

| August 2012

I welcome this opportunity to lodge a submission to the National Inquiry into Workplace Bullying.

Brief history

I have been employed in my current role since January 2006 as a Counsellor and Community Support Worker.

In September 2011 I went to my doctor feeling very unwell as a result of workplace bullying. I was experiencing panic attacks, insomnia, troubles both getting off to sleep and mid night waking, feelings of helplessness, deep sadness, powerlessness and loss of hope. I was experiencing loss of a sense of control, leading to symptoms of depression including suicidal ideation as well as palpitations, anxiety, fear, tearfulness, hyper-vigilance, exhaustion, irritability, tiredness and significant difficulty with concentration and remembering. I have lost confidence in my abilities.

In over 40 years of workplace participation I have never had to take extensive leave as a result of stresses in the workplace despite working in some demanding and high profile roles. I am normally a happy, calm, confident, fun-loving person, but being the target of workplace bullying has changed that, now I'm not the same person.

Having been targeted by workplace bullying I've lost my resilience, I just don't seem to bounce back these days; I feel lost, vulnerable, anxious, sad, depressed, worried and angry. This experience has sucked the joy and the confidence out of my life; it's really affected who I am and how I do my being in the world. I feel intimidated, invalidated and humiliated by the way I have been treated by my employer.

In October 2011 I lodged a Workcover claim, the insurance company denied liability of my claim. My doctor pronounced me fit to return to work on 28 December 2011 and I expected to resume my role the first week in January 2012. Since that time my employer has delayed and frustrated my attempts to return to work.

In January 2012, 3 months after I had initially reported my concerns to my employer about inappropriate treatment from my supervisor, on the advice of their solicitors, my employer commissioned an independent investigation into the allegations made against my supervisor.

Ten allegations were substantiated by this investigation; including the allegation that I was victimized and bullied by my supervisor. My supervisor was offered counselling and further professional development and remains in her role as Regional Manager. Another team member also reported being bullied by this manager around that time.

My employer stopped paying me part way through their investigation in mid February 2012 and I continue to be on leave without pay since that time despite having repeatedly requested that I be returned to work. My employer has continued to delay and frustrate my attempts to access a well managed sustainable return to a safe workplace.

I have commented on six aspects of the situations which I have encounter during the past 11 months which demonstrate some of the difficulties I have had to manage. I trust this information will be of use to the Inquiry committee in better understanding the diverse range of issues that impact an individual who become unwell as a result of being a target of workplace bullying.

Adequacy of existing education and support services to prevent and respond to workplace bullying

Not a level playing field

- I believe that regardless of the legitimacy of many claims of bullying, most claimants are initially denied workers compensation due to a lack of support and information available to claimants on how to prepare for the insurance investigation and report. This is **the** most important step in the process for those who experience ill health as a result of workplace bullying.
- It is difficult to access good advice or support. Solicitors are not interested unless you present them with a water tight, clear cut case, that they know they are going to win.
- I believe that the vast majority of Australians may not have the skill set, [without a solicitor] to be successful in preparing for the WorkCover insurance investigation. There is a lack of understanding of what points and facts are most relevant and important or how to prioritise and articulate them to present the case in a powerful manner. I requested a list of criteria from the insurance company to prepare for the investigation and was advised that they did not have one.
- My claim of workplace bullying was denied, I believe largely because I did not know how to prepare for the insurance investigation; also there were some irregularities in the investigation process which are mentioned later in this submission.
- The subsequent independent investigation commissioned by my employer substantiated 10 allegations against my supervisor; including victimization and bullying

by her. I had good advice, assistance and information in preparing my case properly for this investigation.

- I suggest that an information hub be established which supports individuals by providing facts and information on rights and responsibilities of a WorkCover claimant on successfully preparing for a Workcover investigation and report.

Possible improvements to the national evidence base on workplace bullying.

A snap shot be taken of what the current situation is re initial denial of WorkCover claims

- Our community needs a clear picture of the percentage of all WorkCover claims [workplace bullying in particular] where liability is initially denied by the insurer; what percentage of denied claims lodge an appeal against this decision; and of those, how many subsequently go onto court and win or are made an offer to settled out of court.
- There seems to be a perception in the community that a high percentage of claims are initially denied by insurance companies as a matter of course, and this has nothing to do with the relative merit of the claim, however, it has a devastating impact on the injured party.

Recommendation a project be undertaken which provides a clear picture of the past twelve months of WorkCover claims showing the;

- The overall percentage of claims which are initially denied by WorkCover insurers
- The percentage of denied claims where an appeal is lodged
- The percentage the appealed claims that subsequently are made an offer to settled out of court or go onto court and win

Adequacy of existing education and support services to prevent and respond to workplace bullying

Gaps in the system

- I was unable to get support or assistance from many organisations because my WorkCover claim was denied, therefore, I did not meet most organisations eligibility criteria for assistance. This was despite the findings of the independent investigation undertaken by my employer which substantiated my claims of being victimized and bullied.
- Having your claim denied by the insurance company is presently a barrier to accessing support from most organisations that might otherwise advocate or support a person in

their efforts to get justice or properly manage their sustainable return to a safe workplace. Individuals are left at the mercy of the employer to do the right thing in terms of providing adequate support or a sustainable RTW following a complaint being made.

- There are lengthy delays in having an appeal against a decision heard in the court system. For people who become unwell as a result of being the target of workplace bullying, this can lead to the untenable situation where they are not properly supported in a sustainable RTW and are left without an income for lengthy periods.

Legal and policy gaps that should be addressed in the interests of enhancing protection against and providing an early response to workplace bullying,

Being gagged - confidentiality

- One issue which in my view enables the perpetuation of workplace bullying is that the topic of having been the target of bullying cannot be discussed; even when allegations are substantiated individuals are not allowed to talk about it without risking being in breach of workplace policy which could lead to dismissal.
- This confidentiality or gagging, leads to a cover up of workplace bullying. This social denial of what's actually happening serves to isolate and disempower the target of workplace bullying, while protecting the perpetrators of bullying and the employers that defend them.
- Where the most serious and undeniable cases of workplace bullying have occurred, the target of the bullying may receive a paid out from the employer or the insurance company, however they are made to sign a confidentiality agreement. Again this means that the workplace bullying is kept quiet; swept under the carpet. Therefore, even this national inquiry into workplace bullying will most likely not hear about the most serious, undeniable cases of workplace bullying.

Legal and policy gaps that should be addressed in the interests of enhancing protection against and providing an early response to workplace bullying,

Irregularities in the WorkCover investigation into my claims

There were a number of anomalies in the WorkCover investigation which prejudiced my case and I was unable to find any avenue to rectify these injustices.

- The two most important witnesses to my case were not interviewed. One co-worker witness was simply not contacted by the investigator to provide evidence; he just decided not to interview her even though I had advised him that she was a witness.

- A further witness, later told me that she had not provided a witness statement to the investigator as she feared reprisal if she gave a statement. This was because our mutual direct supervisor and the perpetrator of victimization and bullying behaviour, was the person nominated to contact potential witnesses and make the arrangements for staff to be interviewed by the investigator; therefore the supervisor knew which individual staff members out of a very small team gave evidence.
- Both [redacted] and Allianz's WorkCover private investigator's handling of this aspect of the investigation severely prejudiced my case.
- Allowing the alleged perpetrator of bullying and manager of all ACT southern region staff, to make the arrangements with potential witness for investigation interviewed created a clear conflict of interest.
- The two most important witnesses for my case were not interviewed in this investigation regarding my claims. However, I had no course to rectify this injustice.
- A further irregularity was that I was not advised of my right of appeal by my employer or the insurance company when liability for my claim was denied by the insurer. Despite this, yet again, I had no course to redress failure to advise my rights against the insurer or my employer in this matter.

Recommendation there be a watchdog who investigates irregularities that arise during WorkCover investigations and all WorkCover Claimants receive information of this service as part of lodging the WorkCover claim.

Adequacy of existing education and support services to prevent and respond to workplace bullying

Lack of quality rehabilitation and opportunity to participate in a fair and equitable return to a safe workplace program –the bullying continues from a higher organisational systemic level

- My employer has delayed my return to work [RTW] from 28 December 2011 until August 2012 despite the fact that I continued to request and pursue a sustainable return to a safe workplace.
- Following the presentation of the findings of the independent investigations on 23 March 2012, I again advised my employer that I wanted to be RTW. On 28 March my employer put forward a proposed plan for my RTW. It was vastly inadequate and did not include the most basic requirements of a well managed sustainable RTW process. It was not a graduated RTW, not medically supervised, it had no review process and the person allocated to oversee the process was not qualified as a RTW case manager. I insisted that I be allocated a qualified RTW case manager and a properly managed RTW process.

- On the 17 April 2012 my employer advised that they would appoint a qualified RTW case manager however they continued to delay this appointment until 28 May. suspended the services of the qualified RTW case manager in late July 2012 following their initial needs assessment report. They replace this provider with a proposal for 2 x mediation sessions and an immediate RTW which again was not graduated, I would continue to be working directly to the supervisor who had bullied and victimized me, it was not medically supervised, it had no review process and the person allocated to oversee the process was not qualified as a RTW case manager.
- You might say the organisation felt they had me over a barrel, they only ever offered me RTW processes which were fundamentally flawed, bound to fail, and there was very little I could do about it.
- Despite the findings in my favor of their own independent investigation I had neither a right to rehabilitation nor a RTW process which was managed by a qualified RTW case manager and they can place me back working directly for the supervisor who was the perpetrator of the bullying and victimization.
- From mid February until mid August I have been on leave without pay.
- I feel concerned that my employer has been able to continue to delay and frustrate my attempts to participate in a well managed, fair and equitable return to a safe workplace program. These delays have created a great deal of stress, particularly financial stress, which has a flow on effect into every part of my life.