

Submission to the Parliamentary Committee on Bullying

I need to know if, like my Submission regarding the Moran Review reforms, you intend on contacting any of these departments and disclosing my name. I was told that this is what occurred regarding my Submission to PM&C regarding the Moran Review reforms.

Forgive me if my submission appears to be a rant of sorts, but I need to explain why I feel I have been bullied in the APS on more than one occasion, resulting in jeopardising my marriage, my health and safety, my employment prospects, my finances, and my peace of mind. I have compensated by adding what I feel are constructive, practical and specific anti-bullying initiatives.

I have been concerned that no one will read this or take it seriously. But in my world, it is serious and has affected me personally.

Some uncomfortable truths

- 1) The APS does not value or respect staff. Instead it tolerates and even encourages bullying behaviour. IT IS IMPORTANT THAT GOVERNMENT NOT JUST SAY IT RESPECTS STAFF BUT TO ALSO DEMONSTRATE THAT IT RESPECTS STAFF.
- 2) Co-workers and staff are generally afraid to report bullying behaviour due to repercussions, such as suddenly made labelled as "underperformer" or worse, "made redundant".
- 3) Internal policies and processes, as well as legislation, does nothing to stop or prevent bullying.
- 4) Internal policies and practices, as well as legislation, does nothing to protect complainants.
- 5) Bullying is very often in the form of "Underperformance" and "Code of Conduct" processes, with advance goals in mind, i.e. to get rid of "undesirables". People that do not fit into their mould are labelled then targeted and destroyed. What happened to me was the worst thing I have ever happened to me at work, and resulted in tangible and lasting effects.
- 6) The APS does not take responsibility for bad management practices and instead tries to cover them up by offering "training" or Employee Assistance Programs". While these things are not bad in themselves, much more is needed to stop this behaviour, not just try to deal with its after-effects.
- 7) The APS does not take bullying complaints seriously.
- 8) The APS does not understand what it means despite its EAP programs, HR Department and bullying and whistleblowing policies. These are simply not priority for the SES.
- 9) Contractors, more than permanent staff, are bullied due to the fact that it is much easier to fire them or end their contracts early. Contractors have fewer rights and therefore can be "pushed around". If an employer ends their contract early, the employer does not even legally have to pay out the remainder of their contract – a disgraceful situation.
- 10) Contractors are not entitled to performance management; their contracts are simply ended early without notice.
- 11) The APS claims to have higher ethics than the private sector; in reality it merely hides its bullying blanketed in performance or code of conduct processes. Its ethics are in fact of a lower standard due to the fact that it is dishonest and misrepresents itself.

Issues:

- 1) I have personally been bullied in many workplaces since coming to Australia in 2003, but the worst were in the Australian federal Public Service, all in Canberra.
- 2) Bullying can take many forms, sometimes more subtle than one would think. Often it attempts to be hidden in such processes such as underperformance processes. There are ways to distinguish between "real" performance processes and performance processes covering a bullying campaign.

- 3) Often bullying comes from more than one source at the same time, leading to the well-founded suspicion that the entire corporate culture supports bullying, especially when complaints and policies have no effect.
- 4) I found that complaining to Human Resources had little effect in one agency I worked at.
- 5) I found that my job status, i.e. contractor, had a direct bearing on the rights I had to complain and/or get any action.
- 6) I found that so-called "anti-bullying" policies had little effect on the corporate culture or in particular the bully. If anything, the problem is getting worse despite these ineffective and poorly-worded policies.
- 7) The target of the bully has little recourse but to leave, often at huge financial loss or stress.
- 8) The effect of the bully is traumatic and results in severe depression.
- 9) Bullying continues despite media attention, policies, legislation and despite complaints. The damage continues well beyond employees quitting, moving on, or having their contracts end "abruptly".
- 10) Both the APS Values and the APS Code of Conduct are being ignored and applied selectively on a regular basis, especially "An APS employee, when acting in the course of APS employment, must treat everyone with respect and courtesy, and without harassment". I fail to see how these "values" are being applied fairly or indeed at all in view of systemic, regular bullying in the APS. This has implications as to how recruitment is being handled in the APS and how complaints are being handled. Clearly, the APS has trouble identifying what "respect" means.
- 11) Reading the 2010-11 APSC State of the Service Report in regards to how Code of Conduct and Underperformance incidents are handled leads one to question APS stated "commitments" to fairness, openness, transparency, respect, natural justice, procedural fairness, and health and safety. From my own wide personal experience, these are just words that few really practice.
- 12) The APS continues the lie that it has better ethics than the private sector and that it is "fairer". People are beginning to see through these lies and lose respect for it. Is that what you want to continue to happen?

Background:

- 1) I have worked in several federal government agencies where I was bullied in various ways, often directed by EL2's (Directors) or SES (Branch Managers) to more subordinate staff to do their bidding. The overall culture of fear also exists.
- 2) The agencies where I personally encountered bullying include: the (now), (supposedly concerned with Occupational Health and Safety), the and the .
- 3) The typical bully is a person who values their career, their ego and themselves more than their staff, yet who is at heart a very insecure person who has difficulty showing respect or treating others as they themselves would like to be treated.

My experience of bullying in the APS is related to the way it has treated me

- 4) What do you call it when a Branch Manager directs their Director who in turn directs his Assistant to start an Underperformance process, right after I returned from a Temporary Transfer at another agency ()? This came as a complete surprise to me as soon as I returned to the (now called). I was a permanent employee at at the time.
 - had contacted at the time without my knowledge advising them to start an underperformance process, a violation of my privacy and without themselves starting any kind of performance process.

- As soon as I had returned to _____, I was also informed that another agency, the _____, had contacted secretly _____ about my private submission on PS Reform. I was told that this was an embarrassment to _____.
- An Underperformance process was started without any prior notice to me as soon as I had returned to work at _____ yet the reason for starting this process seemed to be more related to the above points than any real performance concerns. I was an embarrassment to them and needed to be punished.

How can I be sure that the Underperformance process was faulty and unfair and was in fact a form of procedural bullying?

- My FOI file revealed later on that my Director was told to contact _____ to get more information from _____ to enable them to start an Underperformance process as soon as I returned to work. He had no understanding of the work that I did at _____ and _____ had no understanding of what I did at _____, but both assumed the worst of me with no evidence to back them up.
- The Director who started the process did not finish the process. He quit his job and became an APS6 under mysterious circumstances.
- The new Director who took over his job came from a different department and I had never met her, yet she was content to continue to brand me as “underperformer” and finish off the Underperformance process that her predecessor started. She clearly had her mind made up at the start how it was going to end.
- The Branch Manager continually intervened and interrupted the work assigned to me during the formal Underperformance process to assign new tasks that she alone controlled to ensure I was “thrown off”.
- The second Director who took over from the first resigned as soon as she had completed this Underperformance evaluation of me.
- There was a lack of procedural fairness and natural justice. I was told at the beginning that I “had the right” to a representative but my union representative went off sick at the beginning, leaving me alone against the three panel members judging me on a weekly basis (i.e. my Director(s), Assistant Director and HR person during the formal stage) and I was unable to find a person to represent me after that. Thus it was three against one.
- Little I said to counter that the “test work assignments” that they were giving me were unfair made any difference to them. I couldn’t help but feel that something was driving them along their merry path to my intended destruction. It was the branch manager who said I had embarrassed her, as if she felt it was a personal affront. It was well known at _____ even prior to that that she was a bully. But everyone was afraid of her and her power. She could fire anyone for any reason and if you said no to her or questioned her in any way, but could wield a terrible big stick against you. Reading the Enterprise Agreement confirmed that.
- The end result of the Underperformance assessment was “harsh, unjust and unreasonable”, i.e. they decided to demote me from an APS6 to an APS4 then immediately made me redundant claiming they had no APS4 position available. Near the end of the process they asked me “How do you think you are going”? I said “Pretty good” and they chose to say nothing to that. A true Underperformance process is supposed to give you proper feedback and allow you the chance to improve!
- My temporary transfer to Comcare was made possible by my _____ supervisor’s excellent reference. Suddenly, when I returned to work at _____, all had changed. I was left trying to understand what was really going on and months later only after requesting my FOI file was I able to get more information.
- This resulted in my depression claim to _____ who, after making me see their paid psychiatrist, deemed me as “paranoid” and that my depression was in fact related to _____.

the deaths of my parents that had in fact occurred years before! He refused to acknowledge my bullying claim. This made my depression worse. Not only was I out work, lied to, abused, disrespected by every manager in the PS at that time, but I was also demoted and summarily “made redundant”. I was unemployed with little scope for similar work in the future. References were difficult now to say the least.

- While at [redacted] during my temporary assignment there in OH&S Policy, I had lodged a formal bullying claim against my EL1 supervisor but nothing happened. She had been bullying me with her boss (Director) after only 3 weeks after I had started. Every question I asked was a “performance issue”. However they refused to start any “performance process”. Instead, they apparently chose to spread lies against me behind my back to my “parent” department, [redacted], and hurt me that way. They succeeded. Imagine the frustration I felt when I saw in the PS News that my [redacted] supervisor had won a self-nominated “award in human resources management” by a human resources association. What a joke. Funny how an organisation supposedly dedicated to health and safety is unwilling to practice this?
- After being forced out of [redacted], I joined the [redacted] on a 6 month contract. I encountered another bully manager (EL2) there. My contract was ended abruptly with no notice after 2 months. His methodology included “blaming” staff for his pedantic and legalistic nature. He was rude, often not at work, unhelpful and uncommunicative.

Lessons and Recommendations

General themes:

- 1) **Consistency needed across the APS**
 - 2) **APS structure needs to be changed/ Fewer managers/ Clearer roles/ More real strategy and less politics**
 - 3) **Performance management needs to be fair and based on real SMART standards**
 - 4) **Independent audits and comprehensive assessments need to occur regularly with no interference.**
 - 5) **HR Management needs to be centrally managed and managed better/ Policies need to be focused on the complainant not what is the convenient process for HR.**
 - 6) **Complainants need more protection and security/ More secure lines of communication and representation**
 - 7) **Zero tolerance for bullies/ Consequences need to be communicated in advance.**
 - 8) **Contractors deserve equal protection as permanent staff from bullying.**
 - 9) **Reduce reliance on employer or Comcare-paid psychiatrists to determine validity of bullying claims**
- 1) The APS needs to have consistent, strong and supportive anti-bullying policies and procedures in place with automatic investigations in place and real consequences for accused bullies. This means one policy for the entire APS, not one different one for each Department. The APSC could play a very key and potentially independent/ impartial role in these types of complaints.
 - 2) The structure of the APS is also a key factor in bullying. Often managers with not enough real work themselves to do are responsible. A flatter overall structure with fewer managers, fewer SES and fewer Directors (fewer sections, branches, divisions also) and more APS-level staff would help. This would also have the added benefit of reducing overall costs and improve efficiency. There should be a set ratio of total managerial staff to APS-level staff (i.e. including SES):
 - Relating to this, very importantly, is a consistent APS-wide clarification of roles. What does it mean to be a “Policy Officer”? What are the expectations of a Policy

Officer comparing APS4 to APS5 to APS6? Are all these artificial divisions really necessary? Do they contribute to bullying? Poor role understandings are likely related to poor role definitions.

- It is important that staff understand why they are doing what they are asked to do. What are we trying to achieve? What is the “big picture”? Is there a “big picture” and how is it relevant to staff? “Strategic thinking” sounds good but in reality it can be used as a bullying tool and often confused by senior managers with internal politics.
 - Consistency is a common theme lacking in the APS and contributes greatly to bullying. It is very important that there are clear consistent APS-wide performance standards that adhere to the principles of Specific, Measurable, Achievable, and Realistic and Timely (SMART). Currently the APSC does not offer “performance standards” in this fashion. Instead they offer “Integrated Leadership System guidelines” that are not specific, measurable, achievable, or realistic. These ILS “guidelines” are being used as de facto PAS-wide “standards”, even though they are not standards at all. They are also used as selection criteria to assess job applications. How can the APS bully people using performance standards that don’t exist, or at least that are not specific, clear, measurable, etc? Saying to some “you are not strategic” is hardly helpful and can be a bullying tactic.
- 3) Complaints processes need to be fair, consistent and protect the complainant from reprisals as much as possible.
 - 4) EAP counsellors need to be able to approach top management with their concerns and top management needs to act. EAP counsellors should also be able to assist in bullying complaints. EAP contracts need to include this.
 - 5) Anti-bullying policies should have a “zero tolerance” for bullies with consequences including termination. In fact, termination should occur for bullies.
 - 6) All _____, WHS, and bullying claims/ complaints need to be reviewed to closely examine what happened and how they were dealt with. How many _____ or OHS/WHS claims involved bullying and how were they dealt with? Could the claims have been prevented? Bullying is a real OHS/WHS hazard that employers are obliged to deal with, not by terminating the complainant.
 - 7) Independent external audits and reviews of internal complaint processes and past practices need to occur regularly, in addition to each Department’s HR area doing its own internal auditing. All top managers need to make this a top priority, i.e. to stamp out bullying in their Group/ Division/ Branch/ Section. This should include the Secretary of every Department. It needs to be very strongly worded starting at the top foremost.
 - 8) All SES including the Secretary down to EL2’s and EL1’s should have how they deal with bullying in their contracts and performance agreements. All contracts and performance agreements need to specify that complaints are encouraged and investigations will result with consequences for any bullies. All managers need to be aware that bullying is not tolerated and they as individuals are being judged on this. Most importantly the Secretary’s employment contract should include strongly worded messages that they should have a zero tolerance to any bullying.
 - 9) The APSC, _____ and Safe Work Australia should all have specialised “bully investigator/ experts”, people who are truly experts in bullying investigations and claims, to randomly select Departmental line areas for audits and investigations, as well as being able to target areas where complaints come from.
 - 10) The APSC should run APS-wide surveys on bullying allowing people if they choose to anonymously complain about bullying and determine the true extent of APS bullying. The results of these surveys need to be published openly and transparently for all to see.

- 11) As a result of these surveys, if bullying appears rampant in certain areas, automatic investigations need to occur in those areas, i.e. target the targeters, with consequences on any proven bullies.
- 12) FOI legislation needs to be altered to open up files and processes further, allowing more transparency in the APS. There is far, far too much secrecy in the APS overall.
- 13) The uncomfortable question of bullying being directed from above, i.e. a manager's boss is telling him to do something "shonky" resulting in bullying against a staff member.
- 14) All individual contract, Enterprise Agreements, performance agreements and any document between an employee and the employer needs to have:
 - a) Procedural fairness specifically written in for them to observe in their dealings with staff
 - b) Natural justice written in for them to observe.
 - c) They need to specify that all performance agreements and underperformance processes follow both natural justice and procedural fairness. They need to specify what these concepts mean. For example, Underperformance processes should not start the day after telling an employee how great his performance is, etc.
- 15) Codes of Conduct and APS Values both need to include definitions of "respect" and specify also that bullying is not to be tolerated in any form with termination as a direct and likely consequence. The PS Act needs to be re-written to reflect this also.
- 16) Anti-bullying legislation needs to be enacted, strongly worded, with harsh consequences for proven bullies. If new legislation is too difficult, then amending existing legislation such as the Human Rights Act or Discrimination Act should be contemplated. The government should give thought to a separate agency against bullying to handle bullying complaints. I am confident that this agency will need to be well funded and large to handle huge numbers of complaints. But another toothless agency is no help to anyone; it needs to have power to force terminations and claims against bullies. I believe most of this is consistent with the Moran Review recommendations that the Government has already accepted. Thus I am only stating that it needs to follow up and strengthen.
- 17) Many complaints may not say "I am being bullied", but they may say things like "My performance process is not fair" or "My code of conduct investigation is not fair". Again the APS-wide surveys should help focus on problem areas, but there needs to be follow up on these types of complaints. Surveys can be directed at these types of complaints to determine if bullying is part of the problem and the usual hidden agendas that exist in government. Investigations should be automatic and consequences as well.
- 18) Consultations should be explored with all anti-bullying organisations in Australia to explore different and new ways to combat workplace bullying. These methods should be adopted and incorporated into daily internal governmental processes.
- 19) Consultations should be formalised and incorporated with the CPSU and any other interested union to make them part of any workplace bullying processes.
- 20) SafeWork Australia's Code of Practice on Bullying should be reviewed to ensure its relevance and effectiveness.
- 21) Consideration of a consultant who specialises in bullying can be made to evaluate the current effectiveness of current bullying and ways to combat it. The danger behind this is that nothing will result from this after spending \$50,000, which is the usual consultation fee the government regularly spends for a paper to sit and gather dust. The advantage of this approach is that it will be an external, unbiased assessment.
- 22) Consideration of an APSC "Anti-bully Controller Office" should be made for an overarching PS centre for bullying complaints and should have the power to terminate bullies.

- 23) Lastly, all anti-bullying efforts should be regularly reviewed as to their effectiveness and assessed to see if the frequency of bullying in the APS is actually being reduced.
- 24) I think it would be worthwhile to consider publishing details on OHS Boards at work of anyone convicted of bullying at work. It could be anonymous, such as "There have been two complaints involving bullying which are currently being investigated in this Department". The point of this is to alert staff and confirm that bullying is not to be tolerated. The results of the investigation should also be published.
- 25) APSC should undertake a comprehensive survey throughout the entire APS of:
- How many contractors have written contracts and how many have specific start and end dates written into their contracts?
 - How many contractors there are at any one time in every Department, Group/ Division, Branch, and Section?
 - How many contractors over 1 year there have been in every Department, Group, Division, Branch, and Section?
 - How many contractors over the past 3 years in all categories?
 - How many contractors have had their contracts "ended early", i.e. before the stated end of their contract and for what reason and in what areas? These should be investigated further.
 - How many contractors have put in bullying complaints, especially the ones where their contracts were "ended early"? (Likely none, since they never got the chance to, but investigation would reveal trends in certain areas).
 - Compare these results to the survey recommended above on permanent staff.
- 26) The APSC and/or an external consultant specialising in HR Management should examine the APS's HR Management, including the structure and functionality of every Department's HR. It is a sad state of affairs that every Department's HR functions merely includes drafting ILS selection criteria, FOI requests, an OH&S Officer reacting to incidents, and payroll processing. HR should be much larger and more "strategic" than this. Having a centralised, consistent HR department part of the APSC would ensure consistency and a more holistic approach to HR management in the entire APS. There should be no need for every department to have its own HR department in truth, each acting (or reacting, more accurately) to its "silos".
- 27) The "external" psychiatrists that are used to determine the validity of bullying claims are a sham since they are paid for by and instructed to selectively apply information obtained that justifies denial of such claims. This whole "system" of "impartial" review needs to be reviewed holistically.
- 28) BULLIES SHOULD NOT BE TOLERATED NO MATTER HOW HIGH UP THEY ARE. NO EXCEPTIONS. THE APS MUST STOP MAKING AMBIGUOUS AND UNCLEAR POLICY STATEMENTS**