

10 September 2012

Secretary  
Standing Committee on Education and Employment  
Standing Committee on Regional Australia  
Department of the House of Representatives  
Parliament House  
Canberra ACT 2600

Dear Mr

Further to your email of 7/09/2012, I seek leave to make a submission to the inquiry into workplace bullying to present the case of my daughter, \_\_\_\_\_, who suffered an "adjustment disorder with anxious and depressed mood" as a consequence of the alleged unacceptable behaviour of her supervisor. That diagnosis was accepted by a Comcare Delegate who determined that, upon the balance of probabilities, she had suffered an injury in accordance with section 5(B) of the Act, as a consequence of that alleged behaviour, and accepted her claim for compensation pursuant to section 14 of the Act. However other evidence was excluded on the basis that it was inconclusive. Subsequent legal advice indicates that had the Delegate tested that conflicting evidence on the balance of probabilities as required under the SRC Act, she could not have found it to be inconclusive. My daughter did not dispute this finding at this time because of her emotional and financial situation and her awareness that her complaint was going to be the subject of a \_\_\_\_\_ investigation.

It should also be noted that my daughter is by any measure a dedicated APS4 officer with over 11 years service, possessed of outstanding people skills and an ability to be employed in a wide variety of roles and functions within \_\_\_\_\_. These range from Call Centre duties to the training and mentoring of others, testing system software and being appointed as an accredited Quality On Line (QOL) officer. During the whole of this time she has continued to demonstrate her ability to achieve an above average output of work whilst consistently attaining a level of 100% accuracy.

It was because of this ability she was seconded to other emergency tasks at very short notice. In this capacity she participated in the various teams tasked with assisting \_\_\_\_\_ seeking relief from the calamities of the Victorian Bushfires, the equine Hendra Virus and the Queensland floods. In recognition of her work and dedication she has been the recipient of numerous commendations from clients, \_\_\_\_\_ Management and most recently the Minister, the Hon C Bowen, MP.

It is against that background that I want to present her case, on her behalf, and in so doing will refer to her as Ms \_\_\_\_\_.

1. Ms \_\_\_\_\_ worked for a considerable period of time in \_\_\_\_\_ and was highly regarded by her Team Leader<sup>1</sup> and colleagues however this came to an end when a Ms \_\_\_\_\_ was transferred from another section to \_\_\_\_\_. Ms \_\_\_\_\_ was a long serving \_\_\_\_\_ with a known history of behavioural problems that, on the face of it, appears not to have been addressed.
2. Ms \_\_\_\_\_ at first tried to befriend and assist her to settle in but following a family problem her behavioural problems returned. She became obsessive of Ms \_\_\_\_\_, which manifested itself in numerous calls to her home demanding they talk etc and in the workplace her behaviour became very erratic. Those matters are set out in Ms \_\_\_\_\_ affidavit to Comcare and to whom that behaviour was reported but, on the face of it, the matter was not actioned in accordance with the APS procedures or the intent of the OHS Act.
3. Because of the concerns she held for her personal safety at that time, Ms \_\_\_\_\_ arranged with her Team Leader to alter her workstation and start times so that they were never alone in the workplace. She also determined to take recreation leave and apply for an advertised job vacancy in \_\_\_\_\_ which was to prove a case of 'out of the frying pan into the fire'.
4. Prior to her return from annual leave she was contacted by the Manager \_\_\_\_\_, Ms \_\_\_\_\_ who allegedly directed her to terminate her approved recreational leave and return to work forthwith, or forfeit the position in \_\_\_\_\_. Whilst Ms \_\_\_\_\_ denies this allegation, Ms \_\_\_\_\_ found it necessary to seek advice from the union (CPSU) which confirmed that Ms \_\_\_\_\_

<sup>1</sup> See Attachment 1 - \_\_\_\_\_ reference

- directive constituted a breach of the CPSU award. The union further advised Ms [redacted] that in any future dealings with the Manager [redacted] she would be well advised to always have a witness present.
5. Ms [redacted] imprudently chose to confide that advice to her new Team Leader (Mr [redacted]), with whom she had previously worked and had formed the opinion that they shared a good working relationship. He promptly reported that advice to Ms [redacted] and the stage was set for what was then to follow.
  6. Ms [redacted] also found the new team members, unlike those in [redacted], to be insular and unfriendly and formed the opinion that the QDO, Ms [redacted], seemed to harbour feelings of animosity towards her. This initially manifested itself in snide remarks to Ms [redacted] that the Team Leader, [redacted], was allegedly concerned at the level of talking in the workplace
  7. When in the presence of Ms [redacted], she confronted the Team Leader on this matter he denied making any such statements but failed to attempt to address Ms [redacted] complaint.
  8. Ms [redacted] also began to experience other forms of harassment at the hands of other members of the Team. That behaviour consisted of taunting Ms [redacted] about her unsightly facial condition which was later diagnosed as stress related. At the time her face was covered with lesions that were unsightly and disfiguring which Ms [redacted] found acutely embarrassing. The nature of those taunts, which included the words 'Flakey' and "Foamy" are set out in her affidavit to Comcare<sup>2</sup>.
  9. Ms [redacted] also suffers from a 'Foam Phobia' and she found it necessary to ask another Team member to remove the set of foam antlers she was wearing. When she explained her problem to the Team member she again became the butt of the Team's misplaced sense of humour. Ms [redacted] was also involved in that behaviour but of course she denies it.
  10. The next problem that arose was the matter of the mandatory training required for the [redacted] position. Ms [redacted] work record shows that she always insisted on a rigid adherence to training and the related quality checking for proficiency. Ms [redacted] arbitrarily discontinued Ms [redacted]' training in the manner set out in her Comcare affidavit.
  11. Having terminated Ms [redacted] training and checking program, Ms [redacted] then used a known software error in the system to downgrade Ms [redacted] normal level of 100% accuracy to 66%. For Ms [redacted] this was the final insult because for the reasons given she highly prized her 100% work accuracy.
  12. Unable to obtain redress for this evident misuse of an executive power she began to exhibit signs of distress, self doubt and anxiety. From that time on she formed the opinion that Ms [redacted] was setting her up for failure and dismissal.
  13. On 6 January 2011 Ms [redacted] required Ms [redacted] to attend a coaching session that should not have exceeded 20 minutes duration. As set out in the Comcare affidavit that session exceeded 2 hours during which time it encompassed personal and behavioural matters that were not within Ms [redacted] jurisdiction as a QOL officer.
  14. Ms [redacted] further alleges that at the conclusion of the session [redacted] instructed her to falsify her time sheet by recording a lesser time for it and warned her not discuss any of the matters discussed, all of which Ms [redacted] denies. Notwithstanding that denial, the Investigator's record of interview contains a statement by Ms [redacted] in which she alleges it was Mr [redacted] who directed Ms [redacted] to falsify her time sheet.
  15. At the conclusion of the session Ms [redacted] returned to her workstation in a very distressed state and it is her recollection as set out in her affidavit, that that Mr [redacted] was not present at that time. She further disputes Ms [redacted] evidence that she made to alleged report to him in the manner stated.
  16. Whilst Mr [redacted] and Ms [redacted] have different recollections, Ms [redacted] affirms there were only three persons present in the workplace at that time, herself Ms [redacted] and one other person. Given that this touches on the veracity of the evidence tendered to Comcare, Ms [redacted] requested the retrieval of the log off times of all concerned on that day. [redacted] has not actioned that request.
  17. On 10 January 2011 Ms [redacted] returned to work and complained to Mr [redacted] about Ms [redacted] behaviour of 6 January 2011. Ms [redacted] later provided Ms [redacted] with her [redacted] assessments in which she had been downgraded from [redacted]

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<sup>2</sup> Affidavit submitted to Comcare with Annexures 1 to 15 inclusive & Comcare Addendum

100% to 66%. For the reasons set out in the affidavit Ms became distressed and angry and went to the toilets, in her words “to have a good cry”, unaware that Ms was following her.

18. As set out in her affidavit Ms alleges that adjacent to Conference Room 1 Ms grabbed her by the wrist and forced her to enter that room where she was bullied. Following that vitriolic confrontation Ms returned to the workplace where she experienced a panic attack, went home and later saw a doctor who gave her a sick leave certificate.
19. From then on her situation started to deteriorate alarmingly. She became prone to bouts of uncontrollable weeping and at times hysteria, lost 14 kilograms of body weight, experienced significant loss of hair and developed insomnia.
20. She also found it difficult to return to her workplace because despite representations on her behalf by her former Team Leader, Ms who was alarmed at her physical condition and changed behaviour patterns, the management of refused to transfer her to another area. They sent her to a psychiatrist who found that she was not delusional and that she had suffered an “*adjustment disorder with anxious and depressed mood*”<sup>3</sup>.
21. She also consulted a psychologist at her own expense who made a similar diagnosis, noted that she record of the events were credible and recommended she be moved to another workplace<sup>4</sup>. The management of ignored that recommendation.
22. Her situation was further exacerbated by the lack of support from the CPSU of which she is a member. The persons whom she approached displayed no interest in her problem and advised her to resign. This indifference extended from the Local Office in Adelaide to the National Office in Sydney. I was advised by an industrial officer at the National Office that the CPSU did not have the funds to represent its members in court but could provide a one hour consultation with ‘Slater Gordon’ in Adelaide.
23. She finally gave up, used all her leave entitlements and was left with no alternative than to lodge a compensation claim with Comcare. That application was successful and is attached<sup>5</sup>
24. Ms was subsequently provided with rehabilitation but the management of put every obstacle in her path by, contrary to all the medical recommendations, insisting she remain in the area. They finally agreed to her returning to , then the but on each occasion they failed to provide her with the training, tools and equipment essential to her rehabilitation.
25. With the exception of , which at that time was a separate entity, Ms experienced feelings of isolation and alienation. The manner in which she was neglected in those various situations is contained in her affidavit and supporting documents.
26. Finally, when complained to her case officer, Ms , about that treatment she was sent back to the psychiatrist who found that as a result of her own efforts she was well on the road to recovery and in his opinion not in need of any further rehabilitation.
27. ignored that expert advice, engaged the services of APM and ordered her to participate in what proved to be a futile exercise and a waste of taxpayers’ money. Ms requirement was training, tools and functioning equipment and APM did not possess that expertise or any understanding of the environment in which she worked.
28. Her tenure with was terminated when it became part of Ms returned to at its location where she is currently working. She still experiences moments of anxiety when she comes in contact with those who caused her condition and continues to look for other government employment.
29. Subsequently investigated her complaint that she was bullied in the workplace but it proved a waste of time. The investigator failed to take into account that Ms had been found to have suffered a work related injury as a consequence of Ms behaviour on 10 January 2011. She also failed to take into account the conflicting nature of Ms evidence, neither did she consider that evidence on the balance of probabilities<sup>6</sup>.

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<sup>3</sup> Psychiatric Assessment

<sup>4</sup> Psychological Assessment

<sup>5</sup> Comcare Acceptance of Compensation claim

<sup>6</sup> See Attachments 3; 4; 5 & 6

30. When she was provided legal advice on what constitutes evidence<sup>7</sup> she ignored it. She recorded that the evidence that Ms [redacted] was bullied was inconclusive. That decision has now been referred to the [redacted] for review.

I commend Ms [redacted] case for consideration because it epitomises everything that is wrong with the system. It is arguable that the system failed her because there is nothing contained in the APS procedures dealing with criminal offences or conflicts of interest when complaints of bullying are made.

In her case it was complicated by the fact that in [redacted] some of those to whom she was required to make the complaint of bullying, were the people whose behaviour was the cause of the complaint.

**Note:**

Attention is drawn to errors of fact contained in the affidavit and in particular the content of paragraphs 82, 83, 84, 85 and 86. Those conclusions and comments are incorrect and a consequence of failing to note that the matters referred to in Annexure 7, Statement taken from [redacted] etc, did not pertain to his statement which is set out in italics. This was a consequence of haste in trying to meet the [redacted] deadline to respond to the [redacted] response to Ms [redacted] complaint. The error is regrettable and was later clarified with [redacted]

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<sup>7</sup> [redacted] to [redacted] re legal opinion