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LAUNCESTON COMMUNITY LEGAL CENTRE

18 April 2013

House Standing Committee on Education and Employment
Via email: ee.reps@aph.gov.au

Dear Sir/ Madam

Re: Fair Work Amendment Bill 2013

We are writing to express our support for the implementation of the proposed Anti-bullying provisions contained in the Fair Work Amendment Bill 2013.

The Launceston Community Legal Centre Inc. ('the Centre') is a not-for-profit incorporated association that provides free, non-means tested, legal advice and assistance to members of the Northern Tasmanian community. The Centre consists of a small team of dedicated solicitors, advocates and administrative staff.

Through funding, both Federal and State, the Centre provides a number of services to some of the Northern Tasmania's most disadvantaged and vulnerable individuals. These services include;

- Family Law advice
- Welfare rights advice and representation
- Employment Law advice and representation
- General Law advice
- Disability discrimination legal advice and representation
- Legal literacy assistance

One of the principal things that distinguish CLCs from other legal services is our involvement in law reform, community liaison and legal education. Our interaction with the community means that we are uniquely positioned to comment on government policies and law reform issues affecting marginalised Tasmanians.

The proposed Anti-Bullying Measures

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Through our experience in providing information and advice relating to instances of workplace bullying, it is clear that the current legal avenues for employees who are victims of bullying in the workplace are inadequate. As a result of the lack of legislation (either State or Federal) specifically related to workplace bullying, there are no clear legal avenues for employees to take. The implementation of the proposed anti bullying provisions will provide a clear pathway and remedy for victims of workplace bullying.

In our experience, workplace bullying can be very sensitive in nature and have a severe effect on both a persons health and well being as well as being extremely detrimental to an employer in terms of reduced productivity, low morale, increased staff turnover, etc. Given the nature of bullying disputes and the impact it has, it is important to ensure that the process is timely, facilitative and focuses on maintaining the relationship between the employer and the employee. The provisions would be largely ineffective if they do not attempt to improve or at the very least preserve the employment relationship.

THE TIME FRAME

We support the implementation of section 789FE require the Fair Work Commission to begin dealing with an application within 14 days.

THE PROCESS

Under the proposed provisions, the Fair Work Commission would have discretion as to whether they refer the matter to a conference (section 592 of the Act) or a hearing (section 593 of the Act). We recommend that given the importance of ensuring the employee/employer relationship it would be suitable for the matter to be referred to a conference in most instances.

We support the construction of section 789FF of the proposed Bill. We believe that providing the Fair Work Commission with broad scope powers to make orders against both an individual and employer will ensure that a suitable remedy will be identified in the majority of cases. As these orders would be made with the aim of preventing bullying in the future, we believe it is key for the Commission when considering these disputes to consider the employer's practices with a focus on prevention, compliance and monitoring of practices, policies, education and training.

If the proposed anti-bullying measures are implemented, it will be a key step to ensuring the prevention of workplace bullying. We believe the proposed framework adequately provides for a process that will focus on prevention rather than punishment and maintain the employment relationship.

Thankyou for your consideration and the opportunity to present a submission on this issue.

Yours Sincerely,

Ryan West

Solicitor

Launceston Community Legal Centre Inc.