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IEUA

Independent Education union of Australia

Submission to the House Standing Committee on Education
and Employment

Inquiry in Workplace Bullying

4 July 2012



Introduction

The Independent Education Union of Australia (IEUA) is pleased to have the opportunity to make a submission to the House Standing Committee on Education and Employment, Inquiry into Workplace Bullying.

The IEUA is the federally registered union that represents workers, including teachers, principals, and school support staff, in Catholic and non-government Independent schools across all the states and territories of Australia. While the majority of members of the IEUA are teachers, the membership of the IEUA also consists of workers engaged as teacher aides, administrative staff, gardeners, cleaners and caterers.

Membership of the IEUA is also diverse in respect to the types of workplaces included in its coverage. These range from very large schools with significant resources to extremely small rural schools with very limited resources. The variety of schools represents great diversity. . These include a wide variety of faith based and non-denominational schools, including, Catholic schools, Independent schools, Islamic schools, Steiner schools, Lutheran schools, Montessori schools, and privately run post-secondary providers. The union currently has a membership of over 70,100.

The IEUA upholds the right of all workers in the sector to a healthy and safe working environment and proper levels of compensation and rehabilitation in the event of illness or injury. The IEUA recognises that workplace bullying is a significant risk to the health and safety of its members. Physical health as well as mental health can be seriously affected. Workplace bullying not only significantly damages the health of the affected worker but also the quality of life of family members. For many affected workers, exposure to instances of workplace bullying means a premature exit from the workplace, an undermining of self-worth, productivity and morale.

The IEUA supports the submission of the Australian Council of Trade Unions (ACTU) to the House Standing Committee on Education and Employment, Inquiry into Workplace Bullying. The IEUA submission will focus on selected items but notes its interest in all terms of reference of the inquiry. Specifically, this submission comments in details on Terms of Reference 1,2,3,6, 7 and 8.

The annual financial cost of workplace bullying to the Australian economy is estimated by the Productivity Commission to be in the range of \$6 billion to \$36 billion. Of course the real cost is immeasurable when the unquantifiable effect of bullying on third parties such as family members, work colleagues and wider community is considered.

Workplace bullying is a serious Occupational Health and Safety hazard. It occurs within a workplace context. In non-government schools across Australia, parents, executives and principals are most frequently identified as perpetrators of bullying behaviours with teachers and students their targets. Therefore it is appropriate that Work Health and Safety legislation effectively addresses the prevention of bullying. If the legislative environment requires physical hazards to be controlled and the risks to the health and safety of workers eliminated, then the same requirement must be applied to psychological hazards. The IEUA notes that the health and safety legislation in all jurisdictions implies through a general duty of care a requirement to control workplace hazards that put at risk the psychological health of workers. The IEUA also notes an absence in harmonised legislation of any explicit requirement for the risks to the psychological health of workers to be controlled. The control

of psychological hazards must be afforded at least the same expectation as the control of physical hazards.

As a means of prevention, existing remedies to allegations of workplace bullying are arguably ineffective. Across the jurisdictions the only consistent body able to initiate a prosecution is the relevant Safety Regulator. This means there is often an enormous delay, in many instances, between the serving of a worker complaint and a successful prosecution. Even then, the standard of proof required by legislation and evidentiary requirements leads to the vast majority of complaints not being prosecuted. The current legislative environment does not permit a worker to launch a proceeding for a breach safety provisions in regard to workplace bullying. Available remedies to bullying are reactive and have been shown to have little effectiveness in the prevention of bullying risks. Other remedies may be found in human rights and equal opportunity legislation, Fair Work Australia or the criminal legislative frameworks of states and territories. However, they should complement, not replace occupational health and safety legislation as to do so is to undermine the gravity of bullying as a serious occupational health and safety hazard.

Inquiry Terms of Reference

1. The prevalence of workplace bullying in Australia and the experience of victims of workplace bullying.

While the bullying experience of workers in the non-government sector is commonly reported as top down, it also takes place horizontally between colleagues and from the bottom up where Principals are bullied by subordinates. There are many sources of pressure in non-government education settings which may expose workers to bullying. Richards and Freeman 2002 describe these;

The modern teacher has a complex job that incorporates education, parenting, mentoring, research and social work. Teachers are not only expected to teach, ... they are also expected to share responsibility for children's social education ..., to handle discipline and behaviour problems, and to take on welfare roles ... Add to that the pressures of inadequate funding, inadequate staff and resources, job insecurity, large class sizes, and ever expanding curriculum, ongoing skill training, work correction, student reports, parent-teacher interviews and after school activities, ...¹

The experience is further complicated by confusion over how bullying is defined and what are the most appropriate legislative frameworks to prevent and control it. The IEUA notes the significantly detrimental impact bullying has on working conditions, teaching, learning and staff morale. The IEUA also notes the considerable time lost to employers through lost time from the workplace and increased worker compensation premiums. More importantly, the greatest cost is borne by those experiencing the bullying and their immediate families. The bullying experience and associated health impacts for many members of the IEUA often represents a considerable long term impact for the effected member and their family.

¹ Richards and Freeman 2002; cited in Staff Bullying in Catholic Schools, 2005, Australia & New Zealand Journal of Law and Education, Duncan D and Riley D.

2. 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.

Generally, there is a culture of high work ethic and work expectations in non-government schools. Workplace cultures where there is a code of silence, a fear of being seen to 'rock the boat' or complain about negative and unreasonable behaviours are cultures that give permission for such behaviours to flourish.

Non-government schools are often found to be without policies and procedures to identify and respond to bullying at work. Such policies and procedures in themselves are not effective unless disseminated, understood and implemented widely. Workplace policy and procedure is also less effective if they are constructed without the full involvement the workforce.

The IEUA notes Work Health and Safety legislation provides for the involvement of workers in the identification and control of workplace hazards. The primary mechanisms for representation and participation of workers in decisions affecting workplace health and safety are the election of health and safety representatives and establishment of health and safety committees. In workplaces where there is genuine participation of health and safety representatives in the development of measures to identify, assess, control and review bullying prevention measures the incidence and seriousness of workplace bullying is likely to be reduced. The IEUA notes the essential involvement of elected health and safety representatives and health and safety committees in any process to establish and monitor bullying control measures in the workplace.

3. 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.

The IEUA acknowledges existence through regulators in each Australian state and territory of codes of practice and guidance notes. The IEUA notes also the provision of educational material and advice by OHS inspectorates to workplaces. Whilst health and safety representatives strengthen their knowledge and understanding of the management and control of bullying through training and education, many duty holders throughout the industry do not. An emphasis on primary prevention strategies should include increased attention to the education of workplace duty holders in order that they better understand the nature of bullying as a workplace hazard, strengthen and expand their knowledge, and are competent in strategies and mechanisms of control.

Workplace health and safety issues are unique to the workplace and need to be dealt with in the confines of work health and safety legislation and enforced by a well resourced and capable inspectorate. The IEUA considers community education forums are of value only in raising general community awareness. Community forums cannot deal with work health and safety issues and the IEUA considers safety regulators should not divert resources to such initiatives.

6. Whether existing regulatory frameworks provide a sufficient deterrent against workplace bullying.

Current regulatory frameworks place the burden of proof upon the prosecuting party and the standard of proof is beyond reasonable doubt. The outcome is often a long delay in progressing from initial complaint to a court hearing. Setting aside the impact of bullying upon effected members and their families, such challenges risk creating a culture in duty holders of being unlikely to be prosecuted. It is the opinion of the IEUA that existing regulatory frameworks do not provide a sufficient deterrent against workplace bullying.

7. The most appropriate ways of ensuring bullying cultures are not transferred from one workplace to another.

As previously mentioned, there is a culture of high work ethic and work expectations in non-government schools. Workplace cultures where there is a code of silence, a fear of being seen to 'rock the boat' or complain about negative and unreasonable behaviours are cultures that give permission for such behaviours to flourish. The IEUA recognises there is no single way of ensuring bullying cultures are not transferred from one workplace to another.

Early intervention is essential to prevention, but is less likely to be effective in workplace cultures where there is a fear of speaking up in case one becomes the next bullying target. As previously mentioned, elected health and safety representatives are essential to providing workers with an opportunity of involvement in workplace decision making effecting their health and safety. Any process to establish or review bullying prevention strategies in the workplace must involve health and safety representatives. Work health and safety legislation provides for the training of health and safety representatives. Training and education should also be provided to managers, supervisors and workers. Early intervention, workplace consultative structures, training and education needs the support of a strong, active, resourced and knowledgeable inspectorate in each state and territory.

8. Possible improvements to the national evidence base on workplace bullying.

The effectiveness of data captured in a national data base is dependent upon consistency of across jurisdictions of how workplace bullying is defined. Additionally, if compensation data continues as the primary source of data, the true statistical occurrence of workplace bullying instances will remain unknown. Compensation data only reflects those instances where bullying has led to an injury. Incidents which are not reported or compensable are not reflected in the compensation data and therefore the true nature of the problem remains hidden. The IEUA supports the ACTU recommendation that Safe Work Australia's Research evaluation Data Group (RED Group) be tasked with developing a nationally consistent approach to the collection and coding of data from state, territory and federal agencies to assist determining the incidence of bullying and for the continued development of policy in this area.

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