

Annex VIII – Measures for the well-being of workers in the performance of their work relative to the prevention of work-related psycho-social risks including in particular violence, bullying and sexual harassment in the workplace (Act of 11 June 2002, Belgian Official Gazette, 25 June 2002, amended by the Act of 10 January 2007, the Act of 6 February 2007, the Royal Decree of 17 May, Belgian Official Gazette, 6 June 2007, the Act of 28 February 2014, the Act of 28 March 2014 and the Royal Decree of 10 April 2014, Belgian Official Gazette, 28 April 2014)

1. Statement of principle

Employer and employees (including those on vocational training and trainee students) must refrain from all acts entailing a psycho-social risk, including acts of violence, bullying or sexual harassment in the workplace. This obligation also extends to third parties who come into contact with employees in the performance of their work (e.g., customers, suppliers, subcontracted workers). Such behaviour is not tolerated at KBC.

Employer and employees give a mutual moral commitment to promote a social environment in which such acts have no place and everybody has the right to be treated with dignity and mutual respect.

Everyone must refrain from improper use of requests for psycho-social intervention that could cause wilful harm to others.

All managers must apply the power and authority conferred on them by virtue of their position to ensuring actual compliance with the principle stated under point 1.

Each employee and all persons equated thereto must make a positive contribution to the health, safety and security policy. The preventive measures taken to protect employees and persons equated thereto from psycho-social risks, in particular violence, bullying and sexual harassment in the workplace, are set down in a special part of the overall health, safety and security plan and in the annual action plan.

Definitions:

- **Psycho-social risks in the workplace:** the chance that one or more employees might sustain mental harm, whether or not accompanied by personal injury, as a result of exposure to the elements forming the work organisation, the substance of the work, the employment conditions, the circumstances in which the work is done and interpersonal relationships in the workplace, on which the employer has an impact and that objectively pose a danger.
- **Violence in the workplace:** any type of physical or mental threat or attack inflicted on an employee in the performance of work.
- **Bullying in the workplace:** taken as a whole and, as such, constituting a wrong, several similar or different instances of behaviour outside or within the company or organisation, occurring in the course of a given period with the aim or result of harming the character, dignity or physical or mental integrity of an employee in the performance of their work, that jeopardises their job or that creates an intimidating, hostile, offensive, humiliating or hurtful environment and that is especially expressed in words, threats, actions, gestures or partisan written messages.

Violence and bullying in the workplace may in particular refer to age, marital state, parentage, prosperity, religion or life philosophy, political beliefs, trade union convictions, language, current or future state of health, disability, physical or genetic characteristics, social origins, nationality, supposed race, skin colour, origin, national or ethnic roots, sex, sexual inclination, gender identity, gender expression, sex characteristics, pregnancy, childbirth, breastfeeding, maternity, adoption, medically assisted reproduction, gender reassignment, paternity and co-maternity..

- **Sexual harassment in the workplace:** any form of verbal, non-verbal or physical conduct of a sexual nature that intentionally or unintentionally violates another person's dignity, especially when creating an intimidating; hostile, insulting, humiliating or hurtful environment.
- **Health, safety and security adviser for psycho-social welfare:** the person working for the internal Health, Safety & Security Department who is an expert in psycho-social welfare in the workplace, including violence, bullying and sexual harassment in the workplace.
- **Confidential adviser:** the person who assists the authorised health, safety and security adviser.

2. Persons and bodies to which one can apply with a request for psycho-social intervention.

Employees who believe they are sustaining mental harm, whether or not accompanied by personal injury, as a result of psycho-social risks in the workplace, including violence, bullying or sexual harassment, may, in the first instance, address their issues to the employer or their line superior(s), who has/have direct authority to provide a solution for the problem as reported.

In seeking a solution, employees can also contact a member of the Occupational Health & Safety Committee or a union shop steward.

If this intervention does not produce the desired result or if employees do not want to resort to the regular employment-relationship channels within the organisation, they may initiate a special procedure for psycho-social intervention. In that case, employees contact the confidential adviser within the organization or the prevention advisor on psychosocial aspects (or 'prevention advisor' in the following).

KBC has appointed Lydia Palomo Lopez of IDEWE vzw as external prevention advisor psychosocial aspects.

Contact details for Lydia Palomo Lopez:

IDEWE vzw – Interleuvenlaan 58 at 3001 Heverlee

Tel. 02 237 33 24

E-mail: Lydia.palomolopez@idewe.be

At KBC, the prevention expert psychosocial aspects and the medical department company nurses (Annex VII) are designated as confidential advisers.

Employees contacting the health and safety adviser or confidential adviser must be heard within ten calendar days of the first contact. At this meeting, they are given initial information on the various possibilities of psycho-social intervention.

3. Various means of psycho-social intervention

3.1 INTERNAL

The employee chooses the type of intervention they wish to make use of with their employer's organisation:

- informal **psycho-social intervention**
- and/or
- formal **psycho-social intervention**

3.1.1 Request for informal psycho-social intervention

The employee can seek an informal solution by requesting the intervention of the confidential adviser or the health and safety adviser. This intervention can consist of:

- discussions encompassing giving the applicant a welcome, actively listening to them and/or offering advice;
- intervention involving another person in the organisation, in the first instance their line superior(s);
- initiating a conciliation procedure if the persons in question consent.

If, in the context of a request for informal psycho-social intervention, an employee reports acts of violence or bullying in the workplace relating to a ground for discrimination or sexual harassment in the workplace, they will receive protection against retaliation by the employer if the latter is aware of such request.

3.1.2 Request for formal psycho-social intervention

If the informal psycho-social intervention process fails to offer a solution or if the employee chooses not to avail themselves of informal intervention, they can submit a request for formal psycho-social intervention to the health and safety adviser.

3.1.2.1 Phase in which the request for psycho-social intervention is submitted and acceptance or rejection

Once the employee has expressed their desire to submit a request for formal psycho-social intervention to the health and safety adviser, they must be accorded an individual meeting with the health and safety adviser within ten days. Once completed, the employee is given a copy of the confirmation that the meeting took place.

a. Submitting a request for formal psycho-social intervention

The employee may submit their request for formal psycho-social intervention no earlier than at the personal meeting with the health and safety adviser. The terms of the request and the manner in which the employee remits the request to the health and safety adviser differ according to whether the facts leading to the request for formal intervention concern acts of violence, bullying or sexual harassment in the workplace.

It is formally required that the document in which the employee requests formal intervention should contain the date and their signature. The employee must include in the document a description of the problematic work situation and must request the employer to take appropriate measures. If the request for formal psycho-social intervention concerns acts of violence, bullying or sexual harassment in the workplace, the employee includes the following details in their request:

- a detailed description of the facts;
- the time and place at which each of the acts occurred;
- the identity of the supposed culprit;
- a request to the employer to take suitable measures to put an end to the situation;
- if applicable, a connection between the facts and a legal ground for discrimination.

b. Acceptance or rejection of the request for formal psycho-social intervention

Within ten days of receipt of the request for formal psycho-social intervention, the health and safety adviser accepts or rejects the employee's request for formal psycho-social intervention.

The health and safety adviser rejects the request if the situation as described by the employee in the request manifestly does not entail any psycho-social risks in the workplace.

Within the same deadline, the health and safety adviser notifies the employee of their decision to accept or reject the request. If, after the tenth day, there is no notification of acceptance or rejection of the request for formal psycho-social intervention, the employee may regard their request as accepted.

3.1.2.2 Phase of examination, advice and measures regarding the request for formal psycho-social intervention

As soon as the health and safety adviser has accepted the request for formal intervention, they assess whether the request concerns individual risks or whether the risks impact several employees. The procedure differs depending on whether the request is individual or mainly collective in nature.

a. Examination, advice and measures regarding the request for psycho-social intervention mainly of an individual nature

a.1 Examination of a request for formal psycho-social intervention of an individual nature

a.1.1 Examination of the request for formal psycho-social intervention concerning acts of violence, bullying or sexual harassment in the workplace

The employee receives special legal protection from the time of acceptance of the request for formal intervention due to alleged acts of violence, bullying or sexual harassment in the workplace. The health and safety adviser will inform the employer of the request based on acts of violence or bullying in the workplace, if applicable, related to a ground for discrimination, or on acts of sexual harassment, of the identity of the applicant and of the fact that they receive protection against adverse action.

In addition, the health and safety adviser will inform the supposed culprit of the facts of which they have been accused.

The health and safety adviser examines the request. If witness statements have been submitted, the health and safety adviser will inform the employer of the identity of these individuals, subject to each of these individual's consent, and of the special protection they receive against adverse action.

If the seriousness of the situation so warrants, the health and safety adviser proposes interim measures to the employer.

a.1.2 Examination of the request for formal psycho-social intervention of an individual nature excluding acts of violence, bullying or sexual harassment in the workplace

The health and safety adviser notifies the employer in writing of the applicant's identity and of the fact that the request is individual in nature. They investigate the specific work situation, using information from others if necessary.

a.2 Advice on a request for formal psycho-social intervention of an individual nature for all psycho-social risks (including acts of violence, bullying or sexual harassment in the workplace)

Within three months of acceptance of the request (in special circumstances, within six months), the health and safety adviser issues their advice to the employer. If appropriate, they also issue their advice to the confidential adviser and/or other bodies. The health and safety adviser notifies the applicant in writing of this notification to the employer, and others if there are any, and of the proposed preventive measures and the reasons justifying them.

a.3 Measures pursuant to the request for formal psycho-social intervention of an individual nature for all psycho-social risks

a.3.1 The employer takes measures pursuant to the health and safety adviser's advice on interim measures

Where the employer receives advice on interim measures from the health and safety adviser, it must inform the health and safety adviser in writing, with supporting reasons, of the action it will take in response thereto.

a.3.2 The employer takes measures pursuant to the health and safety adviser's advice on other than interim measures

Where, further to the advice received, the employer envisages taking individual measures in relation to an employee, it must inform the employee thereof in writing within one month. Where such measures have the consequence of altering the employee's employment conditions, the employee in question receives a copy of the advice that the employer has received from the health and safety adviser and has a personal meeting with the employer. At this meeting, the employee can arrange to be assisted by any person of their choice.

Within two months of receipt of the advice, the applicant and other persons directly involved, plus the health and safety adviser, receive a written, reasoned decision from the employer regarding the further action that it is taking in response to the formal psycho-social request.

a.3.3 The employer takes no action

If the employer takes no action further to the health and safety adviser's request to take interim measures, the health and safety adviser refers the matter to the office of the Health & Safety at Work Inspectorate. This office's involvement is also sought if, after receiving the health and safety adviser's advice, the employer has taken no measures and the health and safety adviser concludes that the employee is in serious, immediate danger or the supposed culprit is the employer itself or forms part of the management staff.

b. Examination, advice and measures regarding the request for psycho-social intervention mainly of a collective nature

b.1 Examination of a request for psycho-social intervention mainly of a collective nature

The health and safety adviser informs the employee and the employer in writing of the fact that a request for psycho-social intervention has been submitted and accepted and of its collective nature. In this case, the identity of the applicant is not disclosed to the employer. This notification must also state by when the employer requires to take a decision on the action to be taken further to the request. Within three months of the notification to the employer, the health and safety adviser investigates whether they require to propose protective measures to the employer lest the employee's health should be seriously affected.

b.2 Advice on a request for psycho-social intervention mainly of a collective nature

Should there be a pressing need for protective measures to prevent the employee's health being seriously affected, the health and safety adviser proposes measures to the employer within three months of the notification to the employer.

b.3 Measures further to a request for psycho-social intervention mainly of a collective nature

b.3.1 The employer takes measures pursuant to advice from the health and safety adviser on protective measures

As quickly as possible, the employer heeds the health and safety adviser's advice on protective measures to prevent the employee's health being seriously affected.

b.3.2 The employer takes action

Where an Occupational Health & Safety Committee exists within the company, the employer informs it of the request for psycho-social intervention of a mainly collective nature and any risk analysis that might have been launched further thereto. The Occupational Health & Safety Committee advises the employer on how to approach the request and how the employer should respond to the request. Within three months (or six months if the employer launches a risk analysis), it notifies the health and safety adviser and, as appropriate, the Occupational Health & Safety Committee, of its written, reasoned decision. The decision it takes is to be implemented as quickly as possible.

b.3.3 The employer takes no action or does not take action in time or the applicant considers the action to be inadequate

If prevention measures are not notified in time or if the applicant considers them 'inappropriate to their individual situation' and, furthermore, the employer has not launched a risk analysis or involved the health and safety adviser in that process, the health and safety adviser must initiate an investigation.

3.2. EXTERNAL

Employees who believe that they are sustaining mental harm, whether or not accompanied by personal injury as a result of psycho-social risks in the workplace, including violence, bullying or sexual harassment in the workplace, may apply to the Health & Safety at Work Inspectorate, the Labour Prosecutor's Office or the labour court.

3.2.1 Intervention by the Health & Safety at Work Inspectorate

If the acts continue after measures have been taken, or if the employer fails to take the necessary measures, the health and safety adviser contacts the Health & Safety at Work Inspectorate, after first getting the applicant's consent. Employees can also apply to the Inspectorate themselves (see Annex XII – Addresses of the inspectorates). If employees wish to do so without taking recourse to KBC's internal psycho-social intervention procedure, the inspectorate will refer the employee to the procedure allowing for psycho-social intervention, if it can be applied.

3.2.2 Labour Prosecutor's Office

If the inspectorate's intervention fails, the Labour Prosecutor's Office can draw up a pro-justitia (an official report for the court), which will be submitted to the labour prosecutor (arbeidsauditeur/auditeur du travail, i.e. the public prosecutor attached to the labour court). Any person (employee, employer, third party) who believes that they have been the victim of violence, bullying or sexual harassment in the workplace can also file a complaint directly with the labour prosecutor.

3.2.3 Court

a. Prosecution

The Labour Prosecutor's Office decides itself whether it is necessary and in the interests of justice to prosecute. If the labour prosecutor does not decide that there is no case to answer, they can summons the perpetrator and, in some cases, the employer or a member of the line management, to appear before the criminal court.

b. Civil proceedings

Any person (employee, employer, third party) who believes that they have been the victim of violence, bullying or sexual harassment in the workplace can file a complaint directly with the labour court seeking:

1. damages to make amends for the loss they sustained as a result of the bullying;
2. a cease and desist order against the perpetrator;
3. interim measures against the employer.

If the court finds that the employee has filed court proceedings without first taking recourse to the applicable available internal psycho-social intervention procedures, it can order the employee to initiate the internal psycho-social intervention procedure and suspend the judicial proceedings pending the outcome of the internal examination.

4. External workers – Public

Employees of an external company or organisation who believe that they have been the victims of violence, bullying or sexual harassment in the workplace committed by a KBC employee where they work may invoke the internal psycho-social intervention procedure of the KBC establishment for which they work. If there is a pressing need for individual preventive measures, the employer in whose business or organisation the external worker works contacts the external worker's employer so that the measures can in fact be taken.

If employees who might have contact with the general public believe that they are victims of acts of violence, bullying or sexual harassment in the workplace, they can submit a statement to the employer. The employer is under a duty to systematically note the employees' statements in a register of acts of violence in the workplace. The employer ensures that the statements are notified to the appropriate health and safety adviser.

5. Discreet handling of requests for psycho-social intervention

Whenever the employer, health and safety adviser and/or confidential adviser is informed of psycho-social risks including acts of violence, bullying and sexual harassment in the workplace, they undertake to maintain absolute discretion as to the victim's identity and the facts and circumstances in which the acts occurred unless the relevant laws allow them to divulge the information under certain conditions.

6. Psychological support

The employer ensures that employees and persons equated thereto who are victims of acts of violence, bullying or sexual harassment in the workplace are able to apply to the Medical Department for appropriate psychological support.

7. Penalties

Without prejudice to the rules applying to dismissal and the penalties that might be imposed in the event of court action, persons accused of causing psycho-social harm, including violence, bullying or sexual harassment in the workplace, are liable to one of the penalties set forth in Articles 25 and 29 of these Work Rules.

Employees making improper use of the possibility of psycho-social intervention are also liable to the aforementioned penalties.

Persons on whom penalties are imposed may appeal to the employer within three working days of becoming aware of the penalty.

8. Information to be given to the Occupational Health & Safety Committee (OHSC)

The number of new formal psycho-social interventions submitted to the authorised health and safety adviser are also reported to monthly OHSC meetings via the monthly report.