

Dealing with workplace bullies*

I. Introduction

According to a survey by Kantar,¹ Singapore has one of the highest levels of workplace bullying in the world.² In just the past year, one in every four Singapore employee has felt bullied, undermined or harassed at the workplace.³ These acts of bullying can take many forms and come from many different people, including your co-workers, managers and customers.

The worst bully you can possibly face at work, however, is *your boss*. Most people find it difficult to stand up to their bosses as they fear receiving poor job appraisals or losing their jobs.⁴ Some even start to believe that enduring the harassment is part and parcel of the working life.⁵ As a result, victims may develop mental health issues such as depression, anxiety disorder or trauma.⁶ They may also feel a loss of morale, constant fatigue and sometimes a “profound sense of worthlessness”.⁷

Does any of this sound familiar to you? If so, you might be a victim yourself. Read on to find out more about what constitutes workplace bullying, what can be done and who you can reach out to for help.

II. Discussion

In the first place, what is workplace bullying? At times, the line between strong management and bullying can be ambiguous. This makes it hard for employees to figure out if they were in the wrong or if their bosses were behaving unacceptably.

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¹ Kantar is a research, data, and insights firm.

² Kantar website, “Most inclusive countries and countries identified in new Kantar inclusion index” (16 September 2019) <<https://www.kantar.com/company-news/InclusionIndex>> (accessed 27 October 2019).

³ Fiona Lam, “Singapore is 2nd-worst globally for workplace diversity; 1 in 4 workers bullied; Poll” (17 September 2019) <<https://www.businesstimes.com.sg/government-economy/singapore-is-second-worst-globally-for-workplace-diversity-1-in-4-workers-bullied>> (accessed 27 October 2019).

⁴ Singapore Counselling Centre website, “Workplace harassment, bullying and other issues” <<https://scc.sg/e/1414-2/>> (accessed 27 October 2019).

⁵ *Ibid.*

⁶ Nigel Chin, “Bullied at work? Here’s what you can do” (17 January 2019) <<https://pride.kindness.sg/bullied-at-work-heres-what-you-can-do/>> (accessed 27 October 2019).

⁷ *Ibid.*

According to the Tripartite Alliance for Fair & Progressive Employment Practices (“TAFEP”),⁸ bullying occurs when someone in the workplace harasses, alarms or distresses another person with his or her behaviour.⁹ Some forms of harassment include but are not limited to: threatening, abusive or insulting language or non-verbal gestures, cyber bullying, sexual harassment and stalking.¹⁰ Harassment can also take place in any work-related setting such as within the office, outside on business trips or on the clients’ premises.¹¹

As you can see, workplace bullying can occur in a multitude of ways. For instance, it is not uncommon for bosses to exhibit fault-finding or micro-managing behaviour at work. Unfortunately, while such conduct may be a source of distress for employees, it is generally not actionable. On the other hand, forms of deplorable conduct such as verbal abuse or harassment may be unlawful.¹² These cases can be reported to the police for investigations or taken up to the court as a civil suit. Both types of conduct and the remedies available will be discussed below.

A. Conduct causing distress but not amounting to an offence

We first look at acts of bullying which cause distress but are not serious enough to constitute offences under the law. For example, your boss yells at you while giving feedback or nitpicks every single detail of your work. If this begins to affect your personal well-being and work performance, you could seek recourse through the avenues listed below.

(1) What can you do?

You can look to your company’s internal harassment prevention policy and take note of any reporting procedures to follow.¹³ Typically, acts of harassment can be reported to your

⁸ TAFEP is a help and resource centre for workplace harassment in Singapore.

⁹ TAFEP website <<https://www.tal.sg/tafep/Employment-Practices/Workplace-Harassment/About#>> (accessed 6 September 2020).

¹⁰ *Ibid.*

¹¹ *Ibid.*

¹² See Protection from Harassment Act (“POHA”) (Cap 256A, 2015 Rev Ed).

¹³ Minister of Manpower website <<https://www.mom.gov.sg/faq/workplace-harassment/what-can-a-victim-of-workplace-harassment-do>> (accessed 15 November 2019).

managers, supervisors or human resource personnel, who will then take appropriate measures according to the company policy to handle the matter.¹⁴

(2) *Who can you reach out to?*

Should you discover that your company has no such policy, or if the policy is ineffective in resolving your matter, you can file a report with TAFEP or call them for advice.¹⁵ TAFEP will engage the company to put in place proper measures to ensure better prevention and management of workplace harassment.¹⁶ These measures include:

- (a) Being explicit about what is considered unacceptable behaviour at the workplace;
- (b) Making clear the disciplinary actions that will be taken against workplace bullies;
- (c) Having safe avenues for affected employees to surface their complaints to management for recourse; and
- (d) Providing adequate support for affected employees, for example, by giving them time off or the flexibility to work from home during the investigation and/or recovery.¹⁷

Furthermore, where a company has failed to address a harassment case fairly, TAFEP will advise them to review the case again.¹⁸ Over the course of 2019, TAFEP has successfully dealt with 27 cases relating to workplace harassment. In those cases, employers took the necessary corrective measures in accordance with TAFEP's advice.¹⁹

¹⁴ Tripartite Advisory, <<https://www.mom.gov.sg/-/media/mom/documents/employment-practices/guidelines/tripartite-advisory-on-managing-workplace-harassment.pdf?la=en&hash=C2299E963A2A4947C80114B605F32781>> (accessed 15 November 2019).

¹⁵ TAFEP website <<https://www.tafep.com.sg/contact-us>> (accessed 27 October 2019).

¹⁶ *Singapore Parliamentary Debates, Official Report* (8 May 2019) vol 94 at col 8 (Low Yen Ling, Senior Parliamentary Secretary to the Minister for Manpower).

¹⁷ *Singapore Parliamentary Debates, Official Report* (5 March 2019) vol 94 (Low Yen Ling, Senior Parliamentary Secretary to the Minister for Manpower).

¹⁸ *Supra* n 16.

¹⁹ *Singapore Parliamentary Debates, Official Report* (7 October 2019) vol 94 col 64 (Josephine Teo, Minister for Manpower).

B. Conduct amounting to an offence

Next, we consider the more serious cases, where the bullying may amount to a criminal offence. If so, employees can file a police report or a civil claim against their bullies under the Protection for Harassment Act (“POHA”).²⁰

(1) What conduct amounts to an offence?

If your boss uses any threatening, abusive or insulting words or behaviour towards you, he or she may be guilty under sections 3 and/or 4 of the POHA.²¹ Under the act, you must show that he intended to cause you distress, or that the words or behaviour used were *likely* to cause you distress. Past cases have shown that the use of profanities or derogatory remarks would amount to abusive and/or insulting words which form the offence.²² Even if no vulgarities were used, serious and unfair allegations may also be abusive and/or insulting in nature.²³ In the case of *Benber*, the harasser was found guilty for alleging that the victim was a serial molester.²⁴

Another example of behavior that may amount to an offence under the POHA can be found in an old YouTube video titled “Smash or Pass” which has recently resurfaced on the Internet. In this video, several Singaporean influencers played a game where they went through a list of people, *including their employees*, and declared if they found those people attractive enough to sleep with.²⁵ The POHA contains specific illustrations under each provision which help to identify conduct amounting to an offence. In particular, illustration (a) of section 3 of the POHA states:

*“X and Y are co-workers. At the workplace, X loudly and graphically describes to the other co-workers X’s desire for a sexual relationship with Y in an insulting manner. X knows that Y is within earshot and intends to cause Y distress. Y is distressed. X is guilty of an offence under this section.”*²⁶

²⁰ POHA, *supra* n 12.

²¹ POHA, *id.*, at ss 3 and 4.

²² See *Public Prosecutor v Toh Lee Tao* [2016] SGMC 32 and *Public Prosecutor v Silvendran s/o Saminathan* [2018] SGDC 199. Although these cases deal with harassment towards public workers, the meaning of insulting and abusive words can be applied to harassment within the workplace as well.

²³ *Benber Dayao Yu v Jacter Singh* (“*Benber*”) [2017] 5 SLR 316, at [34].

²⁴ *Benber*, *id.*, at [40].

²⁵ Marilyn Peh, “How to respond to a social media spat” (24 February 2017) <<https://pride.kindness.sg/respond-social-media-spat/>> (accessed 9 September 2020).

²⁶ POHA, *supra* n 12, at s 3 illustration (a).

Therefore, similar comments made by your boss may fall within the ambit of section 3 of the POHA.

The bully may, however, have a defence to your claim if he can prove that his conduct was reasonable, or if he had no reason to believe his words or behaviour were heard or seen by you.²⁷ Thus, your boss may try to argue that the statements made were true, or that he was simply offering criticism for your work. Whether or not his defence succeeds is highly dependent on the actual circumstances of your case.²⁸ In *Benber*, the judge found that the harasser had gone too far, as his statements reflected a degree of animosity going far beyond mere criticism.²⁹

(2) *What can you do?*

If you believe that your boss has committed a criminal offence, you can make a police report online or at a local police station.³⁰ If the police choose not to investigate the matter, you can still file a complaint at the Magistrate's Court. From there, your case may be directed for mediation, investigation by the police, taken to court or dismissed.³¹

In addition, you can pursue a civil case against your bully in order to seek monetary compensation. If the harassment is unbearable, you can also consider seeking a protection order against the bully under section 12 of the POHA.³² For the order to be granted, it must be shown that the bully's harassing conduct is likely to continue and it is justified to grant the order.³³ One of the factors considered by the Court is the impact of the harassment on the victim, as well as any emotional or psychological harm suffered.³⁴ However, if matters escalate to a point where legal action is taken, it is highly likely that your employment with the company will be affected.

²⁷ POHA, *supra* n 12, at ss 3(3) and 4(3).

²⁸ *Benber*, *supra* n 23, at [43].

²⁹ *Benber*, *id.*, at [48].

³⁰ Singapore Police Force website <<https://eservices.police.gov.sg/content/policehubhome/homepage/police-report.html>> (accessed 27 October 2019).

³¹ States Courts website <<https://www.statecourts.gov.sg/cws/FilingMagistrateComplaint/Pages/Filing-a-Magistrate-Complaint.aspx>> (accessed 27 October 2019).

³² POHA, *supra* n 12, at s 12.

³³ POHA, *id.*, at s 12(2).

³⁴ *Benber*, *supra* n 23, at [54].

(3) *Who can you reach out to?*

If you are still unsure of what to do, you should call TAFEP for more advice. Depending on your case details, TAFEP can connect you to the police or the courts.³⁵ Otherwise, if you decide to pursue legal action, you may wish to seek advice from a lawyer.

In the meantime, it will be helpful to look for witnesses who may be willing to vouch for your case. These people include your trusted colleagues who were present at the scene of bullying, or any HR personnel whom you had previously confided in.

III. Conclusion

Singapore takes a serious stance towards workplace bullying and is actively pursuing steps to curb such bullying. As of 2019, more than 960 companies have adopted TAFEP's standards for addressing workplace unhappiness.³⁶ The Minister for Manpower has also announced that they will gladly intervene where employees find their company's harassment prevention policies inadequate.³⁷ In fact, TAFEP has been taking active steps to evaluate all companies which are reported by assessing their internal procedures.³⁸

Everyone deserves a safe working environment, and so do you. Now that you know these measures exist, stop suffering in silence and stand up for your rights at the workplace.

Disclaimer: This article does not constitute legal advice or opinion. Lexicon and its members do not assume responsibility, and will not be liable, to any person in respect of this article.

³⁵ *Supra* n 16.

³⁶ Straits Times website <<https://www.straitstimes.com/politics/over-960-firms-adopt-standard-that-covers-harassment-at-work>> (accessed 17 November 2019).

³⁷ *Singapore Parliamentary Debates, Official Report* (5 October 2019) vol 94 at col 22 (Josephine Teo, Minister for Manpower).

³⁸ *Supra* n 16.