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The House Standing Committee on Education and Employment  
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Canberra ACT 2600.

### **Inquiry into workplace bullying**

I make this submission from two perspectives. One is as a member of the Executive Committee of the Australian Association for Professional and Applied Ethics, and the second as a lecturer from the University of Sydney, and an author, on ethical issues. Bullying is an ethical issue.

I have made the submission a personal one rather from either of these organisations. It is made on the basis of some years of working with people with whistleblower problems, a significant percentage of which related to bullying.

A book "Applied Ethics" supported by the Australian Association of Professional and Applied Ethics. makes a connection between bullying and whistleblowing. The book, of which I am the editor, is to be published by Tilde University Press later this month. The bullying excerpt from the whistleblowing chapter is provided in a footnote to this submission <sup>1</sup>

I make the following points in this submission in their order of importance as I see them.

1. The major impact that the government could make on stopping bullying is to pass the legislation on protection of whistleblowers. This legislation was proposed by the Senate Standing Committee on Legal and Constitutional Affairs. A commitment was made by the Prime Minister to pass the legislation in July last year, but was later dropped. I understand that a second commitment from the Prime Minister has also been ignored<sup>2</sup>. Passing the legislation would significantly reduce any bullying resulting from speaking out against wrongdoing. It would also create an environment where people were more willing to blow the whistle on any bullying, and as a result bullying was more effectively investigated.. Research tells us we would prefer such an environment.

2. Bullying can come from a supervisor. It may be in retaliation for exposing a wrong doing in the workplace. It also may come from a member of the work group. We want either type to be reported.
3. Bullying is in the eye of the beholder. It has been estimated that about 3% of the population suffer some form of personality disorder. Such disorders can include those who are bullies, as well as those who perceive themselves to be bullied. Deciding whether a person has been bullied can be an extremely difficult task.
4. I have two recommended approaches to deciding whether an accusation of bullying is valid. One is a clear definition of bullying and second (and more importantly) is placing a requirement on the person accusing another of bullying joining in with a fellow worker as a corroborator.
5. Collaboration will not work effectively unless whistleblowing protection legislation is in place. People are reluctant to complain about a bully – for if they do they will just be bullied more, unless they are protected.
6. This protection has to extend to the private sector. The Treasury inquiry on whistleblower protection in the private sector (referred to in note 2) came up with a consistent and widely endorsed set of wrongs over which the Corporations Act should extend its whistleblower protections. Unless this extension is enacted, bullying will remain a consistent feature of the private sector workplace.
7. In addition to the research that tells us (a) people are willing to speak out against wrongdoing, there is extensive research that demonstrates that (b) we prefer to work within an ethical environment; (c) that we evolved with cooperative instincts extending to ethical behaviours that benefit the group; and finally, that (d) exposing wrongdoing is the most effective way to stop the wrongdoing. So we need to establish a work environment that does not inhibit people speaking out against bullying.
8. A useful definition of bullying is that of the NSW Ministry of Health: “workplace bullying means behaviour which is offensive, intimidating, intended to humiliate or threatening and is directed at a staff member or a group of staff members, and occurring in the course of or related to work”

“Legitimate and reasonable managerial actions to direct and control how work is done in the workplace do not constitute workplace bullying”. There are other definitions. The committee will be able, no doubt, to decide which is the optimum definition..

9. Management training needs to encompass bullying, and ways to handle it. Approaches to instituting organisational sanctions also need to be included in the training. The House Committee, in addition to recommending the changes suggested in this submission, should draft a proposed corporate policy on bullying. Such a draft would provide a basis for corporate training. An example is given by a US consulting group <http://www.elt.com/documents/ELT-Sample-Policy-International-Harassment.pdf>
10. Bullying starts at school. Observation would indicate that it is more widespread at school than it is in the workplace. Children have not yet learned to control their aggressive tendencies. Current ethics classes in school such as those just commenced in NSW need to encompass the issue. They would also include sessions on speaking out against wrongdoing (which they currently do not include, as it is not included in the concepts of philosophical ethics). When another child does wrong –for

instance, throws a rock through the Principal's window (or bullies another student) , the observing child should be encouraged speak to a teacher about it

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<sup>1</sup>Excerpt from "Applied Ethics" ,Peter Bowden (ed.) Tilde University Press, forthcoming, documenting a response to a Treasury inquiry on whistleblowing protection in the Corporations Act:

### **Managing vexatious or fraudulent "whistleblowers"**

A number of submissions raised the problem that people with a grudge against their company, or against their supervisor, could raise false allegations - such as bullying or displaying favoritism. These accusations could cause problems and additional expense in resolving them.

The concern is entirely reasonable. Readers will be aware of the extensive literature on people who cause difficulties in organisations (e. g. Cava, 2004; Bernstein, 2001; Brinkman and Kirschner, 1994). Several submissions and the discussions in the subsequent round tables, however, provided answers for these concerns. One of the strongest was made by Whistleblowers Australia (WBA), the President of which, Peter Bennett, stated that of those who come to WBA for assistance, some 60% were motivated by personal grievances, not by any public interest. Another submission pointed out that the first line of inquiry, therefore, is determining whether the wrongdoing occurred or not. In most personal grievance cases, there is no public interest at work, and often no wrongdoing.

<sup>2</sup> Australia is the only country in the industrialised world to have no whistleblower protection for its national public servants. This situation is likely to be one reason behind the government's perceived lack of creditability