

Committee Secretary
House Standing Committee on Education and Employment
Parliament House
Canberra

Dear Committee Secretary

Workplace Bullying

On 31 May the Committee received a reference to inquire into workplace bullying in Australia.

I have attached a submission that responds to the Committee's notice. The submission addresses the first two points of the terms of reference, viz:

- the prevalence of workplace bullying in Australia and the experience of victims of workplace bullying;
- the role of workplace cultures in preventing and responding to bullying and the capacity for workplace-based policies and procedures to influence the incidence and seriousness of workplace bullying; ...

My submission describes the response of an institution to a finding of bullying in its own workplace. The submission reflects on the deficiencies of that institution's response in my case to a finding of harassment by a workplace colleague: it has left the matter unresolved.

I would be pleased to provide oral evidence at a public hearing of the Committee concerning this matter.

Yours faithfully

18 June 2012

Workplace Bullying

A Submission to the House of Representatives
Standing Committee on Education and Employment
for the inquiry into
Bullying in the Workplace

The House Standing Committee received a reference on 31 May 2012 into workplace bullying in Australia. This submission responds to the first two points of that reference, viz:

- the prevalence of workplace bullying in Australia and the experience of victims of workplace bullying;
- the role of workplace cultures in preventing and responding to bullying and the capacity for workplace-based policies and procedures to influence the incidence and seriousness of workplace bullying; ...

The submission concludes that institutions finding that bullying has occurred in their workplaces should accept responsibility for the *resolution* of such incidents.

Preamble

On Friday 15 June 2012 it was reported that retired Family Court judge Alastair Nicholson (now chairman of the National Centre Against Bullying) had advocated that the extent of responsibilities for bullying should be better defined. This submission, provoked by Mr Nicholson's comments, supports an articulation of responsibilities concerning bullying in the workplace; but it also points to the need for acceptance of responsibility on the part of those found to be in breach. The submission does so, not from competence in legal advice, but from the observed need for integrity: institutions should assume responsibility to act upon their own findings of bullying. That is, **I am drawing to attention the scope for institutions presently to resolve (or not) matters of this kind merely according to their own predilections.**

Background

Bullying is endemic to the workplace. And virtually no environment is exempt. Regrettably, this applies even in contexts such as church activities.

Put very briefly, as a church worker I was the subject of such behaviour in July 2010. I lodged a complaint with the appropriate diocesan authority, the Professional Standards Committee of the Anglican Diocese

And that Committee, accepting my account without any expressed qualification, found in August 2010 that I had been 'harassed' in terms of the diocesan *Code of Good Practice* (hereafter the *Code*) at S2.1.

There were, in my opinion, deficiencies associated with the process followed by the Committee in reaching its determination. Of much more concern are the unstated conventions by which the Committee, presumably like other committees of this type, carried out its function and left the matter unresolved.

Substance

The *Code* is the diocesan standard of conduct enacted under the Professional Standards Ordinance of the diocese. It provides (S2.1) that church workers must not engage in bullying or harassment (among a range of other proscribed behaviours). It defines (Glossary) bullying as (in part):

... a persistent pattern of behaviour by a person that is harmful, intimidating or embarrassing It is the deliberate desire to hurt, threaten or frighten someone with words or actions by one or more people and can vary in the degree of severity.

Harassment is defined (Glossary) as:

... unwanted or unwelcome behaviour that a reasonable person, having regard to all the circumstances, would consider offensive, humiliating, or intimidating. Harassment may be a result of some real or perceived attribute of difference, such as ... values and beliefs.

My complaint was made under S2.1 concerning 'harassment' because I was not claiming a persistent pattern of behaviour, but complaining of one incident (related to a single expression of religious belief on my part). That sole incident (in public with several observers), however, was sufficient to bring my previous role with the church to an end. Because my ministerial reputation was at stake, it was immediately clear to me that, whatever might feasibly be expected to transpire, that would be the outcome. (This is confirmed by the nature of the only new appointment subsequently suggested to me by my bishop.) So it was of profound significance.

Notably, the church worker against whom I had complained, agreed with my claims about the incident in that worker's response to the Committee.

I considered from the outset that, the offence having been committed in public, a written apology would be the proper remedy. This, despite the fact that, to repeat, I could see no reasonably appropriate public role for me in the church whatever the outcome. I was offered a private apology, by telephone, which I did not accept. The Committee, however, determined that the proffered private apology was 'the appropriate course of action'. While the Committee advised that its consideration was 'terminated', it recommended 'formal mediation'. My written response in August 2010 to the bishop was to seek reconciliation through the consideration of numerous matters (leading to

a written apology). But in December 2010 I was advised *by the Committee* that:

...the Bishop has now informed you that [the church worker involved] does not wish to accept the offer of mediation at this stage.

Problem

To the best of my recollection, the bishop had not so informed me; I certainly have no documentation from him to that effect. And I am most concerned that this matter remains unresolved, knowingly so, by the diocesan Committee. It is nothing less than regrettable that the church worker who harassed me continues to decline my request for reconciliation. Worse, the Committee has condoned it.

So this matter is unresolved for two essential reasons:

- first, I am not satisfied with the Committee's determination that a private apology was all that was required;
- and second, but much more profoundly, the matter of reconciliation through mediation is currently and knowingly left unresolved by the Professional Standards Committee.

Diocesan Ordinance

This submission does not offer legal opinion.

That said, it may be useful to note relevant provisions of the Professional Standards Ordinance 2004 (the Ordinance) of the Anglican Diocese . These provisions relate to the duty of the Professional Standards Committee to *resolve* complaints. (Emphasis has been added.)

The Ordinance

(S20):

- (1) Subject to this Ordinance, the PSC has the following powers and duties:
 - (a) to **resolve** Complaints in accordance with the provisions of this Ordinance ...

(S34):

- (1) Where possible, but having regard to the rights of Complainants and Respondents any Complaint should be **resolved** informally ...

...

- (6) Where a Complaint cannot be **resolved** informally within a reasonable time the Director must recommend to the Complainant that the

Complaint should be referred back to the PSC for it to **resolve** in accordance with this Ordinance.

Accordingly, if the Professional Standards Committee has a duty (pursuant to the Ordinance) to *resolve* complaints of bullying in the workplace, it has not done so in my case almost two years following the incident.

Conclusion

So, what is drawn to attention by this submission?

I submit that this case demonstrates the scope for institutions (through their appointed forums) to take decisions about bullying that may be deficient. But much more significantly, it shows how, regardless of the statute under which it operates, an institution can leave a complaint unresolved indefinitely to the detriment of the complainant, if not the comfort of the respondent.

Further to suggestion, it would be desirable to have responsibilities consequent upon bullying properly defined. That is, where a finding of bullying is made under such a definition, responsibility would be assumed by the harasser under any appropriate institutional authority; and, to emphasise, the authority itself would have responsibility (which it must accept) in regard to the outcome of its finding and *resolution* of the matter by the institution.

Postscript: Forgiveness

I would not want the parliamentary committee to misunderstand my religious orientation in this matter. This comment is at least as important as anything else that I have put.

Without being pious, there is no question that I have *forgiven* my harasser. Not to forgive is not an option for Christians; a simple reflection on the Lord's Prayer will bring clarity about that.

The point is that I was harassed (to my considerable cost) in an institutional environment. And certain standards would appear to be appropriate in such contexts. It is hardly too much, in my opinion, to request a written apology for a significant public harassment. Almost two years following the event, however, that continues to be denied. With the complicity of the institution, so does my request for reconciliation through mediation. Consequent upon the lack of resolution, all effects of the harassment continue.

18 June 2012