



Dear Vincent,

AAT News

Welcome to the November 2019 edition of the AAT Australia's eNews and Views. In this edition you'll find out all about:

- The Tax and BAS Agent Portals have closed down
- Christmas party and gift considerations
- An individuals' salary sacrifice superannuation contribution is now protected
- Tax Debt Disclosure by the ATO and eInvoicing
- Time for action - myGovID is now live and Auskey will be redundant from March 2020
- Workplace Bullying and Harassment – Tips and Tricks by AB Phillips

The Tax and BAS Agent Portals have closed down

The ATO has de-commissioned the ATO Tax and BAS agent Portals, along with the Business Portals as of 11.30pm on 29th November 2019, consequently these are no longer accessible. The portal services have been replaced by ATO Online Services.

The ATO have announced in their statement that they acknowledge some functions in the ATO online services for agents are not a replication of the Portals, however, there is a program of work schedule in the first half of 2020 to ensure all functions are included, the services not yet included in the ATO Online Services platform predominantly impacts tax agent services and include:

- Deceased estates
- Tax type summary reports
- Non-lodgement advice for individuals
- Activity statement account transaction navigation

Source: [ATO](#)

Christmas party and gift considerations

You can provide gifts to you clients and employees and claim them as a deduction, as long as they are not considered to be an 'entertainment' item. For employees, these expense items will attract fringe benefits tax (FBT) or otherwise, not claimable.

Physical gifts such as trinkets, food, beverages or "non-entertainment" gifts that don't fall into the entertainment category costing less than \$300 as they will not attract FBT and are tax

deductible.

Christmas parties are very common for employers to host, and it is important to note that the cost of a staff Christmas party is regarded as 'entertainment' expenditure and is not income tax deductible and will also attract entertainment fringe benefits tax (FBT) if the cost per person is greater than \$300 and does not fall under the minor benefits exemption. This needs to be built in to the cost of the event.

A minor benefit is one that is provided to staff or their associates, for example their spouse or partner, on an "infrequent" or "irregular" basis, is not considered a reward for services, and the cost is less than \$300 "per benefit" inclusive of GST.

Non-entertainment gifts given to staff (including working directors) are usually exempt from FBT where the total cost is less than \$300 inclusive of GST per staff member. A tax deduction and GST credit can also be claimed. The types of gift can include skincare and beauty products, flowers, wine, perfumes, gift vouchers and hampers.

Providing employees "non-entertainment gifts" of \$300 or more GST inclusive is less tax effective. A tax deduction and GST credit can still be claimed, but FBT is payable at the rate of 49 percent on the grossed-up value.

Non-entertainment gifts given to clients and suppliers do not fall within the FBT rules as they are not considered your staff. Generally, a tax deduction and GST credit can still be claimed provided they are not excessive or overly valuable.

Providing entertainment gifts to your staff is less favourable than giving non-entertainment gifts. Entertainment gifts include items of "recreation" such as tickets to live events or providing a holiday.

If the cost for each staff member and their associate is less than \$300 GST inclusive each, FBT is not payable, but you can't claim tax deduction or GST credit. However, if the cost for the staff member and their associate is \$300 or more GST inclusive each, a tax deduction and GST credit can still be claimed, but FBT is payable at the rate of 49 percent on the grossed-up value.

For clients, the cost of any entertainment gifts provided is not subject to FBT, and no tax deduction or GST credit can be claimed.

An individual's salary sacrifice superannuation contribution is now protected

Employee salary sacrifice superannuation contributions are voluntary additional contributions to the individual's superannuation fund that reduce the ordinary earnings of the employee for PAYGW purposes. That is, the superannuation salary sacrifice contributions are deducted from the employee's wage before tax is calculated.

There has been a 'loophole' in the law that has meant the employer may use this voluntary additional sacrificed superannuation contribution to reduce the amount of superannuation guarantee obligation. The Treasury Laws Amendment Bill (2019 Tax Integrity and Other Measures No.1) Bill 2019 received Royal Assent on 28th October 2019 and ensures that an individual's salary sacrifice can no longer be used to reduce an employer's minimum Superannuation Guarantee obligations. This legislation comes into effect from 1 January 2020.

You can read more about this legislation [here](#).

The Treasury Laws Amendment Bill (2019 Tax Integrity and Other Measures No.1) Bill 2019 mentioned also makes changes to the rights of the ATO to disclose certain tax debts to credit rating agencies under various conditions.

Business who are working with the ATO in order to manage their debts and repayments will not be eligible to have their tax debt information disclosed to credit reporting agencies.

Business tax debt information will only be disclosed under this legislation if:

- The entity has an ABN and is not an excluded entity;
- The business has one or more debts totalling over \$100,000 overdue by more than 90 days;
- The business is not engaging with the ATO to manage their tax debt obligations, and
- There is no outstanding ongoing complaints and subsequent investigations about the entities tax debts.

The ATO will notify a business if they are at risk of being reported to the credit rating bureaus and provide 28 days to enable the business to rectify the debt or make an approved payment arrangement.

This measure received Royal Assent on 28th of October 2019 and will be actionable within one day of this date.

This bill has also enacted to enable the ATO to develop a framework and systems to support an invoicing program in Australia, we will provide more information about the progression of this activity as it comes to light.

Source: [ATO](#)

Time for action - MyGovID is now live and Auskey will be redundant from April 2020

MyGovID is the Australian Government's newly launched digital identity provider that will replace all Auskeys from 1 April 2020. MyGovID is a personal identifier that will eventually be relevant for multiple government agencies and services and is entirely separate from an individual's myGov account.

There are a few main steps to be taken to use your new myGovID, summarised briefly by the following:

1. Review your details on the Australian Business Register and update where necessary
 2. Download the myGovID app and complete the set up by scanning in your proof of identity, two forms from either:
 - I. Medicare Card
 - II. Passport
 - III. Drivers licence
 3. Link your BAS agent registration to your myGovID in the relationship access manager (RAM), you can also set up others (staff) to access your clients from here.
- There may be additional steps to undertake depending upon the software that you use to lodge information with the ATO, we will provide separate information on this.

AAT will be hosting an online session with Assistant Commissioner Colin Walker to walk you through these steps and answer any questions pertaining to your individual circumstances on 12th December from 1-2pm AEDST, QLD 12PM - 1PM, SA 12:30PM - 1:30PM, NT 11:30AM - 12:30PM & WA 10AM - 11AM.

To register for the event, [click here](#).

Bullying and harassment are key workplace behaviour issues and very often affect the mental and physical health of people in a workplace.

Australia has one of the highest levels of workplace bullying in the world as found in recent research conducted by an Australian University. This same research indicated that about one in ten (1 in 10) people experienced some form of bullying in the first six months of this year.

In this edition of Tips and Tricks, we define both bullying and harassment and briefly explain the core differences. The major portion of this Tips and Tricks is however devoted to examining what bullying is and what it is not. We conclude with some helpful advice based on lessons from court cases that have dealt with bullying in the workplace.

What is bullying?

Workplace bullying is repeated, unreasonable and unwelcome behaviour directed towards an employee, a group of employees and contractors that creates a risk to health and safety. For ease, we will use the term “worker” to describe any of these people.

With respect to bullying, ‘repeated’ denotes this unwanted behaviour can take place over a period of time. **‘Unreasonable’ behaviour** is simply behaviour that can be victimising, humiliating, intimidating or threatening.

Bullying is a health and safety issue, and your obligation to prevent bullying relates to your duty as an employer to provide a safe workplace for your workers. You can be investigated and prosecuted by your State regulator for a breach of health and safety legislation if you allow bullying to occur in your workplace.

Workers are also able to complain to the Fair Work Commission about workplace bullying to receive an order to stop the bullying.

What is harassment?

Workplace harassment is unwanted behaviour that offends, humiliates or intimidates a person, and targets them on the basis of a characteristic such as gender, race or ethnicity.

Harassment relates to the prohibition in anti-discrimination laws against sexual harassment and sex-based discrimination in the workplace. These laws differ from health and safety laws in that a victim of harassment can make a complaint to an external agency – in effect, launching a legal proceeding against your company.

What legislation covers bullying at work?

The legislation that covers bullying at work is the Fair Work Act 2009. The legislative definition is:

Bullying at work occurs when a person or a group of people repeatedly behaves unreasonably towards a worker or a group of workers at work and the behaviour creates a risk to health and safety.

Bullying does not include reasonable management action carried out in a reasonable manner.

We all have a duty to help prevent workplace bullying. Our current health and safety laws and discrimination laws require us to take reasonable care that workplace behaviour does not adversely affect the health and wellbeing of others. Our workers are also required to comply with policies and reasonable directions given to them about their behaviour in work.

What are some examples of bullying?

Following are some examples of behaviours, whether intentional or unintentional, that may be workplace bullying:

- abusive, insulting or offensive comments and language
- conduct that is aggressive and intimidating
- belittling or humiliating comments

- victimisation
- practical jokes or initiation ceremonies
- unjustified criticism or complaints
- withholding information that is vital for effective work performance
- 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 to the detriment of the worker
- spreading misinformation or malicious rumours
- changing work arrangements, such as rosters and leave, to deliberately inconvenience a particular worker or workers
- deliberately excluding someone from work-related activities

Cases of behaviour involving violence (for example physical assault or the threat of physical assault) should be reported to the police.

What is not workplace bullying?

Single incidents of unreasonable behaviour are not workplace bullying. Despite this, the potential for a repeat means a single incident should not be ignored. One key management responsibility seen by many as bullying is the giving of directions.

The key aspect of giving directions is to do so in a reasonable way. It is reasonable for managers to allocate work and give feedback on a worker's performance. A manager exercising their legitimate authority at work may bring about some discomfort for a worker; this discomfort sometimes being interpreted as bullying.

Here are some examples of reasonable management action:

- setting realistic and achievable performance goals, standards and deadlines
- fair and appropriate rostering and allocation of working hours
- transferring a worker to another area or role for operational reasons
- deciding not to select a worker for a promotion where a fair and transparent process is followed
- informing a worker about unsatisfactory work performance in an honest, fair and constructive way
- informing a worker about unreasonable behaviour in an objective and confidential way
- implementing organisational change or restructuring
- taking disciplinary action including termination of employment where appropriate in the circumstances.

What are some key lessons from court decisions on bullying?

Over recent years in various courts and tribunals, there have been some key lessons to be learnt by treating alleged bullying seriously as part of safeguarding health and wellbeing in a workplace. The following key lessons are provided by a leading employer body.

Lesson 1: Never ignoring complaints of bullying

Regardless of the perceived merit of a bullying complaint, it is always wise and sensible to investigate every claim of bullying. To ignore it may not only worsen the situation but can be very easily be seen as the employer condoning the bad behaviour.

Lesson 2: Ensuring your managers are trained in complaint handling procedures

Managers need to be able to respond to a worker raising concerns with them about the behaviour of other workers. Managers that are not equipped to do so may ignore the unacceptable behaviour potentially resulting in harm (mental or physical) to the victim or legal action.

Lesson 3: Ensuring your workers know how to raise a complaint

Employers have a duty of care to their workers to provide a safe working environment and it is important that your workers know what to do when they are subject to, or witness, bullying in the workplace.

Lesson 4: Promptly taking action

It is always much more difficult to act a long time after any incident. Delaying taking action can

also worsen any complaint of bullying and even allow it to continue – it effectively means the bullying behaviour is being condoned. Act promptly to avoid matters getting worse and harder and even more costly to manage.

Lesson 5: Do not tolerate bad behaviour

One of the saddest bullying cases involved a young café worker, Brodie Panlock, who suffered bullying nearly every day for more than a year. The owner of the business was not only aware of some aspects of the bullying but was present on occasions and sometimes condoned it. Brodie ended up committing suicide.

Brodie's employer and the three offending workers were fined over \$300,000 between them (including a fine of \$220,000 for the employer).

This case also resulted in criminal legislation making bullying punishable by up to 10 years in prison.

Lesson 6: Be confident and reasonable in performance management

Many managers are becoming increasingly reluctant to manage performance issues for fear of being accused of bullying. Fortunately, the Fair Work Commission clarify that in the context of performance management, actions taken by managers to correct unacceptable behaviour or under performance do not need to be perfect to be considered 'reasonable'. Key to this is that managers should follow established routines and have a policy to assure workers about that process that will be followed and to support and build the confidence of managers to deal with performance issues.

Summary

Workplace bullying can and does have a devastating impact on its victims. The various courts and tribunals are handing down decisions where substantial damages are being awarded to victims and equally substantial fines are being imposed on business owners and bullying workers. In addition, in Victoria, there is the prospect of imprisonment in cases of serious bullying. These provide considerable incentive for businesses to have policies and practices related to bullying and other workplace behaviours.

Needing help?

If you would like more information about AAT HR Advice powered by AB Phillips, please visit our website information [here](#).

Please note that the above information is provided as comment and should not be relied on as a substitute for detailed professional advice from AB Phillips or professional legal or financial advice on any particular matter. Where you would like additional information and support about the content in this document please contact AB Phillips.

Join our Facebook Discussion Group

Feedback from members indicates that community is very important to accounting technicians. In response, the AAT Team has established a Facebook group especially for AAT members to join in an online community and discuss your successes and your not-so-successes, ask questions, give support to your colleagues and enjoy networking with your peers. We will be posting articles, information pieces, event details plus more. Click through here to join in today:

[AAT Facebook Group](#)

Continuing Professional Development

- [Auskey to myGovID transition process](#)

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