



INQUIRY INTO WORKPLACE BULLYING

SUBMISSION from CANBERRA PSYCHOLOGIST

This statement represents my own opinions based on personal experiences engaging with targets of bullying in my roles over time as rehabilitation consultant, EAP counsellor and treating psychologist, as well as my own personal experiences of being bullied in the workplace.

In response to the Terms of Reference

- *the prevalence of workplace bullying in Australia and the experience of victims of workplace bullying;*

In my experience working previously in the role of rehabilitation consultant (aka approved rehabilitation provider) as well as an EAP counselling psychologist, I repeatedly came across clients who were suffering due to being targets of workplace bullying and harassment. There were clients from the private sector and many more from the public sector. I am now working as a treating psychologist and continue to see clients suffering from the same issues.

I believe the prevalence of workplace bullying is very high. The majority of injured workers I have had dealings with were, or became, targets of bullying. Many had psychological injuries as the result of workplace bullying. Some who had physical injuries became targets of bullying during the return to work process and subsequently incurred secondary injuries of a psychological nature including depression, anxiety and adjustment disorder.

The tragic consequence of workplace bullying is that the target's life is impacted in every way. From the start, the target becomes anxious as the bullying takes place. They question "can this really be happening to me?". Much of the bullying can seem so subtle, almost trivial at times, however the consistent digs at the target over extended periods of time, and because the target gradually feels more and more isolated from the team, the target becomes worn down and desolate. The stress builds, the target becomes fatigued and fearful, and cognitive ability declines. The target has difficulty focusing and working to normal capacity. The target now becomes a focus for performance management. The target feels entirely abandoned and betrayed by their employer. The sense of injustice is overwhelming.

Not only does the target feel distanced from their colleagues in the workplace, the situation also creates friction with friends and family. Their mood has changed during the course of the bullying as they become more unsure of themselves and their situation. They are less able to enjoy things and all conversation revolves around their workplace issue. Relationships become strained and the target becomes less tolerant of relatively minor frustrations. They often become unwell with headaches, fatigue, viruses and gastro-intestinal problems. They need to take sick leave and can often exhaust their leave entitlements. They become financially disadvantaged, putting extra strain on their home lives and relationships, and suffer increased anxiety with an unstable financial future ahead.

Feeling so unwell and unsure of themselves, having lost self-confidence and trust in workplace processes, and suffering cognitive decline, it is very hard for them to complete forms or other administrative tasks. For instance, completing incident reports or Comcare claim forms can seem insurmountable. It stirs up all the feelings of being bullied and the sense of injustice, and the target has to directly confront their situation, reliving their experience. They also doubt the processes will be engaged appropriately and they may find themselves ostracised further. In this state, they are also less able to apply for other jobs or complete applications or promote themselves for other positions. It is also almost impossible for them to gain a favourable referee report to support a transfer or job application. They feel totally helpless. Some become emotionally-paralysed and some persist in their

fight for acknowledgment, support and justice, but their health rapidly deteriorates to dangerously low levels. Now they must choose between justice or survival.

Some quotes from my clients: "I'm living in a fog", "I feel like I'm being hammered – one blow after another", "This isn't living, this is hell".

The consequences of such workplace bullying and the inadequate processes and procedures meant to address it include loss of income and assets, broken marriages and families, the end of careers/working capacity, serious illness, self-harm and suicide.

- *the role of workplace cultures in preventing and responding to bullying and the capacity for workplace-based policies and procedures to influence the incidence and seriousness of workplace bullying;*

The typical bullying target tends to be a person who is conscientious and wanting to help improve the workplace tasks, systems and environment. They are passionate about using their skills to the best of their ability and making a valuable contribution at work. They abide by workplace procedures and guidelines and encourage their colleagues to behave in the same way. So when they try to engage the appropriate support processes when they feel they have been subject to unfair treatment, and when those processes fail to address their concerns, and in fact make the situation worse, the target feels even more bewildered and betrayed. Despite all the effort they have invested into the workplace over time (often years or decades), they feel devalued and discarded. They feel they have been labeled as a trouble-maker and they don't know who to trust any more.

However, their core values are ones of integrity and justice and for a while they may still hold out hope that procedures and legislation will serve their purpose – to protect employees from harm. However, the bullies are often in positions with responsibility to engage those procedures in line with legislation and therefore are in positions to choose not to, or worse, to deliberately mismanage the case. The target becomes completely vulnerable and unprotected.

Colleagues in the workplace are often too scared to speak up to support the target or to act as witnesses of the bullying. They have seen what happens to the targets and fear for themselves and their families.

There are some organisations who seem to do well in preventing a bullying culture from evolving. The committee for this inquiry could learn much from such organisations where there is little evidence of bullying. The one stand-out organisation, in my experience, was IP Australia. Here, the staff, especially in the HR/case management area, seemed genuinely empathetic to their employees, they took injury cases very seriously, they adhered to medical recommendations, and did their utmost to return employees back to work in the most safest and supportive way possible, with successful results.

See other areas of this statement for more comment on current policy and procedure issues such as issues around non-enforcement of policies/procedures, and the affect of bullying cultures such as the modelling of bullying behaviours by managers to their subordinates.

- *the adequacy of existing education and support services to prevent and respond to workplace bullying and whether there are further opportunities to raise awareness of workplace bullying such as community forums;*

What has been most lacking for those who have been targets of bullying and harrassment is genuine empathy, acknowledgement and support. What has been helpful is when these people feel acknowledged

and become aware that they are not in isolation and realise that they are not the problem – it is the bully or bullies that are the problem.

There is very little support for targets of bullying. It is often difficult for them to admit to their predicament and therefore they have little exposure or awareness of any supports that might be available to them. EAP Counselling is usually not enough as they often remain in the bullying environment and remain targets of the same behaviour.

In my experience, the targets that have recovered most quickly and have experienced the least impact on their lives, are those that have chosen to resign and quickly move on. This is of course what the bully would want, however, in the current climate, it is the most safest route for the target. Unfortunately, the bully is not held to account and continues to bully and injure other employees.

Bullies who are sent on leadership or emotional intelligence courses are likely not genuinely engaged in the educational process. They often don't believe they have a problem that needs to be fixed. They seem to be emotionally detached from the destruction they cause to the target. They do not want to change.

- *whether the scope to improve coordination between governments, regulators, health service providers and other stakeholders to address and prevent workplace bullying;*

There is scope for improvement in co-ordination between the above stakeholders by putting the focus on key areas:

- Legislation to focus on the protection and health of the individual and to avoid punitive processes which exacerbate the suffering of the target;
 - Bullying to be genuinely and objectively investigated and accused bullies to be genuinely educated and monitored (especially where there are multiple cases occurring in the same area) and removed from their positions if appropriate;
 - Employers to be held accountable to follow correct procedures (I have witnessed repetitive and blatant disregard of the procedures and legislation as they are never held to account – of high concern is the disregarding of medical recommendations. Eg. Critical decisions being made by staff such as case managers or supervisors who have no health training.)
 - Communication between stakeholders needs to be respectful of each others' areas of expertise and in particular the employer needs to be transparent about the motives behind their decisions and actions.
- *whether there are regulatory, administrative or cross-jurisdictional and international legal and policy gaps that should be addressed in the interests of enhancing protection against and providing an early response to workplace bullying, including through appropriate complaint mechanisms;*

The biggest gap is that the bullies are rarely held accountable for their actions. They have no motivation to change their behaviours and therefore they do not. In fact, they go on to bully others and model this behaviour to their subordinates, and so the cycle of harm continues.

Because of their position in the organisation, bullies are often the people to whom complaints are made, so issues are not addressed and no action is taken. See other areas of this statement relating to inadequate processes and legislation problems.

Procedures, policies and legislations are confusing and restrictive, and in most cases are not enforced by anyone. It is also difficult to find anyone who fully understands the legislation and is able to explain it when

requested. I have clients who have approached Comcare requesting information about the new Work Health Safety Act 2011. However, no one seems to be able to articulate how to use the legislation. One client reports "if it is so difficult to implement, it is a waste of legislation. There is no point in introducing yet another process that reaps little value for the victim. The cases that would appear to have had success with the legislation are those where there is physical injury not psychological injury. Furthermore the processes in enacting the various legislative measures including Fair Work Australia, Review of Action under the PS Act 1999, Human Rights, Equal Opportunity legislation to name only a few are protracted, difficult to navigate and often viewed as suggestions/recommendations by Departments rather than legally enforceable."

Organisations create their own procedures (such as for rehabilitation) and therefore can avoid taking appropriate action to support the employee. For example, the Comcare legislation may determine the employer should redeploy the employee, but the organisation's procedures do not have a time limit or any other such conditions to adhere to. Often the employee is kept out of the workplace while the employer is supposed to source other employment options. The employee runs out of sick leave or has their compensation salary level reduced after a period of time with no guarantee of ever being redeployed. I know of one case where the employee has been out of a workplace for several years. They are now so incapacitated, they will likely never work again.

- *whether the existing regulatory frameworks provide a sufficient deterrent against workplace bullying;*

Not at all. Bullies and employers are rarely held to account and therefore there is no deterrent against workplace bullying. Most often the target becomes too unwell to remain in the workplace, whereas the bully retains their position and continues their employment unscathed.

If the target wishes to see action being taken against the bully and to have their experience acknowledged, they would need to take their case to Federal Court. Organisations are financially able to carry the cost of this process, however, an individual who is likely on sick leave and already financially disadvantaged, can not.

- *the most appropriate ways of ensuring bullying culture or behaviours are not transferred from one workplace to another; and*

The concern is that the bully models their behaviour to others, maintaining this culture in the workplace. Subordinates often copy the bullying behaviour to protect themselves from becoming a target. Whilst health providers try to support the target through recovery (which often takes many years), the bullying culture continues and more targets are injured and indefinitely impacted by the experience. If the bully moves to another workplace, it is most likely their behaviour will continue there too.

Change needs to occur from the top down at the workplace. Bullies who have been in powerful positions for many years need to be held to account and must commit to change their behaviour. If they cannot or will not change their behaviour, they need to be removed from those positions of power. It will take a brave person or committee to confront these people, but it is the only way bullying behaviour and subsequent injuries to targets can be reduced.

It takes a strong, emotionally intelligent leader to model a non-bullying culture in the workplace and to hold other staff members to account when bullying behaviour is recognised.

- *possible improvements to the national evidence base on workplace bullying.*

A national survey is needed to collect realistic statistics on the prevalence of workplace bullying including the locations where they occur. It needs to be safe for the targets to report on their experiences without making them scapegoats or whistle-blowers or putting them at further risk of injury and negative consequences.

Collected statistics need to be reported to the public in an open and transparent way and there needs to be a commitment that appropriate action will be taken to tackle problem areas, from the top.

Examples of inadequate legislation:

Excerpts of SRC Act from Comcare website

40 Duty to provide suitable employment

(1) Where an employee is undertaking, or has completed, a rehabilitation program, the relevant employer shall take all reasonable steps to provide the employee with suitable employment or to assist the employee to find such employment.

NOTE: This does not appear to be enforced by anyone. Employers quote their own procedures which have no conditions or timelines attached. They can say they are trying to redeploy the employee but in fact take no meaningful action to do so.

57 Power to require medical examination

the relevant authority may require the employee to undergo an examination by one legally qualified medical practitioner nominated by the relevant authority.

(6) An employee shall not be required to undergo an examination under this section at more frequent intervals than are specified by the Minister by legislative instrument.

NOTE: Comcare may arrange medical examinations at frequencies separated by certain periods of time, however, the employer also arranges their own medical examinations which they inform the employee they are obliged to attend. Often the employee must attend two medical examinations in a very short period of time eg. within days of each other. The employer purports that these medical examinations are to inform the best course of rehabilitation action to support the employee in their return to work. However, they have blatantly ignored the medical recommendations in the report and subsequently arrange another medical examination with a different examiner. With one of my clients, this has occurred several times until the employer is satisfied with the diagnosis and recommendations, which tend to be in contrast to all preceding medical evidence, including that of the employee's long-standing GP.

I am also aware of cases where misleading and selective information is sent by the employer to the medical examiner prior to the assessment. This type of action can unfairly bias the outcomes of the assessment.

In the earlier days in my role as rehabilitation consultant, I would assure my clients that the independent medical assessment provided an opportunity for them to be heard by an objective professional. I believed that the process would be carried out with integrity and ethically, with the goal to best assist the client back to work or otherwise, in line with best health outcomes. I since

feel that I was naive and am sad that some of my clients have been adversely affected and reinjured by the process.

I am happy to elaborate further on any aspect of this statement if needed.

CANBERRA PSYCHOLOGIST

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