

Submission to The House of Representatives,

House Standing Committee on Education and Employment,

Inquiry into workplace bullying.

Terms of reference:

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

Having worked in many different workplaces ranging from customers service, hospitality, labouring, management positions, self employment and governmental and health sectors I have found that bullying exists in all sectors to differing degrees of seriousness. In addition to this I worked for nearly 10 years in vocational rehabilitation dealing with the effects of those that had been bullied at work and were coping with the physical and emotional injuries inflicted.

The common perception of bullying is generally one of the apprentice getting an unduly and unwarranted hard time from the more senior members of a staff. It is generally perceived that bullying is “blue collar” phenomenon that has to be stamped out by management. While this does happen, and I have worked with those that have experienced this, the majority of bullying that caused long-term effect was from white-collar occupations that incorporated a culture of bullying into the managerial structures and performance measures. It is particularly prevalent in the Health, Governmental and Service Delivery sectors where current laws and compensation arrangements allow the practice to thrive with very limited effect for those who perpetrate the 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.**

Workplace culture is critical to the incidence of bullying however it is by no means the only response that would assist a positive outcome for those involved. There needs to be an external regulatory framework that enables easy reporting and supportive action to lessen the long-term effect. The role of Australian Culture cannot be overlooked as a driver for workplace bullying, as it is often the justification for the action undertaken. Workplace culture is also important, as many staff will model the behaviour of those they see in positions of influence and this can give rise to the incidence of “mobbing”. I.e “The boss doesn’t like person X therefore “we” can do what we like, as there will be no consequences to us.”

From a managerial standpoint most organisations have on the surface strong anti-bullying policies and procedures however these are from a legalistic viewpoint and often do not take into account the end effect on those involved. They are often used at the peril of the person reporting as in many instances it will lead to the victim being the one leaving the organisation, as this is the easiest form of action. Their use also tends in my experience to be aimed at those further down the managerial chain. In the worst-case scenarios these policies are used to “manage out” staff that are perceived not to fit the organisation direction. For a fee you can hire management

consultants that are university backed that can advise the best course of action for undertaking “change”. This is especially prevalent in the Governmental and Health sectors.

To establish an organisation that has a bullying culture only requires a few things. Firstly staff that are engaged in repetitive or non challenging work that allows time to think up ways of bullying each other, advice and permission as to how to bully within the rules, managers and staff that have reached their potential and are scared or highly uncertain of their position due to unclear organisational direction and finally performance objectives that focus solely on financial rather than social outcomes for the organisation and staff. For example Governmental and Healthcare managers should not have written into their performance plans that they will discourage and minimise the incidence of comcare/workcover claims. This is tacit approval to bully others out of making potentially legitimate claims for injury and leads to a lack of organisational support.

- **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.**

Victoria has recently undertaken the criminalisation of workplace bullying and as such this has been widely publicised. There would certainly be scope to increase peoples’ awareness. Importantly their needs to be a clear definition of what does and does not constitute bullying in the workplace. For example under current Comcare legislation it only mentions “reasonable action” however does not define clearly what reasonable action is. This is therefore open to interpretation and abuse to those who see fit to do so. As any change consultant will advise this allows for almost anything to be said or done to achieve an outcome.

At the very least widespread ethics training could be used as a vehicle to make people aware of the consequences of their action on others.

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

There is always an ability to improve coordination between the above organisations however given that many of the most significantly effected clients that I have worked with have suffered significant life changing bullying from the government and health sector it begs the question if either of these institutions has the moral legitimacy to adequately address workplace bullying in the first instance. The biggest improvement would be for government and the health sector to lead by example in the treatment of

their employees and work actively to discourage bullying at all levels. In addition to this an increase in the availability of primary mental health services would go along way to lessening the damage that is being done.

- **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 mechanism.**

The current comcare legislation discourages civil action against the perpetrators of workplace bullying in that if that action is begun the comcare claim will cease. Internal complaint mechanisms also do not adequately address the problem in both state and federal systems as they tend to be employer based and focussed on positive outcomes for the employer and not the injured worker. Unions also have tended in my experience to be out of their depth when dealing with workplace bullying as they often lack the resources to adequately provide support or advice. This then leads to the circumstance that the injured worker has very few places to turn to for assistance and their outcomes are very much dependent on being lucky enough to have a medical professional who has experienced the different systems in operation. Given the major social, psychological, physical and family repercussions of workplace bullying not to mention the loss of overall productivity and cost to the community an argument could be made for an independent commission to be established to help regulate and coordinate response and service to all effected.

- **Whether the existing regulatory framework provide a sufficient deterrent against workplace bullying.**

In short the current regulatory arrangements do not form any major deterrent to workplace bullying. In fact the commonwealth legislation actually encourages the bullying of staff. Take for example an employee that is coming up to long service leave. If the department can get that employee to leave they save on the payment of that entitlement. This was a common practice. Then lets assume that a department is over staffed. It is cheaper to bully a worker from their position through the use of the reasonable action clause in the commonwealth legislation. Rather than offer a redundancy. As most of these cases are upheld as being justifiable by the Federal Court and take several years to complete AND only if the person has the determination to see it through the percentage gain is beneficial to the department not the injured. At worst the department will have a small increase in their comcare premium.

If change is truly desired to prevent bullying a set of regulations similar to those that the trucking industry use to regulate driver hours could be instituted. That is the chain of management is legally responsible for the actions of their employees behaviour. This would stop institutional workplace bullying dead in its tracks.

- **The most appropriate ways of ensuring bullying culture or behaviours are not transferred from one workplace to another.**

The transference of bullying culture and behaviours does exist. I can think of several examples of managers that have been transferred between different work areas only to have similar “outbreaks” of bullying behaviour in the new area. Sometimes this has been utilised by the organisation to instigate change and in other instances it has been frowned upon. There are also examples of workers that have used their experiences of their partners who were bullied in different organisations to transfer the behaviour to advance their own ambition. They consciously did this as they knew the behaviour worked. In short it does not matter if you are an organisation, a manager or an individual as long as the negative behaviour of bullying brings results it will continue.

- **Possible improvements to the national evidence base on workplace bullying.**

Providing a National evidence base on workplace bullying could prove difficult to do as under reporting, threat to career advancement and social stigma currently ensures most bullying does not get reported. In extreme cases that lead to open psychological and physical injury these could be recorded through the combining of instances of workcover, comcare and MCRS/A claims lodged. However given the current difficulty of federal and state legislation that does not recognise workplace bullying as most claims are denied the data would be sketchy at best. If legislation was changed to ensure mandatory reporting in the first instance and referral to assistance this would go a long way to identifying the scope of the current situation and aid in the early detection and treatment of those that have been injured.