of his or her health and safety
- take reasonable care that his or her acts or omissions do not adversely affect the health and safety of other persons.
- comply, as far as the worker is reasonably able, with any reasonable instruction that is given by the PCBU to allow the person to comply with the Act, and
- cooperate with any reasonable policy or procedure relating to health and safety at the workplace that has been notified to workers.

Section 29 addresses the duties of **other persons** at the workplace. The requirements are the same as the first 3 points above, relating to duties of a worker.

Sections 13 - 17 of the WHS Act outline the **principles that apply to duties** and state that more than one person can concurrently have the same duty.

Where there is a **joint duty of care** section 46 of the WHS Act applies;

If more than one person has a duty in relation to the same matter under the WHS Act, each person with the duty must, so far as is reasonably practicable, consult, co-operate and co-ordinate activities with all other persons who have a duty in relation to the same matter.

Further information and examples of joint duty holders may be found in K.4396.

Further information:

Codes of Practice and Safety Guides are available in relation to specific health and safety issues in your workplace. They are practical documents that assist in implementing safe workplace procedures.

9. What is a safe work method statement (SWMS), and when is it required?

Under Part 6.3, Division 2 (clauses 299 to 303) of the *Work Health and Safety (WHS) Regulation 2011*, a person conducting a business or undertaking (PCBU) at a high risk construction workplace, must ensure a safe work method statement (SWMS) is prepared as specified, and supplied to the principal contractor in charge of the high risk construction workplace.

Also, under clause 309 (2)(e) of the WHS Regulation, the principal contractor is required to include in the overall WHS management plan, arrangements for the collection and any assessment, monitoring and review of safe work method statements at the workplace.

There is no legislative requirement that contractors use or provide a safe work method statement in other types workplaces, this is a matter between the principal contractor and contractors. However it is a good practice method to help a PCBU comply with their health and safety duty under section 46 of the WHS Act to consult, cooperate and coordinate with other duty holders where they share a health and safety duty.

Note: Under Clause 292 A construction project is a project where the cost of the construction work is \$250,000 or more. There are additional obligations that apply. A principal contractor must be appointed and is responsible for preparing a WHS management plan and managing risks including those at the site associated with traffic, essential services, storage of plant and the movement of materials and waste.

Details of a Safe Work Method Statement:

In summary, the following is provided from Part 6.3, Division 2 of the WHS Reg.:

A person conducting a business or undertaking that includes the carrying out of high risk construction work must, before high risk construction work commences, ensure that a safe work method statement for the proposed work:

- (a) is prepared, or
- (b) has already been prepared by another person.

A safe work method statement must:

- (a) identify the work that is high risk construction work, and
- (b) specify hazards relating to the high risk construction work and risks to health and safety associated with those hazards, and
- (c) describe the measures to be implemented to control the risks, and
- (d) describe how the control measures are to be implemented, monitored and reviewed.

A safe work method statement must also:

- (a) be prepared taking into account all relevant matters, including:
 - (ii) circumstances at the workplace that may affect the way in which the high risk construction work is carried out, and
 - (ii) if the high risk construction work is carried out in connection with a construction project—the WHS management plan that has been prepared for the workplace, and
- (b) be set out and expressed in a way that is readily accessible and understandable to persons who use it.

Subcontractors who are PCBUs are required to provide the principal contractor with copies of safe work method statements for high risk construction work. If your company acts as a the principal contractor they must take all reasonable steps to obtain copies of safe work method statements for high risk construction work before the high risk construction work commences.

Further Information:

The Model Code of Practice - *Construction Work* provides detailed information and includes a template SWMS and an example SWMS.

An electronic SWMS specifically tailored for demolition work is available on the WorkCover NSW website.

Transitional Arrangements:

The transitional arrangement in Schedule 18B (33) states that a safe work method statement that was current under clause 227 of the *Occupational Health and Safety Regulation 2001* will be current for 12 months under clause 299 of the *Work Health and Safety Regulation 2011*.

The transitional arrangement in Schedule 18B (34) states that a WHS management plan that was current under clause 226 of the *Occupational Health and Safety Regulation 2001* will be current for 12 months under clause 309 of the *Work Health and Safety Regulation 2011*.

10. What is risk assessment?

A risk assessment is the consideration of what harm could occur if someone is exposed to a hazard, and the likelihood of that harm happening.

A risk assessment should be done when:

- there is uncertainty about how a hazard may result in injury or illness
- the work activity involves a number of different hazards and there is a lack of understanding about how the hazards may interact with each other to produce new or greater risks
- changes at the workplace occur that may impact on the effectiveness of control measures.

Some hazards that have exposure standards, such as noise and airborne contaminants, may require scientific testing or measurement by a competent person to accurately assess the risk and to check that the relevant exposure standard is not being exceeded (for example, by using noise meters to measure noise levels and using gas detectors to analyse oxygen levels in confined spaces).

When undertaking a risk assessment you are required to involve affected workers in the process.

High risk activities:

A risk assessment, conducted by a competent person and recorded in writing is mandatory under the Work Health and Safety Regulation 2011 (WHS Regulation) for high risk activities such as:

- entry into confined spaces - clause 66 WHS Regulation
- live electrical work - clause 158 WHS Regulation
- diving work - clause 176 WHS Regulation.

When a risk assessment is not required:

A risk assessment is not necessary in the following situations:

- legislation requires some hazards or risks to be controlled in a specific way, these requirements must be complied with

- code of practice or other guidance sets out a way of controlling a hazard or risk that is applicable to your situation and you choose to use the recommended controls. In these instances, the guidance can be followed
- there are well-known and effective controls that are in use in the particular industry, that are suited to the circumstances in your workplace. These controls can simply be implemented.

A risk assessment should:

- evaluate the likelihood of an injury or illness occurring and the likely severity of any injury or illness;
- review all available health and safety information relevant to the hazard (for example, information from the supplier of plant, material safety data sheets, labels, registers of installed asbestos, results of biological monitoring and atmospheric monitoring of atmospheric contaminants, previous incident, injury or illness reports);
- identify factors that contribute to the risk (for example, layout and condition of working environment; capability, skill, experience and age of people ordinarily doing the work; systems of work being used and reasonably foreseeable abnormal conditions);
- identify actions necessary to eliminate or control the risk.

Further information:

- *How to manage work health and safety risks: code of practice* (cat. no WC03565), available on the website
- Hazpak - making your workplace safer: Guide

11. I have an enquiry on Dangerous Goods on Premises notification?

Generally questions arise regarding the completion of the Notification of Dangerous Goods on Premises Form (DG-01), in which case the caller can be referred to the Guide to Completing the Notification of Dangerous Goods on Premises. Both documents are available on the website.

Note: The Guide states it is valid until 31 December 2012, it can still be referred to as the transitional period has been extended to 30 June 2013 (as advised by Kim Brearley, DG licensing).

Dangerous goods on premises notification forms can no longer be lodged at Australia Post (as of 26 September 2011). Completed notification forms can only be paid and lodged at WorkCover offices or posted with payments to WorkCover Licensing Solutions, Gosford.

Note: A new notification form and guide reflecting this change is now available on the website.

Note: The previous FDG01 form had a Declaration A and B section, however the current form has only one declaration section required for notifying of dangerous goods. The old form allowed Declaration A for dangerous goods and Declaration B for explosives, and this requirement has now been removed as explosives and SSDS are notified separately on the FDG02 form.

Further technical information is available from the Chemicals Team, Dangerous Goods. For DG Notification progress etc. refer the call to the Dangerous Goods (DG) Licensing hotline # 4501.

NOTE: To request a copy of a **receipt for a DG Notification**, the request must go in writing to ls@workcover.nsw.gov.au quoting the NDG number and the company's return email or postal details.

12. Must an employer test and tag all electrical equipment?

High risk operating environment:

Under Chapter 4, Part 4.7 of the *Work Health and Safety Regulation 2011*, (WHS Reg.), a person conducting a business or undertaking (PCBU) at a workplace must ensure that electrical equipment is **regularly** inspected and tested **by a competent person** if the electrical equipment is:

- supplied with electricity through an electrical socket outlet, and
- is used in an environment in which the normal use of electrical equipment exposes the equipment to operating conditions that are likely to result in damage to the equipment or a reduction in its expected life span, including conditions that involve exposure to moisture, heat, vibration, mechanical damage, corrosive chemicals or dust (referred to as a **high risk operating environment**, but not a construction or demolition environment). See clause 150(1) of the WHS Reg.

A competent person is defined in clause 5 of the WHS Reg. as "a person who has acquired through training, qualification or experience, the knowledge and skills to carry out the task". See K.3904 for further details.

Further details on electrical equipment testing and tagging in high risk operating environments is contained in the Code of Practice - *Managing electrical risks in the workplace* (Part 3.2). This Code provides practical guidance on all matters regarding inspection and testing of electrical equipment including reference to the Australian Standard - AS/NZS.3760:2010 that contains recommended testing intervals in Table 4.

Note: In all cases for high risk operating environment workplaces, the electrical inspection and testing requirements defined in clause 150 of the WHS Reg. takes precedence over the Code of Practice and Australian Standard, whereby the competent person can determine an appropriate interval for "regular" inspection and testing. The Australian Standard - AS/NZS.3760:2010 is called up under the Code of Practice but is not called up under the WHS legislation, therefore it provides minimum reasonably practicable requirements only.

Low risk operating environment:

All other environments (but not construction and demolition environments) are referred to as low risk operating environments, and the following applies:

Clause 147 of the WHS Reg., covers general risk management in relation to electrical safety and states: a PCBU at a workplace must manage risks to health and safety associated with electrical risks at the workplace, in accordance with Part 3.1.

This means it is the PCBUs responsibility to ensure the safety of electrical risks associated with the design, construction, installation, protection, maintenance and testing of electrical equipment and electrical installations at a workplace.

However, for low risk operating environments there is no requirement under the WHS legislation (clause 150(1) of the WHS Reg.), for PCBUs to have this equipment tested and tagged, and nor is it a requirement for new and unused electrical equipment (clause 150(2) of the WHS Reg.). These issues are further clarified in the Code of Practice - *Managing electrical risks in the workplace* (Part 3.2).

However a PCBU still has the right to have their equipment tested if they require under their WHS legislation duty of care obligations. Further details on electrical equipment testing and tagging in low risk operating environments is contained in the Code of Practice - *Managing electrical risks in the workplace* (Part 3.2). This Code provides practical guidance on all matters regarding inspection and testing of electrical equipment including reference to the Australian Standard -

AS/NZS.3760:2010 that contains recommended testing intervals in Table 4. (See copy of table below).

Construction and demolition environment:

Under clause 163 of the WHS Reg., a PCBU that includes the carrying out of construction work, must comply with Australian Standard - AS/NZS.3012:2010 - *Electrical installations, construction and demolition sites*. This means that the requirements defined or specified in this Standard has the same meaning as it has in the WHS Act or Regulations.

A detailed factsheet summarising the requirements of the Standard is available on the WorkCover website - *Electrical practices: construction and demolition sites* (WC03959).

Further clarification is contained in the Code of Practice - *Managing electrical risks in the workplace* (Part 3.3).

Records of testing:

Under clauses 150 and 151 of the WHS Reg., testing and tagging of electrical equipment no longer requires a licence, certificate or reference number to be recorded as part of the record keeping requirements.

The record of testing must be kept until either the electrical equipment is next tested, or is permanently removed from the workplace or disposed of, and can be in the form of a tag attached to the electrical equipment tested.

The record of testing must specify:

- name of the person who carried out the testing (Electrical Licence number or PAT training certificate number is no longer required)
- date of the testing
- the outcome of the testing
- the date on which the next testing must be carried out.

The type of tag is specified in the Code of Practice - *Managing electrical risks in the workplace* (Part 3.2), and AS.3760 - Part 2.4.2.1, stating: the tag shall be durable, water resistant, non-metallic, self-adhesive or well-secured, incapable of re-use and have a bright distinctive surface. The tag may also be colour-coded to identify the month in which the test was performed.

New and unused equipment:

Under clause 150(2) of the WHS Reg., for electrical equipment that is *new and unused* at the workplace, the PCBU is not required to comply with testing and tagging requirements, but must ensure that the equipment is inspected for obvious damage before being used.

Further clarification is contained in the Code of Practice - *Managing electrical risks in the workplace* (Part 3.2).

For further information on *new* equipment, also refer to K.3916.

Second-hand or used equipment:

Used electrical equipment that is intending to be re-sold must be tested to ensure it's safe to use. Prior to sale the vender must confirm that the equipment is operationally safe to use by determining that the equipment is free of obvious damage and defects which may cause harm to persons or property when properly installed, maintained and used in applications for which it was made.

The requirements a vender must follow to ensure used electrical equipment is safe to use is specified in Australian Standard - AS/NZS.5761:2011 - *In-service safety inspection and testing - Second-hand equipment prior to sale*.

Serviced or repaired, or unsafe equipment:

Electrical equipment that has been *serviced or repaired* which could have affected electrical safety must be inspected, tested and tagged in accordance with the requirements of AS/NZS.3760, prior to the equipment being placed back into service at the workplace.

Clause 149 of the WHS Reg. specifies that *unsafe* electrical equipment must be disconnected (or isolated) from its electricity supply and not reconnected until it is repaired or tested and found to be safe, or is replaced or permanently removed from use.

Electrical equipment or a component of electrical equipment is *unsafe* if there are reasonable grounds for believing it to be unsafe.

Further clarification is contained in the Code of Practice - *Managing electrical risks in the workplace* (Part 3.2).

Hired electrical equipment:

To comply with WHS legislation the hire company is to inspect and test electrical equipment prior to collection of or delivery to the customer in accordance with the provisions of the legislation and appropriate standard.

Further clarification is contained in the Code of Practice - *Managing electrical risks in the workplace* (Part 3.2).

Amusement ride industry:

Due to the hostile operating environment of the amusement ride industry regular inspection and testing of electrical equipment is warranted and must be carried out in accordance with the provisions of the Australian Standard - AS/NZS.3002 - *Electrical installations - Shows and carnivals*.

Table of recommended intervals or frequency of testing:

This is contained in Australian Standard - AS/NZS.3760:2010, Table 4, pages 20 and 21. This table of frequencies has been updated in September 2010 and now varies widely depending on the following seven working environments the items are used in:

- Type 1. Factories, workshops, places of manufacture, assembly, maintenance or fabrication - Interval = 6 months
- Type 2. Environment where the equipment or power supply is by flexible cord that is subject to flexing in normal use OR is open to abuse OR is in a hostile environment - Interval = 12 months
- Type 3. Environment where the equipment or power supply is by flexible cord that is NOT subject to flexing in normal use and is NOT open to abuse and is NOT in a hostile environment - Interval = 5 years
- Type 4. Residential type areas of: hotels, residential institutions, motels, boarding houses, halls, hostels, accommodation houses, and similar - Interval = 2 years
- Type 5. Equipment used for commercial cleaning - Interval = 6 months
- Type 6. Hire equipment - Inspection interval = Prior to hire, Test and tag interval = 3 months
- Type 7. Repaired, serviced and second-hand equipment - After repair or service that could affect electrical safety, or on reintroduction to service - refer to AS/NZS.5762.

Further information:

- Chapter 4, Part 4.7 of the *Work Health and Safety Regulation 2011*
- Draft Code of Practice - *Managing Electrical Risks in the Workplace*
- WorkCover NSW website - Electricity Safety information
- SWA factsheet - Electrical Risks at the Workplace

Further technical enquiries can be referred to Plant and Electrical Safety, A/Coordinator - Daniel Daoud on # 5898, or Scott Middleton on # 5184.

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Further information:

- Chapter 4, Part 4.7 of the *Work Health and Safety Regulation 2011*
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TOP 10 FAQs SPECIFIC TO BULLYING

1. What can be done about harassment and sexual harassment in the workplace?

Harassment in the workplace has a specific meaning under the *NSW Anti-Discrimination Act 1977* and the *Commonwealth Sex Discrimination Act 1984* that therefore **makes it different from bullying**.

Under anti-discrimination legislation, harassment in the workplace is any form of behaviour that is not wanted that offends, humiliates or intimidates, and creates a hostile environment.

In NSW it is against the law to harass you because of your:

- sex
- pregnancy
- breastfeeding
- race
- age
- homosexuality (actual or perceived)
- disability (actual or perceived, past, present or future)
- transgender status (actual or perceived)
- carers' responsibilities (actual or presumed)

NSW anti-discrimination laws state that a person conducting a business or undertaking (PCBU) must not harass any of their workers at work. PCBU's must also do their best to make sure that there is no harassment in their workplace. This includes behaviours and/or actions undertaken by supervisors, workmates, customers and any other people involved within the workplace.

To be unlawful, harassment must disadvantage the person being harassed. Unlike bullying, harassment and discrimination do not have to be repeated and have to be based on some characteristic of the target.

However, harassment can include behaviour that is also bullying. If for example, a pattern of behaviour includes jokes about a person's age that a reasonable person would consider demeaning or humiliating and also behaviour that disadvantages the person by, for instance, denying them training on the grounds of their age, then this could be considered both bullying and harassment.

Sexual harassment in the workplace is a type of sex discrimination and is against the law. Sexual harassment includes:

- unwanted sexual advances, or unwelcome requests for sexual favours;
- other unwelcome conduct of a sexual nature;
- offensive gestures and unwanted sexual contact;
- sexually explicit or offensive material that is displayed in a public place or work area or belongings.

If sexual harassment occurs, you have the legal right to speak out to try and stop it happening. You can tell the person that you find their behaviour offensive and to stop doing it.

Complaints for harassment and sexual harassment in the workplace can be taken up with your supervisor or manager, union, EEO officer, or alternatively the NSW Anti-Discrimination Board which will generally investigate complaints of discrimination, harassment and vilification to identify whether what has happened to you is against the law. The Board has jurisdiction under the NSW anti-discrimination legislation and needs to be notified **before a WorkCover Inspector makes WHS enquiries.**

The Board is impartial and tries to help all parties come to an agreement about how the problem can be resolved. The Board also tries to prevent discrimination happening by educating people through seminars and onsite training about what the anti-discrimination laws say and why they are important in the workplace and community.

Request for service:

While harassment and sexual harassment are a discrimination matter under anti-discrimination law, a WorkCover inspector may still wish to attend the workplace to identify any ongoing risks to workers and review PCBU's policies in relation to harassment and/or systems for dealing with harassment and bullying in the workplace.

If the caller wishes to make a workplace complaint to WorkCover on this basis a request for service (RFS) can be made.

The RFS should be entered into WSMS or, for staff that have not yet been trained in entering a RFS, the call can be transferred to the Response Coordination and Enforceable Undertakings (RCEU) team on # 4809.

For further advice, assistance or making complaints, the following are the main contacts available:

- **NSW Anti-Discrimination Board** Advisory Officers, telephone: Sydney: (02) 9268.5555, General Enquiry & Employer Advice line: (02) 9268 5544, Wollongong: (02) 4224 9960, Newcastle: (02) 4926.4300, or toll free on 1800.670.812 (within NSW only)
- **Human Rights and Equal Opportunity Commission (HREOC)**, telephone: (02) 9284.9600 or the Complaints line: 1300.656.419, or their website.
- **Community Justice Centres** provide free mediation and conflict management services to help people resolve disputes. Funded by the NSW Government as part of the NSW Attorney General's Department, their services are confidential, voluntary, timely and easy to use. Telephone: free call 1800.990.777, or their website, link below.
- **National Association of Community Legal Centres (NACLC)**, telephone: (02) 9264.9595, or email: naclc@clc.net.au or their website, link below.

Note: Workers suffering psychological injury as a result of work-related stress due to harassment in the workplace are entitled to make a claim for workers compensation to their employer's workers compensation insurer.

2. What is workplace bullying, and what can be done about it?

The following information applies to both workers and a person conducting a business or undertaking (PCBU).

Workplace bullying is defined as repeated, unreasonable behaviour directed towards a worker or a group of workers, that creates a risk to health and safety, such as:

- Repeated behaviour refers to the persistent nature of the behaviour and can refer to a range of behaviours over time.
- Unreasonable behaviour means behaviour that a reasonable person, having regard for the circumstances, would see as victimising, humiliating, undermining or distressing.

- Whether it is intended or not bullying in the workplace is a health and safety risk that can come under the jurisdiction of Work Health and Safety legislation.

Types of unreasonable behaviour that may be considered as workplace bullying, when part of a repeated pattern of events, can include:

- abusive, insulting or offensive language or comments
- undue criticism
- excluding, isolating or marginalising a person from normal work activities
- withholding information that is vital for effective work performance
- unreasonably overloading a person with work or not providing enough work
- setting unreasonable timelines or constantly changing deadlines
- setting tasks that are unreasonably below or beyond a person's skill level
- denying access to information, supervision, consultation or resources such that it has a detrimental effect on the worker
- spreading misinformation or malicious rumours
- unreasonable treatment in relation to accessing workplace entitlements such as leave or training.

Workplace violence:

An actual incident in which a person is assaulted, harmed or injured in circumstances relating to their work is workplace violence. It is a criminal matter and should be reported to NSW Police, however WorkCover NSW should also be notified and discussed with an Information Officer on telephone: 13 10 50. If the issue can be dealt with as a workplace complaint the call can be transferred to SAC on # 4809.

If the workplace violence is a threat only, the worker should report it to NSW Police and they can lodge a bullying complaint as per normal procedures.

What is not considered workplace bullying?

There are five broad categories of behaviour that may not be considered workplace bullying:

1. Reasonable management action
2. Discrimination and harassment
3. Workplace conflict
4. Workplace violence
5. Discriminatory, coercive or misleading conduct due to raising or acting on WHS issues.

For full descriptions and examples of the five categories refer to K.4582

What you can do when being bullied at work:

Request the behaviour to stop - If you consider it safe to do so, you can firmly and politely tell the person that their behaviour is unreasonable and ask them to stop. They may not realise the effect their behaviour is having on you and this gives the person the opportunity to change their actions. You may want to ask your health and safety representative, union representative or supervisor to be with you when you approach the person.

Check if there are workplace policies and procedures - Check if your workplace has a bullying policy and associated procedures in place. The policy should outline the standards of acceptable behaviour at work and how to raise bullying issues in the workplace. Ask your manager, supervisor or health and safety representative if you are not sure what the policy and procedure is.

Keep records - Keep a factual record of events that includes what happened, dates and times, who was involved, names of witnesses and, where possible, copies of any documents.

Report it - Formally report the situation in accordance with the agreed hazard reporting procedures. It may be under another name such as a grievance procedure. If your workplace does not have a policy or procedures it is still important to attempt to resolve the bullying issue internally at the workplace. If you feel safe to do so raise the issue of bullying with the person in control of your workplace.

Speak to someone you trust - Seek advice from someone you trust such as a friend, colleague, supervisor, health and safety representative, union representative or someone from human resources section. It may be helpful to describe the behaviour you are experiencing as they may be able to assist you in developing a personal intervention plan.

Seek support and assistance - Your doctor may be able to refer you for counselling under Medicare or to an appropriate professional such as a psychologist counsellor.

Eligible people can receive:

- Up to 10 individual sessions in a calendar year (1 January - 31 December). Your referring doctor will assess your progress after the first six sessions.
- Up to 10 group therapy sessions in a calendar year where such services are available and seen as appropriate by your referring doctor and the psychologist.

After you have reached the maximum number of allowable sessions for the calendar year you will not be eligible for any further Medicare rebates for treatment you receive from a psychologist until the new calendar year.

The organisations listed below can help you by listening and providing support:

- Lifeline on 13 11 14 – 24hrs, 7 days a week
- Salvo Care Line on 1300 36 36 22 – 24hrs, 7 days a week
- KidsHelpline on 1800 55 1800 – provides a free, confidential support service for children between 5 and 18 years.

Charlie Stansfield has also suggested the following contacts:

- Unifam (Parramatta Ph: (02) 8830 0700, Newcastle Ph: (02) 4925 6000 and Wollongong Ph: (02) 4229 9863. (low or free cost counselling).
- Relationships Australia Ph: 1300 364 277 (low cost sliding fee scale but often have a wait list).
- Reach Out (reachout.com) - for young people and young workers.
- Beyondblue Info line Ph: 1300 22 4636 - provides information on depression, anxiety and related disorders, available treatments and referrals to relevant services.

Workers Compensation:

Workers suffering incapacity from work because of psychological injury as a result of bullying behaviour in the workplace are entitled to make a claim for workers compensation with their PCBU's workers compensation insurer. Contact WorkCover on telephone: 13 10 50 to discuss the claims procedure.

What WorkCover can do about bullying at work:

WorkCover can ensure the PCBU meets their work health and safety obligations. These obligations and workplace complaint procedures are outlined in K.4585.

Bullying complaints can be made to WorkCover by completing the *Bullying in the workplace - Complaint form*, provided the bullied worker has written evidence that confirms the PCBU is not meeting these obligations either by not dealing with the workers complaint and/or the PCBU has no internal policy or procedure to deal with bullying and harassment complaints.

When WorkCover visits a workplace to investigate alleged bullying, the inspector may:

- consult with the parties involved
- provide advice on preventing and responding to bullying
- refer the matter to another agency – eg. if it is discrimination rather than bullying
- gather more information in relation to possible breaches of work health and safety legislation

WorkCover does not have the authority to:

- order the PCBU to discipline the alleged bully or terminate their employment
- take sides
- provide legal advice about civil proceedings or claims.

WorkCover's approach to compliance and prosecution under the *Work Health and Safety Act 2011* is contained in the *Compliance Policy and Prosecution Guidelines* which is on our website.

WorkCover can also provide information and assistance about the prevention and management of workplace bullying through free workplace assistance visits available to small businesses.

Guidance publications:

Publications available on the WorkCover website includes:

- Preventing and Responding to Bullying at work
- Bullying Prevention Kit
- Employer checklist – Preventing and responding to bullying at work
- Bullying risk indicator
- No bullying policy
- Fact Sheet - Bullying in the workplace. (Available in various community languages)

External assistance or referrals:

Further assistance for a PCBU in developing bullying prevention policies, procedures and training programs, or for workers wanting further support and assistance, can be provided by the following organisations:

- Registered Training Organisations (RTOs) - (not registered or endorsed by WorkCover)
- Employer and industry Associations
- Unions
- Anti-Discrimination Board – website - Provides an enquiry service for people who want to know about their rights or responsibilities under anti-discrimination law and accepts complaints of discrimination (harassment), investigates complaints and conciliates complaints when appropriate.
 - General Enquiry Service & Employers Advisory Service – telephone: (02) 9268 5544, Toll Free - 1800 670 812 (for rural and regional New South Wales only).
- Human Rights and Equal Opportunity Commission (HREOC), telephone: 1300 656 419, or their website.
- Community Justice Centres - provide free mediation and conflict management services to help people resolve disputes. Funded by the NSW Government as part of the NSW Attorney General's Department, their services are confidential, voluntary, timely and easy to use, telephone: 1800 990 777, or their website.
- Police Assistance Line (PAL) - telephone: 131 444, (24 hours).
- Victims of Crime Access Line NSW - telephone: 1800 633 063, (24 hours).

3. What is NOT considered to be workplace bullying?

There are five broad categories of behaviour that may not be considered workplace bullying:

1. Reasonable management action
2. Discrimination and harassment
3. Workplace conflict
4. Workplace violence
5. Discriminatory, coercive or misleading conduct due to raising/acting on WHS issues.

The following provides details of each of the five categories:

1. Reasonable management action - There are times where persons conducting a business or undertaking may take reasonable management action to effectively manage the operation of their business. These actions are usually not considered to be bullying if they are reasonable in nature and carried out in a reasonable manner, taking the particular circumstances into account.

Examples of reasonable management action can include:

- setting reasonable performance goals, standards and deadlines
- allocating work to a worker
- rostering and allocating working hours where the requirements are reasonable
- transferring a worker for operational reasons
- deciding not to select a worker for promotion where a reasonable process is followed and documented
- informing a worker about unsatisfactory work performance when undertaken in accordance with any workplace policies or agreements such as performance management guidelines
- informing a worker about inappropriate behaviour in an objective and confidential way
- implementing organisational changes or restructuring.

2. Discrimination and harassment - Unlike bullying, discrimination and harassment do not have to be repeated and are based on some characteristic of the person.

Discrimination generally occurs when someone is treated unfairly because of a particular personal characteristic such as age, race or gender. For example, it would be discriminatory not to hire or promote a woman because she is pregnant or may become pregnant.

Harassment involves unwelcome behaviour that intimidates, offends or humiliates a person because of a particular personal characteristic such as age, race or gender.

It is possible for a person to be bullied, harassed and discriminated against at the same time. Under some circumstances it may be unlawful to discriminate or harass a person in the workplace. Anti-discrimination, equal employment opportunity, workplace relations and human rights laws deal with these matters.

3. Workplace conflict - Workplace conflict is generally not considered to be workplace bullying. This is because not all conflict is negative, when conflict is at a low level and is task based it can benefit an organisation by generating debate leading to new ideas and innovative solutions. It does not always pose a risk to health and safety. However, in some cases, conflict that is not managed may escalate to the point where it fits the criteria for workplace bullying.

4. Workplace violence - Work-related violence occurs when a person is abused, threatened or assaulted in circumstances relating to their work. Unlike bullying, it does not need to be repeated to be considered violence. Work-related violence creates a risk to health and safety.

The following incidents and injuries must be reported to WorkCover NSW:

- Notifiable incidents involving a fatality or a serious injury or illness
- Notifiable incidents involving a fatality or serious injury or illness to other people at your workplace
- Notifiable incidents that present a serious risk to health and safety at your workplace (dangerous incidents)
- Other incidents involving an injury or illness where workers compensation is payable.

Please refer to the legislation links and the work health and safety incident notification fact sheet for more information about what is notifiable.

Work-related violence can be reported to WorkCover NSW on 13 10 50.

Threats to harm someone, violence and damage to property are criminal matters that should be referred to the NSW Police. For further advice and assistance contact the Police Assistance Line (PAL) on 13 14 44 (24 hours).

5. Discriminatory, coercive or misleading conduct due to raising or acting on WHS issues - Part 6 of the *WHS Act 2011* includes specific protections against discriminatory conduct for persons raising health and safety concerns or performing legitimate safety-related functions.

4. Who has duties in relation to workplace bullying?

Everyone at the workplace has a duty or can help to ensure that workplace bullying does not occur. This includes:

- The person conducting a business or undertaking (PCBU)
- Officers
- Workers
- Other persons at the workplace

A **PCBU** has the primary duty of care under section 19 of the *Work Health and Safety Act 2011*, (WHS Act), to ensure, so far as is reasonably practicable, the health and safety of workers and that other persons at the workplace are not put at risk from the work that is carried out.

Health is defined as both physical and psychological health (section 4, WHS Act). This means a PCBU's duty includes ensuring so far as is reasonably practicable, that risks to the psychological health of workers arising from the work are also managed.

Reasonably practicable means those available ways of eliminating or minimising the risk of injury or illness after having considered a number of relevant matters together, such as the likelihood and severity of the risk and the means to control it, weighed against the costs associated with eliminating or minimising the risk. This includes the need to protect workers from exposure to bullying that is reasonably foreseeable.

In relation to bullying the PCBU must:

- provide and maintain a work environment that is without risks to health and safety
- provide and maintain safe systems of work
- monitor the health and safety of workers at the business or undertaking and the conditions at the workplace, to ensure that work related illnesses and injury are prevented
- provide appropriate information, instruction, training or supervision to the worker and other person at the business or undertaking to allow work to be carried out safely.

Officers, such as company directors, must exercise due diligence to ensure the business or undertaking complies with the WHS Act and Regulations. See section 27 of the WHS Act 2011. An Officer must:

- acquire and keep up to date knowledge of work health and safety matters
- take reasonable steps to ensure the business or undertaking has and uses appropriate resources
- ensure the PCBU has and implements processes for complying with the PCBU's obligations

Workers have a duty under section 28 of the WHS Act 2011 to:

- take reasonable care for their own health and safety
- take reasonable care that their acts or omissions do not adversely affect the health and safety of other persons
- comply, so far as is reasonably practicable, with any reasonable instruction given by the PCBU. This includes cooperating with reasonable policies and procedures such as a workplace bullying policy.

Other persons at the workplace under section 29 of the WHS Act 2011, for example visitors and clients, have a duty to take reasonable care for their own health and safety and take reasonable care that their conduct does not adversely affect the health and safety of others and comply so far as the person is reasonably able to with any reasonable instruction given by the PCBU.

5. How can PCBUs and duty holders manage workplace bullying?

PCBUs and duty holders must ensure, so far as is reasonably practicable, the physical and psychological health and safety of workers and others at the workplace in accordance with section 19 of the *Work Health and Safety Act 2011* (WHS Act).

Health is defined as both physical and psychological health (section 4, WHS Act 2011).

Under Part 5, sections 46-49 of the WHS Act, PCBUs and duty holders must identify any hazards in the workplace (including those that may result in workplace bullying) and eliminate all risks to health – in consultation with:

- other duty holders who have a duty in relation to the same matters
- workers who are, or are likely to be directly affected, and
- HSRs or by using agreed procedures for consultation in a workplace.

Steps to prevent and manage workplace bullying include:

- preparing the organisation / business:
 - identify and assess the effectiveness of existing management controls and bullying prevention systems, such as policies, supporting procedures, training, and employee assistance programs.
 - foster workplace awareness, commitment and accountability for a safe, healthy and supportive workplace.
- identifying potential work-related bullying hazards
- deciding who might be harmed and how
- developing and implementing a plan to control workplace bullying hazards
- monitoring and review.

When identifying potential work related bullying hazards, find out if bullying exists or if there is the potential for bullying to occur by considering:

- Work stressors – high or low job demands or control, levels of support for organisational change, role conflict, job insecurity, unreasonable workplace behaviours or lack of reasonable behavioural standards
- Leadership styles – autocratic or laissez-faire leadership styles
- Systems of work – lack of resources, training or support systems, lack of role clarity, poorly designed rostering systems, unreasonable performance measures or timeframes
- Workplace social environment – work group hostility, envy, group pressure to conform, isolation from work group
- Workforce characteristics - vulnerable groups such as young workers, injured workers, or those in minority because of ethnicity, religion etc.

Risk management is an ongoing process and should be undertaken whenever there are:

- changes to work practices, procedures or the work environment
- when responding to workplace incidents
- issues raised by workers, health and safety representatives or others at the workplace.

Benefits of preventing workplace bullying:

Preventing bullying results in:

- fewer injuries, illnesses and lost time
- less sick leave, absences and staff turnover
- increased productivity
- greater job satisfaction
- improved staff morale
- better workplace relationships
- reduced costs
- improved wellbeing.

External assistance or referrals:

Further assistance for PCBUs in developing bullying prevention policies, procedures and training programs or for workers wanting further support and assistance, can be provided by the following organisations:

- Registered Training Organisations (RTOs) - (not registered or endorsed by WorkCover)
- Employer and industry Associations
- Unions
- Community Justice Centres - provide free mediation and conflict management services to help people resolve disputes. Funded by the NSW Government as part of the NSW Attorney General's Department, their services are confidential, voluntary, timely and easy to use. Telephone: 1800 990 777, or their website.

6. How can a complaint about workplace bullying be made at work and to WorkCover?

If bullying has been reported at work and has not been resolved, or the person conducting a business or understanding (PCBU) has not acted to resolve it, the bullying issue can be escalated.

Bullying can be reported to your health and safety representative (HSR), who can:

- attempt to resolve the matter through your agreed workplace issue resolution procedure or if none exists, the issue resolution procedure prescribed in Part 2.2 of the WHS Regulation 2011
- seek the assistance of any other person
- issue a provisional improvement notice (PIN) after consulting the PCBU (section 90 Work Health and Safety Act 2011)
- call WorkCover NSW to arrange for an inspector to attend the workplace if the issue cannot be resolved through the issue resolution procedure.

If your workplace does not have a HSR you can follow it up directly with your HR manager, union or WorkCover NSW.

WorkCover complaint:

You can report it to WorkCover NSW if what is happening to you meets the definition of bullying, AND:

- you have reported it to your workplace and there has been no action, or you believe the action taken was inappropriate, or
- you are unable to report it in your workplace because there is no procedure or you are concerned for your health and safety.

WorkCover prefers to receive complaints about workplace bullying in writing because it gives you information and time to make sure that what you are experiencing meets the definition of bullying and that you provide the information in a way that will assist WorkCover to initially assess the information and decide on the most appropriate course of action.

You can access the *Bullying in the Workplace - Complaint Form* (Cat. no. WC03827) on our website. Other information including *Preventing and Responding to Bullying at Work* (Cat. no. WC02054) can also be accessed through our website.

Once you have read the information and have decided to make a complaint, you must complete all sections of the complaint form and return it to WorkCover via mail, email or fax (details are on the form).

The complaint form contains two consent questions. If you do not answer these questions your complaint cannot be made.

If you are acting on behalf of the person who was allegedly bullied, you must have their consent to raise this matter with WorkCover.

If you wish to remain anonymous with WorkCover, it is not possible for an inspector to seek further information from you and you will not receive feedback. If you have difficulty completing the form, contact WorkCover's Customer Service Centre on 13 10 50 for assistance.

Internal note: If the customer still wishes to lodge a complaint immediately over the phone refer them to Operations Team Duty Phone who will, in the first instance, re-state the same process to the complainant.

Complaint Form - Bullying in the workplace:

The form asks if you consent to WorkCover NSW making the parties involved (eg. your employer or the PCBU) aware that you have raised the issue. If you say NO, an inspector will make every effort to ensure your anonymity. However the circumstances surrounding the bullying allegations you have raised may enable the parties to identify you.

Personal details - This section asks for your contact details. If you wish to remain anonymous the actions that WorkCover NSW can take to address your concerns will be limited and you will not receive feedback on action taken.

Workplace details - This section of the form asks for the name and contact details of the workplace where the alleged bullying occurred. It also asks whether you have raised it with the workplace, what they have done and if there are any procedures in place.

Health and Safety Representative (HSR) - This section of the form asks if the workplace has a HSR and if you have raised your concerns with the HSR.

Details about the bullying behaviour - This section of the form asks for information about the person being bullied, the name of the person who allegedly did the bullying and examples of the bullying behaviours that have been occurring.

Other jurisdictions - This section of the form asks for information about any other organisation that may have been or are currently involved in resolving the issue. For example, NSW Anti-Discrimination Board, the Office of Industrial relations, Fair Work Australia or any relevant Union.

Follow-up of complaint form lodgement:

Bullying complaints are logged as a request for service (RFS) in WSMS by Customer Service Centre staff. If a complainant is calling to confirm receipt of their complaint form or check on the progress of the matter a search can be conducted in WSMS.

Staff who have not yet undertaken WSMS training can transfer the call to the Response Coordination and Enforceable Undertakings (RCEU) team on # 4809.

Technical enquiries can be directed to the RCEU support team on # 4502.

7. If I have the Bullying in the Workplace - Complaint form, can I still make a complaint over the phone and then what happens?

WorkCover prefers to receive complaints about workplace bullying in writing on the prescribed *Bullying in the Workplace - Complaint Form* as this ensures the information is provided in a way that will assist WorkCover to initially assess the complaint and decide on the most appropriate course of action.

If the customer has already received the Bullying in the Workplace - Complaint form but is unable to complete it for any reason, they should seek assistance from a friend, family member, colleague, union representative etc.

If the customer is unable to receive assistance from anyone and cannot complete the form, Customer Service Centre staff may take the complaint over the telephone, if approval to do so is given by the team coordinator.

The matter should be logged in WSMS as a request for service (RFS). The attached document 'common RFS calls' details the base level of information required by WorkCover to allow effective triage of a matter.

Staff that have not yet undertaken WSMS training can transfer the call to the Response Coordination and Enforceable Undertakings (RCEU) team on # 4809.

After a complaint is made:

WorkCover will assess the information you provide before deciding on the most appropriate course of action, which may include:

- consulting with the parties involved
- advising and guiding the workplace on how to prevent and respond to bullying
- referring the matter to another agency if it falls outside WorkCover's jurisdiction
- gathering more information in relation to possible breaches of work health and safety legislation
- taking no further action.

If the complaint is allocated to an Inspector, the inspector will make an initial response within ten (10) working days of receiving the complaint.

If you provided your name and contact details at the time of lodging the complaint, you will be advised of the outcome by the relevant inspector as soon as the investigation is completed. Depending on the nature of the issues, you will receive feedback within 20 days.

The *WorkCover NSW investigations - What they mean for you: Fact Sheet* (Cat no. WC03624) outlines how WorkCover NSW inspectors investigate work health and safety matters.

8. What publications are available from WorkCover on workplace bullying?

The publications listed below are available on the WorkCover website and will assist the person conducting a business or undertaking (PCBU), and workers, to prevent and respond to workplace bullying:

Preventing and Responding to Bullying at work (Cat. no. WC05321) - This brochure describes workplace bullying, outlines an employer's and worker's responsibilities, and provides information on what you can do and who can help when bullying occurs.

Bullying Prevention Kit (Cat. no. WC03445) - This kit consists of numerous tools, guides and advice sheets to assist managers, workers and others to prevent bullying in the workplace.

Employer checklist – Preventing and responding to bullying at work (Cat. no. WC02237) - All employers should carry out a regular check of their workplace in consultation with their health and safety representatives and workers. They should identify any signs that bullying is, or could be, happening, and take steps to deal with any problem areas. This checklist is not exhaustive and you may need to consider other factors that are unique to your workplace.

Bullying risk indicator (Cat. no. WC02236) - This is a risk indicator that can be used to identify and address any underlying work environment risk factors. This risk indicator and the suggested control measures are not exhaustive and you may need to consider other factors that are unique to your workplace.

No bullying policy (Cat. no. WC02239) - A written workplace policy sets out standards of behaviour and makes a clear statement that inappropriate behaviour will not be tolerated. It also supports other risk control measures, such as a workplace procedure that outlines how reports of bullying will be dealt with.