

PARLIAMENTARY INQUIRY INTO WORKPLACE BULLYING
SUBMISSION

My submission is made in the context of having experienced significant workplace bullying. I am currently on workers compensation as a result of the significant psychological impact of workplace bullying which occurred over the course of two years and was perpetrated by members of the Senior Executive at an independent "Christian" School. The bullies were subsequently protected by the Principal who then exacerbated the impact. It might be noted that I am 52 years old, hold a Bachelor of Commerce, Bachelor of Laws and Masters of Education and was employed as a Head of Faculty. I had never been disciplined nor had any complaints made about my teaching or performance. Rather, I had an outstanding record of academic and extra-curricular achievement within the school.

Victims of workplace bullying occupy a nether world. Bullying is not a crime and therefore the full onus of proof falls squarely on the victim. Nor is bullying like matters of discrimination. Although the onus of proof in that case rests (inequitably I believe) also with the victim, once there has been an independent finding of discriminatory behaviour, there are penalties and legislative sanctions in place to punish the offenders, compensate the victim and deter further instances of discriminatory behaviour in the workplace.

In my case, I did not immediately seek Workers Compensation when my treating doctor advised me to take extended leave for the sake of my health. I took sick leave and trusted naively that my complaint would be investigated by a person independent of the Senior Executive at the school. Only when it became clear that this would not happen and I was further blamed for upsetting the bullies (my direct supervisors) did I take the WorkCover route in order to secure an independent investigation. That there is no requirement for an organisation to undertake any independent investigation when a written complaint is lodged seems remiss.

When the factual investigator employed by the School's insurer and the psychiatrist appointed by the insurer completely vindicated my claims and the impacts of the bullying on my health, I expected that some action would be taken so that I could return to a job that (apart from the bullying) I loved. That nothing was done and nothing was required to be done by any legislation or regulation seems to me to be a clear failure of the current policies to ensure that bullying in the workplace is recognised as such and action taken to prevent future occurrence. More importantly, the current system allows a flagrant disregard of the impacts of the failure of an organisation to protect its workers and allows an unpunished breach of Workplace health and safety legislation.

Moreover, in my case at least, the organisation failed in its corporate governance requirements to report workplace health and safety breaches and reports of such breaches to the Board of Governors of the Corporation. (My written and verbal reports to the Principal of the bullying began more than 6 months prior to the final instances leading to my absence on sick leave) Again, it would seem that unless the worker is knowledgeable and strong enough to bring such matters to the attention of the appropriate authorities – a situation that is extremely unlikely - there is no sanction and no internal or external incentive for the organisation to look at or change its culture to prevent further instances of bullying. I

acknowledge that the employer's insurance premiums are likely to rise as a result of a Workers Compensation claim but this would be the case if a worker slipped on a wet floor. In that case however, the insurer would require that the employer changed its practices. The same does not occur when the injury is caused by bullying that has been through the actions of senior management.

For my part, as the victim, I have been left to fight the vagaries of the Workers Compensation Insurance system which, in my experience, is concerned purely with saving money and acting in the interests of its policy holder rather than making any real attempts at facilitating my rehabilitation. That I cannot return to that workplace where no changes have been made has been made clear by my treating medical practitioners and tacitly acknowledged by the Insurer.

Whilst it is perhaps wide of the scope of the terms of reference of this enquiry, and more pertinent to state legislation, the only opportunity a victim in my situation has of gaining recognition and appropriate compensation is to be declared totally unfit for employment with a whole person incapacity exceeding 15%. It has been made very clear to me by others in authority at other independent schools in the region that, despite the factual findings in my favour, they "wouldn't touch me with a bargepole" if I was to seek alternative employment since I had made a bullying complaint. That I have been factually vindicated seems to count for little – an indication that the culture amongst Independent Schools at least is that the staff member who alleges bullying is more likely to be the problem than the bullies. There is of course no requirement that my current Principal discloses to anyone the reason that I ultimately resign or am forced out and it is unlikely in my case that a reference provided by him will be anything more than a statement of service despite the many and varied achievements of my teaching career at that school. As a mature worker living in a regional area, I am left with very little opportunities.

In direct response to the terms of reference of this enquiry:

1. Prevalence

Whilst I am the only one in my organisation to speak out, I am aware of other instances of bullying behaviour at this school (which is a multi-campus college). From discussions with other teachers at conferences, I can state categorically that bullying is prevalent in Christian Schools in particular.

2. Role of the workplace culture

A staff grievance policy does nothing to ensure that bullying is reported or dealt with. Where the culture of the organisation has a focus beyond mere profitability and productivity, there is additional pressure on workers to ignore bullying behaviour (and breaches of the strict terms and conditions of employment). In my experience, until they were formally required to answer a factual investigator's questions, staff were scared to speak out or to support me as they had witnessed the increasingly bad treatment I received following my discussions about the bad behaviour toward me with the Principal. The fact that there is no requirement to inform other staff or anyone else that bullying was found to have occurred, makes it is easy for the perpetrators in senior management roles to perpetuate the false view that the victim was the one who was at fault.

3. Adequacy of existing education and support services

I am unsure whether there is much to be gained by increased community education or forums. I believe that most in the community know what bullying is and that it is unacceptable. What is perhaps less understood or appreciated is the very real impact on the long term psychological health of the victim. I am aware that I have been pilloried by some staff for not “just forgetting it”.

4. Scope to improve coordination

There is significant scope to improve coordination between government, regulators and health service providers. As I hope I have made clear, currently there is no point of focus for the victim. Conversely, the victim is left to fight a system that feels as though it is continuing the bullying by its nature.

5. Regulatory, administrative and policy gaps

This is the area most obvious. That the onus of proof lies clearly with the victim is perhaps necessary to prevent vexatious claims of bullying but it is clear to me that there needs to be a regulative imperative that once a claim is made and supported by evidence in writing that an employer is required to investigate. Where the claim is against the executive of the organisation, that investigation must be conducted impartially by an external party.

Once there has been a factual finding of bullying (with or without an accompanying psychiatric report of significant psychological injury), there needs to be in place a legislative or regulatory requirement that action be taken by the employer to remedy the damage to that employee and to ensure that bullying cannot recur. This means more than merely sending the perpetrator to a “workshop” for education. Such action may “tick the boxes” but does nothing to ensure that there is a change of workplace culture. In my case, I am not the first time that this particular school has been accused of sanctioning bullying behaviour.

Bullying needs to be recognised as a breach of workplace health and safety with mandatory reporting to the state authority responsible or to a similar federal body. That body needs to be able to issue fines or other sanctions where it is clear that the employer was negligent in their duties by allowing unchecked instances of bullying to occur.

Finally, there needs to be a method of ensuring that the bullying/breach of workplace health and safety is reported in line with corporate governance laws.

The existing framework is insufficient to prevent bullying, to respond to instances of bullying and to ensure that workplaces actually act to create a culture where bullying is prevented.