

[REDACTED]

From: [REDACTED] on behalf of Committee, Reps (REPS)
Sent: Wednesday, 11 July 2012 3:34 PM
To: Committee, EEWorkplaceBullying (REPS)
Subject: Sub 142 - FW: submission to committee on workplace bullying sub and conf sub (at appendix) [REDACTED]

For processing

[REDACTED]

From: [REDACTED]
Sent: Wednesday, 11 July 2012 2:11 PM
To: Committee, Reps (REPS)
Subject: submission to committee on workplace bullying

Committee.reps@aph.gov.au

I am seeking to make a submission to the Parliamentary Inquiry into Bullying in the Workplace.

Contact details:

[REDACTED]

Submission:

NB. I have enclosed an [appendix containing confidential material](#) which I would ask that you consider but not publish.

I am one of many employees who has seen workplace bullying over a lifetime in a variety of workplace settings. The primary concerns I have are:

- That what little statistical evidence there is available supports the claim that something like 60-80% of all workplace bullying involves management bullying of employees in the ordinary course of their work (I believe a study was done a few years ago by the W.A. Workcover and by the W.A. Law Institute supporting these figures)
- That low-level, yet highly damaging bullying by one worker to another has already obtained some measure of public recognition (eg bullying of apprentices by fellow workers) but this recognition has not occurred for the more insidious and prevalent form of bullying by management.
- That the current legislative framework of anti-harassment laws addresses in part the needs of employees on issues such as race, religion, gender, etc, but that there is no effective legislative framework for addressing the problem of bullying outside these legislative settings.
- That the regulatory agencies of Workcover/Worksafe are not currently equipped to adequately address the problems of workplace bullying for a variety of reasons:

- Their websites and legislative powers outline procedures for handling bullying in the workplace that rely on implementation by employers, in many instances the very sources of the bullying in question.
 - There is not even a recognition on the websites of these agencies of the problem of bullying by management.
 - The recent national OHS legislative changes have placed a greater emphasis on seeking OHS compliance by employers through consultation rather than prosecution and penalties. Under this model employee rights to be free from manager bullying are seen as aspirational rather than inherent and inviolate (“We’ll try to get your employer not to abuse you.”)
 - The result is that Workcover/Worksafe agencies, in effect, provide early warning to employers that their bullying is becoming apparent, thus enabling those employers to ‘fine tune’ their bullying methods or rid themselves of aggrieved employees before ever being called to effective account. It is a disgraceful set of practices that robs employees of their dignity, their health, and often their jobs.
 - Workcover/Worksafe are also constrained by the fact that such employer bullying usually occurs in an industrial relations context (eg publicly criticizing workplace performance or demeaning employees but refusing meaningful consultation about alleged workplace performance failures).
- There is no national industrial relations legal framework or effective regulatory mechanisms to provide necessary workplace remedies for employees on the receiving end of management bullying.
 - There needs to be a detailed national database of bullying recording in the workplace.
 - A fundamental principle of law is that “a right without a remedy is no right at all.” The absence of effective legal remedies for ordinary employees to call abusing employers to account is evidence of a real lack of legal rights for employees in this area.

I would like to see some national responses to these issues:

- Adequate statistical analysis by the ABS of the forms of bullying in Australia, in particular recording instances of alleged bullying by management.
- A review of the OHS legislative framework governing agencies Workcover/Worksafe currently charged with addressing workplace bullying to ensure that they specifically address the issues of bullying by management, and that this review address the types of concerns I have outlined above, especially via acknowledgement of the problem on their websites and by the implementation of suitable regulatory remedies.
- I would like to see the right to a workplace free from bullying installed as part of the National Employment Standards.

- I would also like to see a strict regulatory protocol installed in all Australian workplaces. If an employee believes they are the subject of bullying by management then they can complete a simple form to be kept as a wages record accessible to any suitably empowered government agency in effect placing the employer on notice regarding particular abusive practices (eg failure to adequately consult on work performance, demeaning or offensive behaviour, targeted workloads etc). Together with a set of employer guidelines it should provide at least the bare minimum framework for recording such instances of abuse. Either party would have the right to forward the matter to a regulatory agency (such as the Fair Work Ombudsman, or similar) for determination. I believe such a notification system would serve to forestall the worst abuses of employers against employees who currently have no way of publicly signalling in a timely or legally effective manner that they are in an abusive workplace environment.