



## AEAV Member Guide

---

# MAKING A SUBMISSION

*OVERVIEW OF INFORMATION REQUIRED TO MAKE A SUBMISSION TO THE VICTORIAN EQUAL OPPORTUNITY AND HUMAN RIGHTS COMMISSION (VEOHRC), IBAC, WORKSAFE OR THE FAIR WORK COMMISSION.*

## ABOUT BULLYING, SEXUAL HARASSMENT AND DISCRIMINATION

**Workplace bullying** occurs when:

- an individual or group of individuals repeatedly behaves unreasonably towards a worker or group of workers at work, and
- the behaviour creates a risk to health and safety.

Reasonable management action carried out in a reasonable manner is **not** bullying, for example reasonable performance management or directing a worker to perform duties in keeping with their job.

**Sexual Harassment** is unwelcome sexual behaviour that causes a person to feel offended, humiliated or intimidated, where a reasonable person could have anticipated that reaction in the circumstances.

Some types of sexual harassment may also be offences under criminal law, such as indecent exposure, stalking and sexual assault, as well as obscene or threatening communications, such as phone calls, letters, emails, text messages and posts on social media.

**Discrimination** occurs when you are treated unreasonably or unfairly because you have a personal characteristic that is protected by the law. This includes race, age, gender, industrial activity, political beliefs and pregnancy among others. All of these can relate to how you are treated in employment. In relation to the current review being undertaken by VEOHRC, the following are the most common types of discrimination we have heard about:

- **Employment activity** discrimination is when your employer treats you unfairly because you asked a question or raised a concern about your entitlements or rights at work.
- **Sex discrimination** is when someone treats you unfairly or bullies you because of your sex or gender (whether you are male or female, however there are also protections where you are treated unfairly because of your gender identity)
- **Parent or Carer discrimination** is when someone treats you unfairly or bullies you because you are a parent or carer.
- **Age discrimination** is when you are treated unfairly or bullies you because of your age, for example if you are younger older and don't get considered for employment opportunities as a result of your age.

If you believe you are being discriminated against for another reason, please speak to the AEAV for assistance.

## WHERE YOU CAN MAKE AN APPLICATION

Both the Victorian Parliament and Federal Parliament have established independent organisations with the power to deal with bullying and harassment in the workplace. If your employer fails to stop the bullying or harassment, then Worksafe, the Fair Work Commission, or the Victorian Equal Opportunities and Human Rights Commission can potentially help to stop the bullying or harassment. The legal powers of each are outlined below.

### **Worksafe**

Worksafe has the legal power to investigate and prosecute both bullies and employers who fail to stop bullying in the workplace. Unions are not allowed to prosecute under OHS laws, but the AEAV can help you file a complaint with Worksafe to get them working to help resolve your issue.

[www.worksafe.vic.gov.au](http://www.worksafe.vic.gov.au)

### **Victorian Equal Opportunity And Human Rights Commission (VEOHRC)**

Where discriminatory behaviour has occurred, e.g. sexual harassment or racial harassment, the matter can be referred to the Victorian Equal Opportunity and Human Rights Commission who will investigate the matter and, if they deem it necessary, conciliate between the parties to try and resolve the dispute. The AEAV can assist you with the application.

[www.humanrights.vic.gov.au](http://www.humanrights.vic.gov.au)

### **Fair Work (FWA)**

The role of the Fair Work Commission when it comes to bullying is preventative – not remedial, punitive or compensatory. An application can be made to the Fair Work Commission for a stop bullying order, which they can issue if the bullying is currently occurring. A stop bullying order may include directions for two people to work at different locations.

[www.fwc.gov.au](http://www.fwc.gov.au)

### **Independent Broad-Based Anti-Corruption Commission (IBAC)**

IBAC can take complaints about Victorian public sector officers or bodies, on the basis of corruption. Amongst other things, this can include inactions of public sector staff or agencies, eg a review of an internal complaint or appointment (cronyism), and also includes misuse of power to harm, oppress or disadvantage a person.

[www.ibac.vic.gov.au](http://www.ibac.vic.gov.au)

## PREPARING A SUBMISSION

A submission to any tribunal that deals with bullying, sexual harassment and discrimination will require very similar information. We have provided some tips for writing a submission and information you should try to provide or cover in your submission.

### Tips

- Write chronologically, covering each incident in date order
- Consider asking a third party to review your submission
- Don't forget to be a little bit descriptive –and talk about how something happened – eg their voice was raised, they stood with their arms crossed, they shoved open the door and stomped into the room.
- Make sure you talk about how an incident made you feel. It helps in the submission to explain that Bullying, Sexual Harassment and Discrimination made you feel scared/intimidated/
- Get advice and support from the AEAU, we have skilled legal officers who can provide assistance in writing submissions

### Evidence

Providing evidence in support of your complaint will improve your chances of success. Evidence may include:

- Emails or letters
- Documents such as policies and procedures (where relevant)
- Minutes of meetings
- Photographs
- Witnesses or potential witnesses, including people outside of a room who may have heard what happened, or other people in a room when you took a phone call
- Contemporaneous notes of events
- Diaries or journals
- Copies of complaints made to other bodies, eg workers compensation

For each complaint, you will have to provide much of the information in the following table. If you do not know all of the details, leave those parts blank.

## INFORMATION TO PROVIDE

**Your Details:**

<b>Title</b>	<input type="checkbox"/> Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Ms <input type="checkbox"/> Other please specify:		
<b>First name(s)</b>			
<b>Surname</b>			
<b>Position</b>			
<b>Employer</b>			
<b>Postal address</b>			
<b>Suburb</b>			
<b>Branch</b>		<b>Postcode</b>	
<b>Phone number</b>		<b>Fax number</b>	
<b>Mobile number</b>			
<b>Email address</b>			

**Details of the Person(s) against whom complaint is alleged:**

<b>Name of person(s) against whom complaint is alleged</b>			
<b>Position of person(s) against who complaint is alleged</b>			
<b>Postal address</b>			
<b>Suburb</b>			
<b>State or territory</b>		<b>Postcode</b>	
<b>Phone number</b>		<b>Fax number</b>	
<b>Email address</b>			

**Are you still employed or engaged at the workplace where the alleged bullying behavior has been occurring?**

- Yes  
 No

**Are you currently attending work?**

- Yes  
 No – I am on leave or workers compensation, stood down or otherwise not attending my workplace

## DETAILS OF THE ALLEGED BEHAVIOUR

Describe the behaviour you are complaining about giving a general overview, eg bullying, sexual harassment etc.

Describe all of the examples of the kind of behaviour outlined previously. For each of the examples you provide in this question, the following should be addressed:

- What happened?
- Who was involved in the example, including any witnesses?
- Did you report the incident?
- How many times has this behaviour happened?
- How long ago did this behaviour start happening?
- When was the last time this behaviour happened?

Attach extra pages if necessary.

**Does the behaviour create a risk to your health and safety? If yes, how:**

**Have you made a complaint to your employer about the behaviour?**

- Yes – Please detail who you made the report to, when you made it and what response you received (if any).
- No

**Please provide any further information we should be aware of in relation to how and when the application should be considered (i.e. risk to your health and safety or any other matters).**

## REMEDY

**What do you think needs to happen for the alleged behaviour to stop and for you to continue working at the workplace?**



**DOCUMENT PREPARED BY AMBULANCE EMPLOYEES ASSOCIATION - VICTORIA**

Every individuals case is different, and we recommend you seek advice on your specific circumstances from the AEA. You can contact us as follows:

Ambulance Employees Association Victoria

PO Box 343, North Melbourne

Email - [aea.vic@unitedworkers.org.au](mailto:aea.vic@unitedworkers.org.au)

Phone – 03 9235 1713