

## Submission for the House of Representatives inquiry into workplace bullying.

### The prevalence of workplace bullying in Australia

There are no prevalence estimates for workplace bullying in Australia that can be generalised to the total workforce in the country. I highlight some of the flaws with prevalence estimates with suggestions as to how those could be rectified at the end to the submission. Studies covering a range of occupational sectors indicate that the problem is widespread (Mayhew et al., 2004; McCarthy et al., 1996) and may be more common than some European countries where a conservative estimation is 10-11% (Hoel, Cooper & Faragher, 2000). However this may be an under-estimate because bullying is becoming pervasive with enormous costs to productivity (Giga, 2008)). .

In Victoria the survey commissioned by WorkCover (conducted by Sweeny) in 2003 was repeated in 2004 and the prevalence was estimated 15% in 2004. Self-report and a definition were the measures used. A People Matters survey conducted in 2006 of 149 public sector organizations in Victoria found 21% of respondents had experienced bullying or harassment in the 12 months prior to the survey, and more than one third had witnessed bullying. The response rate was 26%. These response rates are very low and lead to flawed estimates.

Low response rates to bullying surveys may contribute to a systematic non-response bias. A lot of bullying is not reported. Research has shown that people do not necessarily recognise they are being bullied at the time it is occurring which leads to under-reporting. Also, even those who do recognise their experience as bullying at the time may be less inclined to report it in surveys being conducted in their workplace because of a very real fear of retaliation. Those who leave their workplaces because of bullying may be less likely to report bullying which is a substantial majority of those experiencing bullying. Also, given being bullied is a stigmatising experience, people may be in denial to minimise the effect of a spoiled identity. Those who perceive workplace bullying as a trivial issue rather than salient may not respond. All these issues are likely to contribute to a systematic non response bias for surveys conducted in workplaces leading to under-estimates of the problem.

There are also measurement errors. Bullying can be measured by self-report, self-report using a definition, lists of bullying behaviours or a combination of all three. The LIPT (Leymann Inventory of psychological terrorism (Leymann, 1990) and the NAQ (Negative Acts Questionnaire) (Einarsen & Raknes, 1997) or more recent revised version NAQ\_R (Einarsen, Hoel, & Notelaers, 2009) are the main instruments used in research. Effectively these instruments operationalise what is counted bullying. Individuals can be categorised as victims if they report at least one negative act on a weekly basis. Comparisons of self-report against the 'objective' measures such as the inventory of negative acts indicate that a problem exists in predicting the amount of bullying in populations. Sensitivity and specificity are epidemiological terms referring to the validity of 'objective' scales of measurement. Based on the Mikkleson and Einarson (2001)

estimate of prevalence, the sensitivity of the NAQ is poor at 36% (i.e. the probability that a person who feels bullied will be classified as being bullied is poor), whereas the specificity of the NAQ is good (i.e. probability of a non-bullied individual will be classified as non-bullied is 95%). The calculations suggest that there will be misclassification bias and this will be in the direction of false negatives.

These methodological and measurement issues indicate prevalence estimates are flawed with biases leading to underestimates rather than over-estimates.

### **The experience of victims of workplace bullying.**

My thesis on workplace bullying is from the perspective of targets. Stakeholder views are added to augment the theory developed from the target perspective. The validity of the findings is increased by adding more perspectives. A substantive grounded theory was interpreted from the results of the research. The key findings indicate two main pathways into bullying – dissent and difference (Osborne, 2009). Dissent can include standing up against bullying as well as other workplace issues. Difference from expected gender roles is a source of vulnerability to bullying despite being these gender roles being inappropriate for workplaces (Osborne, 2011)

Being bullied culminated in an encounter I have called sham dealing (Osborne, 2009). Sham dealing occurs at the point where individual agency meets the opposing force of the collective protecting itself. Sham dealing emerged as entities protecting self in a contest of reality. A claim of bullying is perceived as an assault on the collective Sham dealing could be considered as retaliation. It can be viewed as an additional aspect to bullying that occurs in workplaces. Essentially it shows that claims of bullying meet with disproportionate retaliation which involves duplicitous acts. Sham dealing managerial actions involve a misuse of legitimate process with the appearance of acting legitimately but not actually doing so. The abuse of power is deceptive.

If targets made a formal claim the arena for sham dealing actions became larger and involve the formal claims process. Statutory authority personnel, insurance investigators, medical and legal authorities become involved in an adversarial process with disincentives towards the recognition of claims. Formal claims increase suffering for claimants because they experience it as destructive and stressful. Most claims are denied and claimants discredited which increases the suffering of claimants. Research indicates that only one in ten claimants receive any redress for being bullied (Lamontagne, 2009) indicating that the current formal claims process is not fair and not likely to reduce bullying and in fact the opposite may be occurring.

More workplace policies are not required because currently policy is being misused in bullying organizations with an appearance of using policies appropriately. This can happen with all policies, particularly grievance policies in a bullying culture.

Participants in my study identified two types of bullying culture. One where the bully is easily identified (overt) and one where the bully may not be easily pinpointed (covert and

embedded). Covert bullying was perceived by targets as insidious and more harmful than the overt form but not visible from the perspective of bystanders and not likely to fall within the OHS (Occupational health and Safety) guidance note definitions for bullying and therefore hard to address and remedy.

### **The role of workplace cultures in preventing and responding to bullying**

This is the wrong question. A better question would concern the role of cultures in participating in bullying because this is more common but people are unaware of their participant roles. The theory from my research indicates workplace cultures do not respond appropriately to bullying unless leadership instructs them to do so. Appropriate leadership response only occurred with visible, overt bullying in which many people were affected. Only then collective action could urge leadership to rectify the situation. However leadership required willingness, recognition and insight to remedy the situation. Bullying if stopped, was either fully acknowledged but more usually silenced with the bully being sidelined. As McCarthy (2003) described, people condemn bullying publically but tacitly practice it. This situation is not helped by claimants of bullying being silenced to protect the reputation of the collective, legal gagging is a common practice.

Work-based policies and procedures although helpful for targets of bullying in naming bullying have little effect on redress for bullying or stopping the bullying unless higher power enforces them in practice which is unlikely because an essential element of bullying is that a power disparity is required. Bringing a formal grievance claim against an employer is most likely to damage the career of the claimant. People hold stigmatised notions of who gets bullied and higher power in organisations view bullying claims as threats against the collective and indulge in sham dealing actions which ignore, avoid, circle the issue, discredit and discount targets' claims (Osborne, 2009) because of a desire to protect the collective against assaults of bullying claims. Silencing bullying claims enable management to evade ethical obligation

### **Adequacy of education and support services**

Education and support services can increase awareness but because bullying is normalised in organisations more education is required for people to realise how much they participate in bullying. Joining in with bullying is common because emotions are fuelled by affective emotional response of the bully spreading to bystanders who join in because of their desire for affiliation, as McMahon (2001) describes, peoples' desire for connection forms the 'cultural glue bonding' which holds people together. This means they can unwittingly act as participants in bullying.

Community forums could help only if they are conducted by people with insight into the phenomenon so that people could be showed how indulging in gossip, rumours etc maintains bullying. The problem is bullying is unbelievable to bystanders (Lutgen-Sandvik, 2005) and given bullied victims are stigmatised and discredited this can add to claims of bullying being disregarded.

In addition hard hitting advertisements in a campaign devised may increase awareness amongst bystanders about their participant roles. Currently bullying is becoming normalised behaviour.

### **Scope to improve coordination between government regulators, health service providers to address and prevent bullying**

The question about whether there is scope to improve coordination may be the wrong question to ask. The better question could address whether there is scope for separation of government regulators. In Victoria the roles of statutory authorities such as WorkCover who determine legitimacy of claims and WorkSafe who acts to identify bullying are intertwined. Currently there are conflicts of interests within the system in which an adversarial process acts to undermine itself because WorkCover inevitable has monetary disincentives to recognise claims to reduce compensation.

WorkSafe's role is to ensure that employers have policies in place but does not involve itself in determining whether a claim is legitimate. Occupational health and safety risk management strategy can occur independently of whether bullying is occurring in workplaces. People experience the formal claims process as riddled with delays, obstacles and costs for claimants and most usually claims are rejected by default at first. This can add to the suffering of claimants. Structures and processes within the formal claims process become constitutive of bullying. Legal costs for claimants can be insurmountable and some claimants are currently withdrawing claims because of an inability to fund legal recourse.

Disincentives flow to health service providers because there are financial incentives for providers to remain contracted to WorkCover statutory authority in which there are disincentives to the recognition of claims. Post traumatic stress disorder (PTSD) and physical illness is a consequence of being bullied (Einarsen & Skogstad, 1996; Leymann & Gustafsson, 1996; Mikkelsen & Einarsen, 2002) however the formal claims process can exacerbate the health effects because claimants are required to have repeated psychiatric assessments within a system where there are disincentives to the recognition of PTSD in which diagnosis can be considered as a political issue (Herman, 1992) and is controversial. Repeated psychiatric assessment by psychiatrists can re-traumatise victims particularly if the diagnosis is frequently changed. Lennane (2000) describes how claimants can be re-traumatized in the system by unethical psychiatrists (Lennane, 2000).

People who make a complaint of bullying need to be protected against retaliation by employers and currently this is not happening. Invasions of privacy and surveillance of claimants needs to be made illegal.

### **The most appropriate way to show bullying culture and behaviour are not transferred**

Bullying involves destructive organisational communication however evidence is in the hands of those in power. Destructive organisational communication is one way bullying is transferred. Given bullying only happens in a power disparity it is difficult for claimants to produce evidence of dysfunctional communication and interference with electronic communication although electronic communication and evidence can easily be tampered with, obscured or disappeared. The motivation by bystanders is to protect the collective. This happens in bullying scenarios conducted by powerful influences and those in powerful positions motivated a desire to protect the collective against threats of bullying and their place within the self-picture of the collective.

References and rumours act to transfer and further stigmatise discredited bullied claimants. The process of giving references in Australia needs to be more tightly controlled so that employees who leave their workplaces because of bullying are not stigmatised further by lack of suitable reference to continue their careers. Human resources and careful legislation which controls the nature of references may help.

Lutgen-Sandvik (2009) emphasises bullying involves destructive organisational communication which becomes constitutive in cultures which are permissive of bullying (Lutgen-Sandvik & Davenport Sypher, 2009). Email communication can be intrusively and unethically controlled or modified and is easily subverted by those in powerful positions. Any interference of email communication needs to be an offence subject to criminal investigation. However there are difficulties because evidence can be destroyed or disappeared if emails are tampered with. Currently emails can be used as evidence in legal cases but a problem that arises is email communication can be modified by those with vested interests in protecting the reputation of the employer.

### **Possible improvements to the national evidence base on workplace bullying**

Add a self-report question on workplace bullying to the national household survey or census. The question could be asked 'Have you experienced workplace bullying in the last 5 years?' A definition could be used as well.

The OHS guidance Note definition and examples are not good examples of workplace bullying because workplace bullying is a subtle and sophisticated process of undermining targets with malicious hostile acts conducted in the guise of appropriate behaviour. The examples of bullying in the OHS guidance note are not subtle and produce connotations of physical violence rather than covert bullying. Therefore it portrays bullying badly

A whole of government approach and more publicity is required to improve the evidence base. Following up workcover claimants and linking with death records may highlight problems such as how suffering from being bullied can lead to suicides. Currently a lot of bullying is silenced by legal gagging clauses. Disabling gagging clauses for claimants so that bullying cases are revealed to the general public may help.

Separating the roles of statutory authorities: WorkCover and WorkSafe may reduce the conflict of interests within the system.

A publicity campaign identifying what counts as bullying in short hard hitting advertisements may help raise awareness of bystander involvement in bullying. However an important caveat would be that both stakeholders who have attuned to the problem and targets who have experienced it would need to be part of the process and consulted otherwise there is a danger that the advertisements do not portray what bullying is.

Surface/ Disallow or penalise all forms of intrusive surveillance and invasion of privacy, such as email hacking, phone tapping and bugging and personal surveillance of individuals and relatives. These issues cause immense distress and suffering.

To address, prevent or reduce bullying the focus should not be on the targets or bullies but on the context.

Redress can be achieved by addressing the context in which bullying occurs. Bullying cultures are not innovative (Vartia, 2003), exhibit an inverted competency and are motivated by greed and fear and a desire for belonging. In our current globalised society we need leadership and management to operate from a position of fearlessness and competency with accountable and transparent processes, altruistic and ethical motivation to help others achieve (Vandekerckhove, 2003). In this way bullying will be reduced and the desire for connection fulfilled. The context constitutes a power imbalance for targets of bullying.

Issues within the context such as inadequate, undermined, laissez faire leadership, poor management and promoting without merit need to be addressed and. Management training is not the issue. People in management positions require the insight, ability to disharm disharmony rather than engender or exploit disharmony will improve the productivity of the public sector The issue of communication which has the intention to deceive rather than inform needs to be surfaced and replaced.

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