

Why the “ZERO Tolerance” approach doesn’t really work

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The term “Zero Tolerance” is commonly used when employers describe their position on bullying and harassment. I have used the term in many policies I have written for organisations. “We will not tolerate bullying or harassment.” “We have a Zero Tolerance position to bullying or harassment.” These kinds of statements sound good. They express a strong view and intend to convey a sense of support for safety.

However, many people have become increasingly concerned at the way this term is used and the beliefs and practices that surround it. It appears to be a flawed approach to preventing bullying and harassment and I want to explain why this is and what can be done to rectify it.

The notion that you can get rid of something by not tolerating it, may be quite effective when it comes to material things but when it comes to human behaviour this notion is naïve at best. What does “Zero Tolerance” actually mean anyway? If we are not going to tolerate something, then what are we going to do about it? Let’s think about it what this term actually describes.

Most people link Zero Tolerance with the idea of combating something. It is as if they believe they can stamp something out by using force or going to war against it. It’s a common theme in our society. We have people who want to “stamp out” bullying, or “tackle” bullying. It’s like trying to stop violence by using more violence. It doesn’t really work. If we try to get rid of these things by attacking them with force rather than considering why they occur in the first place and addressing the basic causes and the structure that supports it, then we create a more hostile world where there is less safety.

In workplaces, people link Zero Tolerance with disciplinary action of some kind. “We will not tolerate,” equates to, “We will sack people.” It sounds good but in practice it just doesn’t really work out very well.

The problem is that this whole approach relies on people making formal complaints.

To sack or punish someone, an organisation needs a justified reason. You cannot use disciplinary action against someone unless you have first proven they have acted inappropriately. You cannot do that unless you first conduct an investigation that is fair and thorough. You cannot do that unless you have someone who is willing to make a formal complaint. Everything hinges on people making formal complaints so the employer can determine what is provable, and so that disciplinary action can occur. The approach is flawed and fails miserably to stop bullying.

One of the reasons for this is because the whole act of complaining against somebody is adversarial. It pits people against each other. If I make a complaint against you. You will defend yourself against me. We have become oppositional. It becomes highly charged and has many potential disadvantages for everyone involved.

Most people are afraid and unwilling to make complaints. It doesn’t matter how much you tell people they should do this; the truth is they usually won’t do it. Especially if the bully is some in a management role above them. It is rare that this happens.

So, if your manager bullies you, the last thing you might want to do is make a complaint. Instead, you might tell the manager how you feel (if you are very brave) and if that is ignored you will try to tolerate it and cope as best you can. You will turn a blind eye to it. You will passively collude with it and when things get really tough, you will either pack your bags and leave, or dig in and fight back in your own way. The reality is that making a complaint is the last thing you will do. If you do, then you will most likely regret doing it and think about how to leave.

Making complaints and undergoing an investigation process is a stressful, perilous experience at best. It is fraught with dangers especially for the person complaining. There are few winners. People don't want to complain, and they have good reasons for this. The system of making complaints is dangerous.

Not only is the investigation process dangerous, it is usually a waste of time and effort for the complainant. There are no guarantees that the organisation has the capability to conduct a fair and thorough investigation in the first place. It is a complex undertaking and requires the competence to be able to identify bullying and harassment and the dynamics involved with these kinds of behaviours. The evidence might be present but if the investigator doesn't know what they are looking for then the complaint will fail. This leaves the complainant at a loss to understand why their complaint has resulted in a finding of "insufficient substance."

Even if the organisation investigates fairly and thoroughly, a finding can only be drawn from the evidence that is presented. People's opinions do not constitute evidence. Neither does hearsay. If there is not strong evidence, the finding will be, "insufficient substance." Unfortunately, most bullying happens without witnesses or hard evidence. It becomes one person's opinion against another. "He said, She said" is the common expression. Therefore, proving bullying, which is essentially what a person must do if they complain, is a very difficult thing to achieve. Complainants are not informed of this when they first complain. They are told, "Put it in writing or we can't do anything about."

In addition to this, should there be any evidence that shows the complainant's behaviour has been inappropriate, the finding may turn against the complainant who ends up being disciplined. Most complainants don't get told this when they first write their complaint.

I have found that people who complain are rarely satisfied with the outcome. Making a complaint is often the quickest way to make your job intolerable. It's like shooting yourself in both feet. Right or wrong you end up being punished by the process and outcome. This is why complainants often leave after the experience. They go on stress leave and never return. Even if their complaint is upheld by an investigation process, the bully usually isn't dismissed. The organisation usually still employs them. So the complainant must then endure an ongoing working relationship with that person, who now often wants to retaliate and make them pay for complaining against them. Mediation might be offered but this can be dangerous as well especially when it is conducted by someone who doesn't understand the dynamics of power involved.

Most complainants don't realise that if they win their case it is unlikely the employer will dismiss the perpetrator. The only time this can occur is when the evidence found in the investigation process reaches the threshold of serious misconduct. This is a high threshold and many employers are unwilling to dismiss a bully. So, all that may be achieved is that the bully gets a warning. The complainant may be informed that their complaint has been upheld, but the complainant does not get to know the punishment

that will be delivered to the perpetrator because privacy laws mean this information is between the employer and employee only.

It is no wonder the complainant often feels let down by the whole process. What is gained for the complainant? In fact, things usually get worse for the complainant. Post investigation scenarios often result in a toxic aftermath including retaliation, covert undermining, long-term conflict, counter-complaints and mobbing. In my estimate after hearing thousands of stories, about 5% of complainants reflect on the process of making their complaint and think it was the best thing to do. The Zero Tolerance approach doesn't work very well.

The failure of the Zero Tolerance approach is because it takes a simplistic and uni-directional approach to a complex behavioural issue. The approach creates false assurances and false expectations that usually mean the victim is railroaded through a process that doesn't work for them. The victim is further damaged and the perpetrator is often empowered and allowed to continue by getting smarter at their bullying.

Zero Tolerance creates an adversarial dynamic that ratchets up the sense of threat, uncertainty and distrust. It doesn't lead to increased safety for the complainant. It doesn't lead to better working relationships. It doesn't lead to resolution and repair. It prevents these things.

The alternative “preventative” approach

There is a better way to approach bullying and it requires a different way of thinking.

If an organisation really wants to prevent bullying and harassment, they need to address the structure that allows it rather than just seeking to punish people who infringe. When we talk about prevention we examine why certain behaviours happen and why they have been accepted and allowed to happen. We talk about what it would take to create an environment where these behaviours don't happen. We begin to think of the workplace as a multi-faceted system and begin to think how to create an environment where bullying will not grow. This is what really stops bullying and harassment. It is about not accepting it rather than not tolerating it.

There are three reasons why people bully and harass. These reasons are like legs on a three-legged stool. Take away one leg and the stool becomes wobbly, take away two and it becomes very unstable, take away all three and the stool no longer supports the behaviour.

The first leg of the stool is, “A sense of entitlement.” People bully and harass because they feel a sense of entitlement to do so. They consider their behaviour reasonable and they consider they have a right to use these behaviours. They often do not see their behaviour as bullying.

To change this an organisation needs to challenge this sense of entitlement and clarify the expectations it has of people's behaviour. When bullying or harassment is raised as an issue, focus is brought to the relationship and the behavioural concerns. Expectations are created and monitored into the future. The sense of entitlement is removed, and the situation is managed with the support of management, who are very involved. The focus is not on proving bullying but removing the likelihood of it happening. It is about ensuring the behaviours of concern don't happen and bringing a spotlight on to the relationship of the people concerned.

The second leg of the stool is, “A lack of empathy.” Perpetrators do what they do without considering the impact on others. They do not put themselves in the shoes of their victims and they avoid having to address the impact of their behaviour. They do not care, and they will not care as long as the workplace allows them to isolate themselves from the damage they have done.

When employers expect people to work collaboratively with others and form genuinely effective functional relationships they will bring a focus on the development of emotional intelligence and empathy. Employers should require their people to practice empathy, give and receive constructive feedback, engage in dialogue not just one-way communication, resolve conflicts and work as a team. These should be standard expectations in workplaces. Empathy should be a requirement, and when concerns are raised about bullying or harassment the perpetrator should be expected to show empathy and acknowledge the harm done by their own behaviour. Discussion replaces investigation and relationship improvement replaces punishment.

The third leg of the stool is, “Untouchableness.” Perpetrators do what they do because others allow them to do it. They avoid being accountable for their actions. Bullying and harassment thrive in a culture of untouchableness and silence. The most serious chronic bullies are adept at creating chaos and destabilisation in order to keep people from making them accountable. When people try to speak up the bully is quick to shout them down. When issues are brought forward the bully is quick to minimise, deny, or blame. Untouchableness happens when a person is allowed to get away with zero accountability. It happens when they create a shadow of collusion around themselves.

Instead of untouchableness we need accountability and transparency. It removes this leg of the stool. It must start at the top and be modelled. Blaming, making excuses and avoiding accountability is replaced by listening, understanding, acknowledging impacts and undertaking restorative processes to resolve issues. When those at the top of an organisation exhibit accountability and invite others to challenge their behaviour when it is inappropriate, this creates a different kind of environment. It should be the norm. The message modelled is that everyone is responsible for their actions and they need to listen and modify their behaviour where necessary.

Workplaces that have lower rates of bullying do so because they value relationships. If bullying shows up, it is noticed and responded to, not necessarily through a punitive approach but through a preventative approach.

Summary

The Zero Tolerance approach fails because it doesn't address the causes and the supports that keep the inappropriate and damaging behaviour happening. It doesn't address the relationship between people and create a structure that brings about improvement. It doesn't prevent ongoing bullying or harassment because it gets mired in investigation processes that create deeper divisions and alienation.

The preventative approach focuses on stopping the bullying or harassment and addressing the relationship between people. If people persist in bullying after the remedial work has been done, then it may be necessary to formally investigate and take a disciplinary route, however this becomes the last resort rather than the norm.

When prevention is the focus, organisations focus on effective relationships and the things that enhance the way people engage with each other. When issues arise they are brought forward as “concerns” rather than “complaints.” This is a “No Blame” approach.

Why is it that some organisations have huge problems with bullying and some don't? It's not because they have a better complaints system, or more readily dismiss people. It is not because they have better access to courts or can call in a Health and Safety investigator from an external agency. It is because they have a better environment and culture where relationships are valued and they respond effectively when problems arise. The solutions lies within the very culture of workplaces themselves, not through more laws, courts and punishment.

Bullying and harassment are psycho-social issues. They are issues that are a product of people and the influence of the environment. The solution is not to become narrowly focused on a process of complaints and disciplinary action but to create an environment that brings accountability to bear in a way that is preventative and restorative. Bullying and harassment are psycho-social issues that require psycho-social remedies.

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