

# Education and Employment Committee inquiry into workplace bullying

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Terms of reference:



## **the prevalence of workplace bullying in Australia and the experience of victims of workplace bullying;**

It has been established that workplace bullying is widespread across the Federal Public Service. It has also been noted that victims of workplace bullying are often subject to further victimization, after making allegations of 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 workplace-based policies and procedures fail to prevent and respond to the incidence and seriousness of bullying, for the following reasons:

- a) Comcare regards policy documents as “not legally” binding;
- b) employers (government departments and agencies) can choose not to follow policy documents; and
- c) employees have no guarantee that policies and procedures that will be followed.

Solution:

To ensure that workplace-based policies and procedures will address the matter of bullying, the government needs to:

- a) introduce standardised policy and procedure documents across the Public Service; and
- b) establish that policy and procedure related to workplace bullying are legally binding.

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**the adequacy of existing education and support services to prevent and respond to workplace bullying and whether there are further opportunities to raise awareness of workplace bullying such as community forums;**

Currently, there are no existing education and support services to prevent and respond to workplace bullying.

Solution:

There are numerous opportunities to raise the awareness of workplace bullying, including:

- a) establishing that bullying is unacceptable and will not be tolerated;
- b) making all departmental Secretaries accountable and aware of their responsibility under the Public Service Act with regard to ensuring a safe workplace;
- c) establishing workplace bullying support groups; and
- d) establishing a unit within Comcare to provide support, and advice to employees experiencing bullying. Currently Comcare supports the employer as it is only concerned with the costs of bullying in terms of claims, and not the health of the employee.

**whether the scope to improve coordination between governments, regulators, health service providers and other stakeholders to address and prevent workplace bullying;**

There is significant scope to improve coordination between governments, regulators, health service providers and other stakeholders to address and prevent workplace bullying.

Solution:

To ensure effective coordination, the Government needs to establish that:

- a) medical certificates are legally binding;

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- b) a Return to Work (RTW) must include the involvement of health service providers, notably medical providers;
- c) a RTW must be put in place immediately after an allegation of bullying is made, regardless of whether a Comcare claim is submitted; and
- d) a RTW is not optional, and must be followed.

**whether there are regulatory, administrative or cross-jurisdictional and international legal and policy gaps that should be addressed in the interests of enhancing protection against and providing an early response to workplace bullying, including through appropriate complaint mechanisms;**

Clearly there are regulatory, administrative or cross-jurisdictional and international legal and policy gaps that should be addressed in the interests of enhancing protection against and providing an early response to workplace bullying, given that the following can occur:

- a) multiple medical certificates can be rejected by the government departments, without justification or contradictory medical evidence;
- b) an employee who has been deemed medically “fit to return to work in a safe workplace” and eager to return to the workplace can be absent from the workplace for five years without resolution;
- c) an employee with an accepted Comcare claim, can be denied a RTW on the grounds of being made redundant;
- d) there are no protections for an employee who makes an allegation of bullying, and subsequently can be subject to: underperformance counseling; allegations of threatening behaviour endangering staff; workplace lockout; denied access to personal belongings; threats of termination of employment; offer of redundancy; placement in non-existing positions with no duties; placement in lower level positions with inappropriate duties; denied access to the common drive, and thereby group documents; placed on unauthorised leave without pay; and termination.

Currently there is no agency that can and “must” enforce employer

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compliance with OH&S legislation, so government departments are not being held accountable.

Comcare is supposed to enforce compliance of OH&S legislation. However it is apparent the organisation lacks the resolve, and the capability to deliver against this role. It is possible that there may exist a conflict of interest between its role as the compensation scheme insurer and OH&S enforcer.

Solution:

To improve OH&S compliance the following issues need to be addressed:

- a) any allegation of non compliance of the SRC and OH&S Acts must be dealt with in a specified time frame, and cannot be ignored for years;
- b) employees who have made allegations of employer compliance must be allowed to participate in investigations on work time;
- c) Comcare OH&S investigations must consider appropriate policy documents; and
- d) Review of any Comcare OH&S investigation reports must be done outside the agency to avoid rubber stamping of bad investigations

### **whether the existing regulatory frameworks provide a sufficient deterrent against workplace bullying;**

The current existing regulatory framework provides no deterrent against workplace bullying, for the following reasons:

- a) there is no consequence for the bullying behaviour;
- b) the system supports the bully, often because the bully is a more senior officer, and is regarded as of greater value to the employer

Solution:

A consequence to bullying must be introduced to establish a deterrent. It is time to isolate bullies rather their victims. Currently the system protects bullies, and in some cases rewards them, whilst punishing

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victims for causing an inconvenience.

Bullying must be defined as an offence (similar to sexual harassment) to ensure that it is dealt with in the appropriate manner.

**the most appropriate ways of ensuring bullying culture or behaviours are not transferred from one workplace to another; and**

The Government needs to address the issue of accountability, by introducing consequences to those who bully, and those who fail to deal with the issue of bullying. It is crucial that the question of “duty of care” is considered.

If all workplaces were required to follow the same policies and procedures, It would become more evident which workplaces uphold an inappropriate bullying culture.

**possible improvements to the national evidence base on workplace bullying.**

Currently there is no national evidence base on workplace bullying, which would accurately identify trends or outcomes.

Solution:

The Government needs to introduce a reporting system to identify:

- a) the incidence of bullying;
- b) the process applied;
- c) the outcomes achieved; and
- d) the names of the victim and alleged bully to ensure that serial bullies are identified, and that both victim and alleged bully receive the appropriate support and counseling to minimise the future repetition of the same problem.

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### Other Comments

In my opinion the introduction and implementation of a system to address bullying should consider the following:

- a) start with a small scale trial to identify what works and does not work before introducing the system across the Public Service;
- b) employ victims of bullying in the trial team as they have personal knowledge of how the current system works (or rather does not work) and the impact it has on individuals;
- c) establish support for the project at Ministerial level;
- d) establish clear policies and processes for the trial;
- e) include Comcare in the trial.