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House of Representatives
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Dear Committee.

The following saying could be a summary of my submission or an apt sub-title for your report.

“Evil triumphs when good men do nothing”.

I have invented another.

When good people act, bullying is stopped in its tracks.

I am writing this submission because I was the target of workplace bullying, and have included material that is more in the nature of a victim impact statement.

I intend focus on two themes.

- 1 How the actions of the employer, work place insurer and their agents can often make the situation far worse for individuals and organizations facing bullying.
- 2 That individuals with a work place injury are more vulnerable to bullying.
The way the compensation system is used to bully those individuals.

I have placed my remarks and recommendations first. The experience that lead me to these as an appendix.

1 The Employer and work place insurer

Bullying is very wide spread in our community, and under reported to a massive extent. In my role working for I interviewed many people who had left a job. Bullying was a very common reason. Although most had made some attempt to report the issues and have them dealt with appropriately, very few got anywhere. In particular when insurers became involved the number of positive outcomes I came across was nil.

This paralleled my own experience. At times bullying was the accepted, indeed preferred management method within . Decent individuals who tried to manage a team or office without engaging in bullying were sometimes forced out of the organization. The incidents that lead to my claim for stress occurred during one of the periods when bullying was the preferred mode of operation.

At other times, when there were a number of decent people in the appropriate management positions, bullying was not accepted. Situations would be rectified quickly and thoroughly. It sometimes only took a simple action, such as a phone call from someone ‘higher up’ to solve a problem.

Although Comcare would like to give the impression that it investigates bullying well, this was not my personal experience.

The claim process, and lack of natural justice did far more harm than the actual bullying. The process has left me with permanent damage. The aim of the investigation seemed to be to cover up the bullying and to protect the reputation, and cost of compensation premiums for

By denying the existence of the issue, and protecting the perpetrators and Comcare actually foster an environment where bullying increases. The behaviour of the bullies has to become very extreme for an extended period of time before any action is taken. Even if you ignore the massive personal suffering and loss to individuals the costs to the organization in terms of lost productivity must be very high.

In my experience there seemed to be a presumption by Comcare that I and my witnesses were lying for some reason. That the management would be honest. In fact the perpetrators were the ones lying.

The Commonwealth Public Service has a many policies and such that say bullying should not occur. The problem is those policies are not always followed. When I was facing severe bullying I found there was no real access to support. The only avenue I had was via the personnel section and Area Manager. At that time those individuals chose to ignore my phone calls and letters. There was no other help within the organization.

There was a reluctance of those in the management of to look for the truth as that would mean they would have to do something about it. What do they do when one of their mates, (or someone with whom they are having an affair) has breached the code of conduct? What do they do if the inappropriate behaviour merits sanction or dismissal? If they try to act appropriately will they be targeted next? If they admitted what happened, then the insurance premium would go up, and they would look bad. Their own misdeeds may come light. The prevailing culture of “shoot the messenger” did nothing to help. The situation was very complex. It was far easier to lie, or look the other way. These issues would be the same in many organizations.

From the media I gain the impression that the general response to bullying seems to be a ‘blame the victim’ approach. We will ‘educate people how not to be targets’. Bullies chose their targets because they know that circumstance often beyond the individual’s control, prevent the targets from being able to adequately defend themselves. In my situation that was a work injury. The bullies knew that at that particular time, the management and Comcare would condone their actions rather than stop them.

From my personal experience those who have been targeted by bullies have access to little or no support. There are very few legal avenues, and these are only available if you can afford them. You are on your own. Finding the medical and psychological support is often difficult.

Recommendations

Bullying is a form of assault. In some situations the response and investigation into bullying should be more akin to a criminal investigation. Individuals accused of bullying should be interviewed face to face with an investigator, and required to explain their behaviour. Written and signed statements should be taken. In a similar way, the target of the bully, and witnesses

should be interviewed, and statements taken. As with other forms of assault this would require the investigator to be very skilled in dealing with traumatised individuals, and sensitive situations. They would need to have the skills to understand the intricacies of the workplace.

Just as in other criminal matters the 'scene' should be investigated. What is happening in the work place? What are the workloads and dynamics going on? Are there other indicators that the dynamics in the workplace are poor? One such indicator may be a very high rate of sick leave. In the appendix I have shown how in my situation there was ample evidence of extreme stressors in the workplace.

If bullies had to face consequences for their behaviour such as fines, demotion, dismissal, or loss of career, they would think carefully before engaging in that behaviour. In some situations criminal charges would be appropriate. As shown below, requiring them to apologise may assist in managing their behaviour. That kind of 'education' would have an impact in lowering rates of bullying in the workplace.

Insurers such as Comcare could have an important role in reducing bullying if they chose to. At the moment they are perpetuating the issue. The insurers seem to be far more interested in keeping the costs down for employers than the safety and well being of the employees.

2 The bullying of workers with injuries.

Over the years I have had to attend many medical appointments at the request of Comcare or my employer. I became familiar with some aspects of the medico-legal system. I also gained further insight into this area after my studies at University. In short the doctors and lawyers make very good incomes. This is at the great detriment of the individuals who are the subject of their deliberations. In my role as a _____ officer I met many individuals who had been greatly harmed by the medico legal system.

Some of the reports written about me were accurate and fair. The reports were very helpful in their recommendations and helped ensure I got the assistance I needed to remain a productive member of the workforce. These doctors in the main, actually treated patients and wrote medico-legal reports as a smaller component of their practise.

However some doctors, mainly those who didn't actually treat patients, but relied solely on writing medico-legal reports for their income were far from accurate. The insurance companies give the repeat work to those doctors and other providers who write the reports that keep their payouts lowest. That is those that will enable the insurer to deny the claim, and the employer to deny adjustments in the work place. Thus less cost to the employer.

This leaves the individual with an injury in a very difficult position. They have an injury, need treatment, income support while unfit for work, and support to return to workforce. They have no prior knowledge of the system in which they are now caught. Unless they find help they are sunk. There is limited help available, but that certainly does not meet the demand.

As detailed in the appendix I was bullied mainly because of a work injury that had left me with permanent physical restrictions and chronic pain. When I returned to work after the bullying episode, I still had the injury and chronic pain which meant I was unable to work full time. After a report from an Occupational Physician who worked for Health Services Australia this

situation was accepted for some time. I was never given a copy of that report but as all the silly goings on stopped, I presumed it had been accurate and helpful. However about 2003 I was called into a meeting and told. "We don't like it that you work part time due to injury. We will let you work part time, as long as you say it isn't related to the injury. Say you don't have the injury any more and we will look after you." I asked for that promise in writing, and no surprise, this was refused. The team leader mentioned below did most of the talking.

I was then told I would be required to attend yet another doctors appointment. I was advised in writing that this individual was a specialist Occupation Physician of 'many years experience'. However when I checked with the professional organization to see if this was the case I found that he did not hold that qualification. I also found he practised mainly in the medico-legal area. I asked if I could be re-examined by the doctor from Health Services Australia.

still usually used this doctor to exam staff with health issues. Their feedback was that the reports were usually reasonably accurate and fair. Despite my protests, and informing them of my findings this request was refused. I had to attend the doctor they had chosen. The location of his office was a clue. It was a few floors up, at the bottom end of William St in Melbourne. Next door to the night clubs and where there has been more than one murder. Not a very nice area to visit.

This examination, and subsequent report lead to great difficulties for me. He implied that medical issues I have apart from the work injury didn't exist, and minimized the injury and its effects. He recommended a psychiatric evaluation if I disputed his report. That was a common practice in the inaccurate reports. Several conversations at work that were far more personally revealing than I wanted, and two more specialists later the other medical issues were found to exist and be relevant to how I managed at work. Despite its inaccuracies his report was used to force me to work full time. This I managed for a few years. But only at a great cost in pain, and to my general well being. I could get to work and return home, but I could not really do much else.

The team leader mentioned above was my supervisor for long periods at that time. She would repeatedly try to force me to do tasks in physical situations that were impossible for me. She had been fully informed as to why I had work at a suitably set up desk. This badgering would be repeated over and over. It had nothing to do with productivity, or my level of contribution to the team. It was about her power to control staff. As shown in the appendix I later found she had sent inaccurate comments to Comcare. Other supervisors didn't find it an issue. My colleagues didn't find it an issue. Many of them often came to me for advice in particular areas. They were happy that I was located in one spot. They appreciated my willingness to share expertise, 'put in', and that I had the patience and skill to assist clients with complex needs. We would often swap customers to facilitate this.

However the stress on my body of working full time, and managing the increased pain gradually caused a deterioration in other health areas. One day at work I collapsed and became unconscious. Although I managed to work the next day, that was the end of my working life. I became too ill to return to the work force, and after a lengthy period was invalidated out.

Recommendations

That an ombudsman system be set up to allow injured individuals affected by unfair treatment from employers, insurance providers, inaccurate reports, or a failed return to work program access to redress. This system must be free, or affordable for people with very limited income.

That the profession bodies such as the Australian Medical Association, and Australian Psychological Society enforce their ethical standards on members. False or misleading reports cause great harm. Writing very inaccurate reports should be regarded as serious professional misconduct and disciplinary action taken.

If professionals are found to have written blatantly inaccurate reports they should be barred from writing medico legal reports. It should be illegal for insurance companies and employers to commission reports from those individuals.

Where employers fail to co-operate in the return of injured workers to the workforce they should face penalties. The failure to provide the accommodations recommended to assist injured worker to return to work, or undermining the process should be viewed as disability discrimination. In theory these points are already in law. However those laws do not seem to be enforced. It is about time they were.

I realize that the above recommendations would not be easy or simple to implement. This is a complex area with many overlapping areas of jurisdiction and powerful conflicting forces. However there is so much harm being done by the present system that change is needed.

Conclusion

Bullying has had a very deleterious effect on my life. I have had to work very hard to prevent those effects from being devastating. I still live with physical limitations, and chronic pain. My faith as a Christian is important as it from this that I have had the strength to cope. It has also taught me that having an attitude of forgiveness to those who have harmed you gives a person great strength and healing. This does not mean that perpetrators should escape the consequences of their behaviour. I also have a passion for social justice, and preventing harm to others. I have my faith as a Christian, family, friends, a home, and an income. I have some good quality of life. Many individuals who have been bullied have lost all of the above, including their life.

My experience is more common place than rare. Work place bullying has a devastating impact on the individual and the wider community. The issue should be addressed vigorously.

One incident that occurred not long before I had to retire is instructive. A team leader new to the office didn't like my response when I explained that I was physically unable to act in the manner she directed. It was at the end of a very tiring day. She then whispered nasty comments that reduced me to tears.

My colleagues noticed, and one came over to find out what had happened. I repeated the conversation. This colleague then very quietly went around the office and informed all the other staff. The next morning almost no-one in the office replied when she cheerily said good morning as she passed each desk. They all ignored her. I was very touched by their action. About an hour later she came over and apologised for her behaviour. My colleagues then started to talk with her again, and we treated her normally. A few weeks later she requested and received, a transfer to another office. We presumed she made this request because she had found she couldn't indulge in her style of bullying. She had not liked being brought back into line, and her 'nice' cover had been blown. Bullying can be addressed if good people do something about it.

Appendix.

Personal Experience.

I worked for [redacted] and its predecessor the [redacted] for about 25 years. I was 'invalided out' in 2007 when I was 49 years old, due to health matters apart from stress or physical injury.

During my work I interviewed clients gaining the reasons they had left their employment. Accounts of bullying, sometimes severe bullying were very common.

I have a few minor disabilities and over the years experienced a lot of hassles including blatant discrimination from management because of them. In 1995 I incurred a major physical injury in the work place that left me with permanent physical restrictions and a chronic pain problem. The way that injury occurred included a large bullying component. I had been forced to work in an unsafe manner. The path back to work was made very difficult by the undermining actions of the Manager.

This injury was exacerbated by a sequence of incidents in 1997. It was when I was attempting to get assistance for this, that the significant, often daily bullying occurred for a period of several months. The culture at the time in [redacted] was very negative towards any disability no matter how minor. It was very clear that the management of [redacted] were attempting to force me to resign. This bullying also occurred in front of clients of [redacted] leaving them distressed and embarrassed.

There were several aspects of this bullying episode.

The team leader and her clique manipulating the rosters and so on, so that I was placed under an extremely high workload. This also had the effect of increasing my pain levels. By the end of the day I would be in severe pain. I was using medication to such an extent that I ended up with internal bleeding. I was also under the stress of knowing that every minute detail of every thing I did the entire day was monitored to see if a member of the clique could find an excuse to make a criticism. Nasty incidents instigated by members of the clique aimed at myself or other colleagues were common. That is every day.

The team leader refusing to accept medical certificates, and also refusing to implement the accommodations recommended by the occupational therapist employed by Comcare to assist me.

The team leader implementing what they termed 'performance counselling'. Just prior to my re-injury, and asking for assistance I had undergone several routine performance reviews when I was given a high rating in every area. I was praised for my performance. It was clear that the 'performance counselling' sessions were not conducted with any positive aim. They were farcical. There was ample independent evidence to prove that.

I eventually cracked from the combined physical pain and stress and went on sick leave. If a representative of Comcare had rung the office manager and said something along the lines of "You will ensure that you and the others cooperate in the injury accommodation process" none of my problems would have occurred.

This was a time of change with [redacted] being formed from with the amalgamation of [redacted] and the [redacted]. The power/political games at my location were very nasty and these were not dealt with by management. Some individuals behaved in a very machiavellian manner. Several very decent, competent individuals were harmed so much that they resigned. In this environment bullying flourished.

That our particular team was in very bad shape was known even by the C.E.O. (Chief Executive Officer). When I finally (after lots of stalling by Comcare and [redacted]) returned to work over a year later, my colleagues informed me with a great deal of anger and disgust how from their point of view all the bullying had been handled. The other old adage of “The floggings will continue until moral improves” sums it up.

The then CEO of [redacted] made a trip to Melbourne and our office. A team meeting was called and the staff who were present were informed that the team had by far, the highest rate of sick leave in the nation. They were then castigated for their poor work ethic. This left them seething with anger and frustration. They were at work, so why attack them? No one in management asked a simple question. Why was the sick leave rate so high? No one bothered to ask the staff in a safe environment. ‘What is going on here?’ I was on sick leave and making accusations of bullying against the leadership of the team during this period.

The ‘stress investigation model’ of the claim process only looked in any detail at my personal experiences. It paid very close attention to my personal situation, looking for any reason for stress from outside of the workplace or personal weakness, so that the claim could be rejected. Although the individual who wrote the report had a phone conversation with each of my witnesses, very little of what they said made it into her report. My witnesses were eye witnesses.

The person writing the report then didn’t place any weight on their comments because of information from [redacted] management. This was to the effect that a person at the area office had spoken to the manager, who had spoken to the team leader, who had advised that they were not present. Even this response was full of contradictions.

From what I can gather, at no time were any of the individuals involved in the bullying clique, or any other staff at the office interviewed. Even if only by phone. The office was not visited, and no other information was gained about the situation.

This is where I presume the reality of the economics of the medico-legal system came into operation. I can only conclude that the person/organization that conducted the investigation had a vested interest in ensuring that the report they wrote would enable Comcare to reject the claim. In this way they would get repeat business from Comcare. If a report was written that favoured the claimant, Comcare were less likely to give them further business. It was in their self interest to assist in obscuring the facts, and help cover up the bullying. If their report had been balanced and accurate, their income would have reduced. They ignored the harm they were doing to me, and the potential harm that the bullies may do in the future. They used their power, and my lack of power to cause me harm. A legalized form of bullying. If you would like, I can name this organization.

Comcare was very aware that there were serious problems in [redacted] at this time. I found that to be the situation when I made a freedom of information request of my file from Comcare. An officer dealing with my claim send an email including the comment that she had ‘fared

copped . She was complaining of the high workload from . This factor, and the very high sick leave figures of the work place were not considered relevant.

Despite all the evidence to the contrary the whole saga was explained as 'reasonable management action' by and the claim for stress denied by Comcare. The process was very drawn out. I was living on payments for an extended period. I came close to defaulting on my mortgage and possibly losing my home.

This process was devastating for me. I knew I was telling the truth, and that all the evidence from independent sources, and witnesses supported my version of what had occurred. I could not afford legal representation to take the matter to a hearing at the AAT (Administrative Appeals Tribunal). I would have had to allow a caveat to be placed on my home to do so. I also formed an opinion that the bullies would commit perjury at a hearing. That Comcare and the management of would protect them, and may even facilitate that perjury. I was too ill and knew too little about the legal system to act as my own advocate.

I took the matter to the start of the AAT process, that is the first mediation meeting. The individuals representing Comcare would not even look in my direction. They sat staring rigidly in front of them. I presume this was to avoid seeing me as a human being. One did glance my way when making her only statement which follows. The individual from Comcare in a rather hostile manner said. "You only raised the injury issue after they started the performance concerns." I was able to show from the record that the opposite was true. My asking for help came first. I thought at last we are getting somewhere. The response from the Comcare representative was to say. "Will you listen to an offer?" I had no idea what she meant. So I replied "I will listen to anything you have to say". At that point the Comcare individuals got up and almost ran from room. I got the impression they were frightened of hearing further information that might force them to change their minds. This left me not knowing what was going on. They were not interested in facts, only in how good they personally could look in terms of how well they 'won'. The negotiations then took place via the mediator passing notes.

The most devastating aspect of this was that Comcare is a Commonwealth agency. There are rules that mean an agent of the Commonwealth is supposed to be a 'model litigant', and not use its bottomless pocket to deny justice to Australian citizens. Agents of the Commonwealth, my fellow citizens, were using the might of the Commonwealth, my nation, to deny me justice. Comcare was being a bully, a very big and damaging one.

Although this situation occurred several years ago it is still relevant. Several of the individuals I accused of bullying are still working in management roles in . I think it is highly likely they bully others when given the opportunity. Comcare as far as I am aware still investigates claims in the same manner, and uses the same organizations for those investigation.

A Freedom of Information request to Comcare also revealed another aspect of this bullying. There was vast amount of correspondence between Comcare and . This varied in character with a lot being routine. However there were incidences, and indeed periods when the information flowing from to Comcare was at best inaccurate. Some of it was almost defamatory. It cast doubt on my moral character and portrayed me as a 'whinging lazy malinge'. I could not answer those issues as I was unaware the comments were even made.

In writing this submission I have realized that the periods of the inaccurate material coincided with the periods of bullying in the workplace. This includes the time up to 2007. Fortunately at times staff at Comcare seemed to have understood that the information was inaccurate and they appear to have taken very little notice of the 'dirtier' material. At other times, it explains why Comcare gave me a hard time.

I also faced many incidents following my return to work, and in more recent years that could be termed bullying. Several individuals did their best to undermine the 'return to work' process. Others were merely incompetent. Some of the incompetent individuals were rehabilitation providers. These individuals caused me great harm. Even when I made complaints through the appropriate channels and requested a change in provider I was not listened to.

I have also been fortunate to meet rehabilitation providers who were fantastic. They had excellent skills in assisting me, and in ensuring that management were cooperative. There were also periods when good people were in important management roles. They would do their job well, and my working life would go smoothly.

In a similar vein the ongoing treatment that Comcare has funded over the years has had a very positive effect on my circumstances. It was when this was withdrawn for periods that difficulties occurred. That they are funding ongoing treatment (physiotherapy, exercise, and medication) makes a significant difference to my quality of life. Without it I would be in a very difficult situation. With it my quality of life is much closer to normal. In this area the support of Comcare has been fantastic and I appreciate it a great deal.

I had been accepted into a university course just prior to my injury in 1995. My intention was to study part time and eventually move to a job such as Rehabilitation Councillor. I knew I needed to 'get out of _____'. I finally completed my degree in the health science field in 2002. Thanks in part, to the excellent support I received from the disability support unit at the University I graduated as one of the top students in my year. However by this time I had acquired the physical injury, chronic pain, and the effects of the stress injury. I would need to find an employer who would see past these to my skills. As explained above it was also about this time that my general health started to deteriorate. I was never able to make the shift to a different employer.

However I was able to bring the skills I had gained to my role. I know that my peers, and the people I assisted were very appreciative of my skills and work. At times even members of management showed they recognised and appreciated my good work. Many of those clients had experienced horrific life experiences, bullying, or disability discrimination. I was able to make life vastly better for many people. It has taken several years for me to mourn the loss of that role.

Being through these processes had been very damaging. It has at times crushed my self esteem and self confidence. It has triggered depression, and at times I have contemplated suicide. Large volumes could inform you of the effects of chronic pain and what happens when it is mismanaged. I am permanently damaged and at times vulnerable to circumstances that would not have affected me in the past. Writing this submission has been a painful process.