



Submission to the House of  
Representatives Standing Committee  
on Education and Employment

*Inquiry into workplace bullying*

By the Australian Mines & Metals  
Association (AMMA)

July 2012

## About AMMA

AMMA is Australia's national resource industry employer group, a unified voice driving effective workforce outcomes. Having actively served resource employers for 94 years, AMMA's vast membership covers employers in every allied sector of this diverse and rapidly evolving industry.

Our members include companies directly and indirectly employing more than half a million working Australians in mining, hydrocarbons, maritime, exploration, energy, transport, construction, smelting and refining, as well as allied suppliers to those industries.

## Executive summary

AMMA welcomes the opportunity to make a submission to the House of Representatives Standing Committee on Education and Employment's *Review into workplace bullying*.

AMMA supports the submission of the Australian Chamber of Commerce and Industry (ACCI) to this inquiry.

AMMA acknowledges that the consequences of workplace bullying for individuals, businesses and the community can be significant and, if left unchecked, can contribute to reduced productivity, increased workers' compensation claims and absenteeism, and poor staff morale.

The Productivity Commission estimates the total cost of workplace bullying in Australia to be between \$6 billion and \$36 billion annually<sup>1</sup>.

AMMA and its members recognise that workplace bullying is a serious issue. There is currently an array of legislative obligations placed on employers in respect of dealing with workplace bullying, in particular in the various occupational health and safety jurisdictions, that specifically address the issue.

AMMA believes that the current legislative and regulatory framework in terms of employer's duty of care is adequate and we do not support any further regulation on employers in this area. Rather, AMMA believes there should be more guidance for employers in order to educate them in how to manage and respond to workplace bullying, but also greater protections for employers in terms of their duty to investigate and prosecute bullying claims.

AMMA believes it is important that employers are not unjustifiably exposed to adverse action claims or other discrimination claims simply for doing the right thing and investigating claims of bullying. This is particularly important in relation to the potential for adverse action claims to be made by union delegates and union representatives given

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<sup>1</sup> *Performance Benchmarking of Australian Business Regulation: OHS*, Productivity Commission Research Report, March 2010, p270

that recent court outcomes have effectively rendered unionists a protected species in terms of shielding them against disciplinary action<sup>2</sup>.

Employers should be provided with much more legal certainty in these 'double jeopardy' situations in order to be able to investigate bullying in the workplace without in turn being sued by the alleged perpetrators simply for fulfilling their obligations to investigate complaints.

AMMA also believes that union bullying in all its forms, which is an entrenched culture in many industrial contexts, should be a significant area of interest for this committee.

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<sup>2</sup> *Barclay v The Board of Bendigo Regional Institute of Technical and Further Education* [2011] FCAFC 14 (9 February 2011)

## Observations

- AMMA notes, as ACCI did in its submission, that there is no definition of ‘bullying’ or ‘workplace’ being used for the purposes of this inquiry.
- It is therefore difficult to assess the incidence and impacts of workplace bullying given the many and varied forms it can take.
- AMMA understands that expectations regarding appropriate behaviours in the modern workplace continue to increase and that employers have obligations in this regard, particularly as industries such as the resource industry move towards a more diverse workforce.
- AMMA believes that in order to reduce the risk of harassment, discrimination and bullying, it is important to ensure appropriate standards of behaviour and to have nominated points of contact throughout an organisation so that people feel free to approach and raise these types of issues. Most, if not all, AMMA members have appropriate policies and processes in place to address those problems if and when they arise.
- The subject of workplace bullying is a complex one, often involving heightened emotions and conflicting personality types, making it an extremely fraught area for employers to deal with effectively.
- Employers have to deal with allegations of intimidation, harassment and bullying in relation to their workplace not only from their staff but also from third parties such as customers and contractors.
- Employers are placed in a difficult position when faced with allegations of workplace bullying as not only must they handle matters to the satisfaction of the alleged victim, they must also be careful not to transgress the workplace rights of the alleged perpetrator.
- The terms of reference for this inquiry are, in AMMA’s view, sufficiently broad to capture the issue of union bullying which is a significant workplace issue that must be addressed.

- There are a raft of legislative avenues and protections in place to assist alleged victims of bullying in the workplace. If further regulation is needed, it should target the very real problem of union bullying and remove the protections currently given to union activities.
- AMMA is committed to awareness raising among its membership about bullying in the workplace and to providing its members with the training and tools needed to effectively deal with bullying complaints and to conduct fair and thorough workplace investigations.
- However, the existence of robust policies and procedures at a workplace, coupled with substantial employee awareness of those procedures, will not necessarily eradicate workplace bullying.
- There is significant constructive work being undertaken in this area by resource industry employers in conjunction with government, unions and other stakeholders, which should be recognised.

# Recommendations

- Further consultation is needed to arrive at a suitable definition of workplace bullying for the purposes of this inquiry and around which to conduct further research and consultation.
- Improved research and data collection is needed to ascertain the extent and impact of workplace bullying before any further reforms are made.
- The current legal framework for addressing allegations of workplace bullying is sufficient. However, further awareness raising about how the current legal framework operates via education, support and assistance to employers, including in dealing with cultural issues, would be a valuable initiative and could be achieved through collaboration with all stakeholders.
- The bullying debate should not focus solely on the actions or inactions of employers but should rather adopt a shared responsibility approach to workplace bullying, with an equal onus on workers not to engage in behaviour that would affect the health and safety of others. AMMA notes that the model Work Health & Safety Act and Regulations that form the basis of Australia's proposed nationally harmonised OHS system places new positive obligations on workers in relation to health and safety, which AMMA supports.
- It is too early to assess the effectiveness or otherwise of recent amendments to the Victorian Crimes Act in relation to workplace bullying, keeping in mind that the legislation is not confined to the workplace. The impact of those amendments should be monitored and evaluated after a reasonable time has elapsed to see if they are working as intended to curb bullying and/or offer redress to those who have been subjected to bullying.
- Governments should take advantage of the established network of industry associations and employer groups in order to roll out national awareness campaigns highlighting the issue of workplace bullying, beginning with industry sectors where bullying is thought to be most prevalent.
- The Federal Government should review the General Protections provisions under the Fair Work Act in light of recent court decisions that have rendered unionists

effectively immune from disciplinary action over any union-related activities, which include conduct that many would consider workplace bullying.

- Further measures to target more effectively the area of union bullying in the workplace should also be considered.



# Defining bullying

AMMA supports ACCI's adopted definition of workplace bullying derived from the occupational health and safety context:

- a. *Repeated behaviour that is unreasonable or inappropriate behaviour directed towards a worker, or a group of workers, that creates a risk to health and safety<sup>3</sup>; and*
- b. *Is distinguishable from legitimate management practice<sup>4</sup>.*

AMMA maintains that any guidance developed to assist workplaces in dealing with bullying should recognise that a person feeling aggrieved may or may not have actually been 'bullied'. When looking at the definition of bullying, AMMA believes it must have a link to systematic and repeated inappropriate behaviour.

A relevant criteria that could assist employers in identifying workplace bullying could include that the behaviour be:

- Systematic and repeated;
- Reasonably considered offensive, intimidating , humiliating or threatening to the individual it is directed at or others who witness it or are affected by it; and
- Unwelcome and unsolicited.

Any guidance material created should encourage employers' reporting, responsiveness, consultation and communication in relation to concerns about repeated, unreasonable behaviour being directed towards a worker or a group of workers, where that creates a risk to the wellbeing of others.

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<sup>3</sup> Productivity Commission Research Report, "*Performance Benchmarking of Australian Business Regulation: Occupational Health & Safety*" (March 2010), pp 288 – 290; Table 11.4.

<sup>4</sup> This includes action taken by the employer to discipline, counsel, demote, dismiss, or decisions not to award or provide a promotion, transfer or benefit to a worker. Productivity Commission Research Report, "*Performance Benchmarking of Australian Business Regulation: Occupational Health & Safety*" (March 2010), p.289.

# The current legislative environment

AMMA and its members recognise workplace bullying is a serious issue. For this reason, there are comprehensive legislative obligations placed on employers in respect of workplace bullying at federal, state and territory levels.

Depending on the circumstances of each case, there are a range of legislative avenues a 'victim' of workplace bullying can pursue. The person, whether they are the target of bullying themselves, or a witness to bullying against a co-worker, may:

- Have a course of action against an employer under Part 3-1 of the *Fair Work Act 2009* (the general protections); or Part 3-2 of the *Fair Work Act 2009* (if they believe they have been unfairly dismissed as a result of bringing claims to light);
- Pursue a compensation claim through the workers' compensation scheme applying in various state jurisdictions. An employee may make a claim for compensation regarding a compensable injury if it arises out of, or in the course of, their employment. For instance, in South Australia, psychiatric disabilities caused by bullying at work are compensable if the person's employment was a substantial cause of the disability, as per s30 of the *SA Workers Rehabilitation and Compensation Act 1986*;
- Cite a breach of a relevant industrial instrument;
- Pursue a tortious or equitable course of action through the courts; or
- Make a claim under state or federal anti-discrimination laws (including for unlawful harassment) if it is alleged the bullying occurred because the person possessed a protected attribute.

In the Commonwealth jurisdiction, victims of bullying have the following legislative avenues open to them:

- *The Racial Discrimination Act 1975*;
- *The Sex Discrimination Act 1984*;

- *The Disability Discrimination Act 1992; and*
- *The Age Discrimination Act 2004.*

In the state jurisdictions, potential remedies for victims of bullying exist under:

- *The ACT Discrimination Act 1991;*
- *The NSW Anti-Discrimination Act 1977;*
- *The NT Anti-Discrimination Act 1996;*
- *The Qld Anti-Discrimination Act 1991;*
- *The SA Equal Opportunity Act 1984;*
- *The Tas Anti-Discrimination Act 1998;*
- *The Vic Equal Opportunity Act 1995; and*
- *The WA Equal Opportunity Act 1984.*

A range of legislative avenues are also available to the alleged 'bully' if they feel they have been mistreated or an investigation into complaints about them has been mishandled. In such cases, the alleged bully may have a course of action against an employer under:

- Part 3-1 of the *Fair Work Act 2009* (the general protections);
- Part 3-2 of the *Fair Work Act 2009* (if they believe they have been unfairly dismissed because of the allegations against them); or
- A tortious or equitable course of action to pursue through the courts.

## **Victoria**

AMMA notes Victoria's response to a serious set of circumstances relating to an employee who committed suicide in 2006 after persistent harassment by fellow workers<sup>5</sup>.

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<sup>5</sup> Victorian Coroner's Court, Report Case Number 3625/06, 16 May 2008

In February 2012, the company, its owner, manager and two employees were convicted of offences under the *Occupational Health & Safety Act 2004 (Vic)* and fined a total of \$335,000. At the recommendation of the coroner that WorkSafe Victoria examine the evidence in the case and, in consultation with its legal advisers, take such action as it deemed appropriate, the Victorian government introduced the *Crimes Amendment (Bullying) Act 2011 (Vic)* to amend the Victorian Crimes Act 1958. The amendments took effect on 7 June 2012.

AMMA notes the Victorian Government avoided the conceptual problems of defining workplace bullying in the legislation by not including it as a new and specific offence. Instead, it extended the definition of the pre-existing offence of 'stalking' to pick up the type of behaviours typically found in workplace bullying.

The Victorian legislation expands 'stalking' behaviours to include:

- Making threats to the victim;
- Using abusive or offensive words to, or in the presence of, the victim;
- Performing abusive or offensive acts in the presence of the victim;
- Directing abusive or offensive acts towards the victim; and
- Acting in any other way that could reasonably be expected to cause a victim to engage in self-harm.

The offence of stalking is punishable by a maximum term of 10 years' imprisonment. The new criminal offence is targeted at punishing the offender and sends a clear signal to the community that anyone who commits such offences will potentially be exposed to imprisonment.

As the Victorian legislation only took effect in June this year, it is difficult to assess the positive and/or negative impacts it will have on employers, employees and the wider community. The effect of the changes should be monitored and reviewed accordingly.

In changes to the *Implementation Guidelines to the Victorian Code of Practice for the Building & Construction Industry* which took effect on 1 July 2012, parties are prohibited from directly or indirectly coercing or pressuring another party to: make over-award payments; have a particular workplace arrangement in place; or join or not join a trade

union (the latter being a common source of bullying behaviour in the experience of AMMA members).

It is worth noting that 10,000 building workers rallied in the Melbourne CBD on 3 July 2012 against the introduction of the guidelines. AMMA supports the implementation of the guidelines and would also support them having wider application.

## **OCCUPATIONAL HEALTH AND SAFETY LEGISLATION**

There is currently comprehensive legislation dealing with occupational health and safety (OHS) in each state and the Commonwealth, with some states having moved to a nationally harmonised set of work health and safety laws.

The OHS harmonisation process has been ongoing for two years now. On 1 January 2012, five jurisdictions implemented their new Work Health and Safety (WHS) laws based on the model WHS Act:

- The Commonwealth;
- Queensland;
- New South Wales;
- The Northern Territory; and
- The Australia Capital Territory.

In Tasmania, the WHS laws have been cleared by both houses of parliament but their implementation will be deferred until 1 January 2013. WA is still working on its legislation but has identified particular carve-outs (areas of the harmonised laws it will not adopt), while in SA the legislation is currently before state parliament.

Victoria, however, has indicated it will not proceed with its implementation of nationally harmonised WHS laws at this stage.

As part of the harmonisation process, Safe Work Australia (SWA), which is responsible for developing the WHS laws, is also developing a range of codes of practice that will support the legislation and regulations, including a code of practice called '*Preventing and Managing Fatigue in the Workplace and Preventing and Responding to Workplace Bullying*'.

SWA received a number of submissions in relation to the draft code of practice which the agency is currently reviewing. The main concerns raised by employers about the code were:

- That there would be increased costs for all businesses and that the code was impractical for small business;
- That the code would lead to an increase in the number of bullying and unfair dismissal claims and could therefore have unwarranted financial implications for employers;
- That employers had a strong preference for guidance rather than a code as enforcement would be problematic;
- That the phrasing of the code was directed at employers and failed to provide information about the role of workers in preventing workplace bullying;
- That it required more practical information on developing policies and procedures and should include examples and templates to assist the parties; and
- That it didn't need to provide further information to employers and workers about what constituted 'reasonable management action' in response to bullying claims.

Unions on the other hand:

- Strongly supported a code for workplace bullying, however, they were concerned the draft code did not go far enough to prevent bullying in the workplace. Unions also suggested that psychological hazards be legislated to make it clear that psychological health was covered by the WHS Act. Unions also proposed that an integrated code be developed to address the overall management of psychological risks arising from the workplace and work stressors e.g. violence, bullying and fatigue.

Whilst stakeholders involved in the review of the bullying code have expressed different opinions in respect of the content and its legal effect, the exercise shows that significant constructive work is being undertaken by employees, employers and governments,

illustrating the willingness of all stakeholders to work together to ensure a balanced framework of legal rights and duties is reached.

Caution should therefore be exercised by this committee before recommending any further legislative or regulatory impost until the impact of the above recently introduced and proposed compliance measures has been fully assessed.

## The case law

The existing case law on bullying in the workplace shows that the current legislative mechanisms are working to protect the respective parties in relation to allegations of workplace bullying.

Recently, the Western Australian Industrial Relations Commission (WA IRC) found an employer failed to comply with a WA state [code of practice](#) on workplace violence and bullying when it investigated complaints against a supervisor, with the court finding that the employer unfairly dismissed the woman who was alleged to have bullied her subordinates<sup>6</sup>.

The background to the case was that during May 2010, the supervisor was suspended on full pay, pending an investigation, after staff members claimed she had bullied them. In particular, one worker complained to WorkSafe WA she was being bullied by the woman.

The employer then sent the accused supervisor a termination letter stating employees would be fearful if she returned to work and that she had destroyed the necessary relationship of trust and confidence.

The woman proceeded to lodge an unfair dismissal claim with Fair Work Australia, alleging she did not receive a 'fair go all round' and that her termination on the back of the bullying allegations without a full investigation was both 'impulsive and forward'.

The WA IRC found that the employer did not afford the terminated worker natural justice in accordance with the [Code of Practice: Violence, Aggression and Bullying at work](#).

This case shows that the current legislative regime is working to ensure procedural fairness is afforded to both the accused and the accuser in these types of cases, but highlights that greater employer awareness and education of their obligations in this area is warranted.

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<sup>6</sup> *Kylie Wood v Rainbow Coast Neighbourhood Centre Inc* [2012] WAIRC 00340 (6 June 2012).



In another recent case, a Flight Centre employee lodged an adverse action claim alleging he was victimised by his manager after he complained that a colleague was being bullied.

Maurice Blackburn principal Josh Bornstein in a media report about the case<sup>7</sup> said the Fair Work Act's adverse action provisions played an important role in protecting whistleblowers from victimisation and retribution.

AMMA maintains that while employees' rights are overzealously protected by the Fair Work Act's adverse action jurisdiction, employers are increasingly exposed to a raft of potential actions for up to six years in the future with uncapped liabilities where in many cases the claims are unfounded.

In an April 2010 decision under the Fair Work Act's adverse action provisions<sup>8</sup>, the Federal Court found a female CEO who had been involved in bargaining and was consequently subject to bullying allegations, had workplace rights that could be actioned under the adverse action / general protections.

The woman successfully argued that her involvement in enterprise bargaining negotiations, which she believed had motivated a union and union members to subsequently raise allegations of bullying against her, endowed her with a workplace right that could be actionable under the adverse action provisions.

She brought the application seeking an injunction against her employer preventing it from taking any further adverse action against her in relation to the bullying allegations. The woman argued the union had mounted a campaign against her because of her involvement in bargaining negotiations and that the union had exerted pressure on the employer to investigate the claims which in her view were unfounded.

She also argued that the company had promised in the employment contract that it would engage in fair processes to investigate any claims against her and that its conduct amounted to a variation of that contract of employment to her detriment.

Her adverse action claim was rejected because she was unable to prove she had suffered any detriment as a result of the employer's actions, and it was unclear whether she would even be subject to disciplinary action following the investigation. Her claims that her reputation had been damaged also had no basis in proof, the court found.

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<sup>7</sup> *'Bullied' Flight Centre employee lodges adverse action claim*, Workplace Express, 14 May 2012

<sup>8</sup> *Jones v Queensland Tertiary Admissions Centre Ltd (No 2)* [2010] FCA 399, 29 April 2010

However, it did confirm that she had a workplace right endowed by her involvement in enterprise negotiations.

In an example of the damage that false accusations against an employer and individuals can do, in a March 2012 decision, the Federal Court dismissed a woman's claims that she had been sexually harassed by two bank colleagues at the Commonwealth Securities Limited (CommSec)<sup>9</sup>. The court found her numerous allegations of sex and disability discrimination, victimisation, breach of contract, breach of industrial legislation, misleading and deceptive conduct, injurious falsehood and defamation were unfounded, despite her allegations having been published widely in the media after her performance at the bank was declared unsatisfactory.

In another case, a male health care worker was fined \$10,000 for harassing a female colleague who later complained to police. But because the employer had taken reasonable steps in relation to the complaint, the court determined the company faced no liability in the matter<sup>10</sup>.

In that case, the NSW Administrative Decisions Tribunal found the Western Area Local Health Network was not vicariously liable for the worker's conduct because it had taken all reasonable steps to educate the worker about harassment, including penalties for transgressions. The employer had regularly required employees to re-commit to the relevant code of conduct and attend training in bullying and harassment, which the tribunal found was sufficient in proving that all steps that could be taken were.

Again, this case underscores the importance of employers being educated about the correct policies and procedures to have in place as well as how to communicate and enforce them with their existing and new staff.

AMMA maintains that the current legislative framework is sufficient in the area of workplace bullying and no further regulatory impost on employers is warranted at this time. Rather, further guidance, through education and training needs to be provided to employers and the community to raise awareness of workplace bullying and its consequences.

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<sup>9</sup> *Dye v Commonwealth Securities Limited* [2012] FCA 242 (16 March 2012)

<sup>10</sup> *Worker ordered to pay \$10,000 fine for harassing co-worker*, Workplace Express, 16 March 2012

# Union bullying

Bullying by unions (including officials, delegates and members) continues to remain a serious workplace issue, particularly in the resource and construction industries.

Reports from AMMA members are that unions have engaged in bullying in a workplace context including:

- Unions victimising employees who supported a proposed EBA that was not endorsed by the union;
- Unions victimising employees who did not support strike action that the union had endorsed;
- Co-workers treating a worker on light or suitable duties poorly (snide remarks, ignoring them, etc) because other workers felt they were exaggerating their restrictions or they were seen as unduly placing a heavy workload on their co-workers;
- A worker being physically assaulted by a fellow union member for helping non-union contract labour on a worksite;
- Workers being bullied and victimised for expressing concerns about 'downing tools' because it was a breach of their employment contract to take unprotected industrial action; and
- Workers being vilified by union members for asking their employer if they could return to work early following strike action endorsed by the union.

Commissioner Cambridge of Fair Work Australia recently said in relation to an incident involving a Transport Workers Union (TWU) official and three other officials who were found wearing horror masks and intimidating non-union employees '...the use of physical threats, bullying and harassment must be condemned in the strongest possible terms. There is no place for such behaviour even in the often highly charged

circumstances of industrial disputation. Consequently, any allegations of such behaviour should be treated very seriously and properly resolved'<sup>11</sup>.

In another recent case highlighted in the media<sup>12</sup>, the Maritime Union of Australia (MUA) faces potential \$165,000 fines and compensation orders for allegedly disseminating posters labelling five workers who refused to take industrial action 'scabs' who would be 'marked for life'. The posters allegedly named the employees which could be considered bullying if the charges were proven.

Unfortunately, while such union behaviour is rife in the building and resource industries, under the current IR system employers' hands are tied when it comes to investigating and acting on union bullying.

Not only are there the potential negative industrial repercussions, but union members are now seen, and see themselves, as a 'protected species'. In a recent Federal Court Full Court decision that has since been appealed to the High Court<sup>13</sup>, the court effectively ruled that employers were precluded from taking any adverse action or disciplinary action against workers over their union activities if those union activities were the reason for the offending conduct. The right to be active in one's union is a workplace right under the Fair Work Act's adverse action provisions. Exactly how broad the definition of union activities that is exempt from adverse action being taken remains to be seen.

AMMA's submission to the Fair Work Act review in February 2012 advocated the removal in their entirety of the adverse action provisions under the Fair Work Act given that the scope for claims, particularly by unionists claiming they are being unfairly targeted for their union activities, is unjustifiably broad. At the very least, the six-year time limit for some adverse action claims to be brought should be reduced to 60 days.

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<sup>11</sup> *TWU v Toll Transport Pty Ltd* [2012] [FWA 4822](#) (6 June 2012)

<sup>12</sup> *MUA to face Federal Court over unlawful 'scab' posters*, Workplace Express, 26 June 2012

<sup>13</sup> *Barclay v The Board of Bendigo Regional Institute of Technical and Further Education* [2010] [FCA 284](#) (25 March 2010)

# Guidance rather than regulations

While AMMA does not support any further regulation being placed on employers in respect of their duty of care in relation to workplace bullying, AMMA believes there should be stronger guidance available to employers to educate them about how to manage and respond to workplace bullying, which can be difficult as it often involves heightened emotions and disparate personalities.

Workplace bullying is seen by resource companies as a serious issue and AMMA and its members are committed to tackling bullying in the workplace. AMMA in particular is committed to providing educational resources to assist employers to understand their legal obligations and offers its members training in handling complaints about discrimination, harassment and bullying as well as practical workshops to assist employers, supervisors and managers on how best to manage and deal with harassment and bullying in the workplace. The learning outcomes of such training includes how to:

- Recognise behaviour that constitutes discrimination, harassment and bullying;
- Identify the levels of responsibility and liability for those behaviours; and
- Carry out the process of handling a discrimination, harassment or bullying complaint, including the investigation process.

While AMMA endeavours to provide this, more can be done through collaboration between industry and government and through extra government funding.

## **AMMA's AUSTRALIAN WOMEN IN RESOURCES ALLIANCE (AWRA)**

AMMA is committed to resource industry workplaces that are intimidation-free especially given its aim of increasing the attraction and retention of women in the resource, allied and construction industries. Women currently make up 16 per cent of the resource industry workforce, with AMMA's Australian Women in Resources Alliance (AWRA) working towards increasing the participation of women in the sector to 25 per cent by 2020.

The AWRA project will include training in diverse cultures, mentoring and sponsorship, organisational change, equal opportunity practices and measures in relation to harassment, discrimination and bullying.

AWRA is currently developing a set of guides to inform employers in the resource industry in this regard, which include:

- *Being an Employer of Choice;*
- *Mentoring; and*
- *Developing diverse teams.*

However, more can be done in this area and AMMA believes the government should utilise the established networks of business associations and employer groups to collaboratively implement national awareness campaigns in relation to bullying and harassment, including industry sectors that may benefit from more focused attention.

## Conclusion

Resource industry employers take all allegations of workplace bullying seriously and recognise the consequences for individuals, businesses, and the community of letting workplace bullying go unchecked.

However, investigating workplace bullying is often a double-edged sword for employers. Employees who are investigated or disciplined for breaching policies on bullying or harassment are often able to pursue the employer under a range of statutory and non-statutory courses of action if they feel the employer's conduct in relation to the claims is inadequate.

Conversely, if those raising the allegations of bullying believe their claims are not being dealt with appropriately, they can mount claims against the employer in a variety of jurisdictions including industrial relations, workers' compensation, OHS and discrimination.

AMMA believes that the current legislative framework across the various jurisdictions is more than enough to protect those raising bullying allegations in the workplace. However, the focus at this stage is still very much on the employers' actions and AMMA would like to see more of a shared responsibility approach, with more onus placed on workers and unions not to engage in bullying behaviour in the workplace.

AMMA would be pleased to answer any further queries the committee might have in relation to this submission and would be happy to appear before the committee during its rounds of hearings in July and August 2012. Please feel free to contact AMMA director of industry services Minna Knight on [REDACTED] or AMMA senior workplace policy adviser Lisa Matthews on [REDACTED].