Submission to the House of Representatives
Standing Committee on Education and Employment
Inquiry into Bullying in the Workplace
July 2012

Provided by the
Youth Affairs Council of South Australia Inc.

Endorsed by the YACSA Policy Council

The Youth Affairs Council of SA (YACSA)
was established by the youth sector in 1980
and is the peak body representing the views and interests
of young people and the youth sector in South Australia.

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Introduction

The Youth Affairs Council of South Australia (YACSA) is the peak body in South Australia representing the interests of young people, youth workers, organisations and networks throughout the non-government youth sector. Policy positions are independent and not aligned with any political party or movement. YACSA's aim is to encourage young people, and those working with them and for them, to achieve meaningful improvements in the quality of young people's lives.

YACSA welcomes the opportunity to provide a submission to the Standing Committee on Education and Employment's Inquiry into Workplace Bullying. In doing so, we draw upon a range of previous submissions, publications and comments we have prepared regarding young people's participation in the workforce. We further acknowledge that young people's ability to secure suitable employment remains one of the most pressing issues currently facing young people and the youth sector.

Executive Summary

- YACSA asserts that while young people's participation in society is vital in ensuring the development of relevant, forward-thinking and representative policy, programs and services, it is more often the case that young people are excluded from decisions that affect them.

- The fact that young people are often marginalised as stakeholders in civil, political, economic, social and cultural life, simply because of their age, gives rise to the assumption that young people are less reliable, less competent, less skilled and less confident in a workplace environment.

- The majority of young people facing these assumptions are in the very early stages of working, and are therefore more likely to lack experience, be unfamiliar with workplace procedures and their rights at work, as well as being less likely to belong to a union.

- YACSA argues that the way young people are treated as employees reflects the way they are treated in a broader societal context. If society routinely ignores and even denounces young people's issues and interests, workplace cultures and environments that foster, condone or instigate bullying against young people can develop all too easily.

- YACSA holds that the first step to counteracting workplace bullying is to conduct a comprehensive program of national consultation, specifically aimed at gathering young people's thoughts and ideas about how they would prevent or ameliorate workplace bullying.

- Following this, YACSA advocates for a compliance-based anti-bullying framework, whereby all Australian organisations or companies are legally required to have a set of policies and procedures in place to deal with workplace bullying, with the government ensuring that significant penalties, financial or otherwise, apply should these policies and procedures be contravened by their employees.

- Such a legally enforceable framework should be complemented and enhanced by a wide-ranging and in-depth program of community education, covering the impacts of workplace bullying, the ways in which it can be identified, and how and where it should be reported.

Young People in Context

YACSA asserts the fundamental right of all young people to participate in and contribute to all aspects of community life, particularly decision-making processes which impact them directly. Young people's involvement in society is vital in ensuring the development of relevant, forward-thinking and representative policy, programs and services. YACSA holds that young people are the experts in their own lives, and it is young people to whom decision-makers should turn when considering solutions to the problems young people face.

Sadly, it is more often the case that young people are excluded from decisions that affect them. For example, while young people are expected to assume many responsibilities in our society – including the responsibility of securing and maintaining employment – the same society can devalue their contribution and marginalise their role as stakeholders in civil, political, economic, social and cultural life, simply because of their age.

Young people are often seen as "adults in the making," which suggests they are somehow less capable, less insightful, less intelligent and less valuable than adults. This gives rise to the notion that young people are unable to make proper decisions or contribute in a meaningful way until they are older.

Young People's Work in Context

YACSA places a strong emphasis on the rights of young people to have fair access to the labour market and to high quality, rewarding and secure jobs which recognise the principle of equal pay for work of equal value. YACSA also holds that young people have the right to work in an environment that is safe and free from discrimination.

However, the sorts of entrenched social norms outlined above mean many people unthinkingly accept and reinforce the idea that young people are not mature enough or sufficiently neurologically developed to accept the same level of workplace responsibility as an adult. Young people are assumed to be unreliable, incompetent and lacking in the skills and confidence to deal with other people in a range of situations – opinions based on stereotypes and assumptions about young people's abilities[1].

The majority of young people facing these assumptions are in the very early stages of working, and are therefore more likely to lack experience, be unfamiliar with workplace procedures and their rights at work, as well as being less likely to belong to a union[2]. These

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[1]HREOC, 2000, *Age Matters: a report on age discrimination*, Human Rights and Equal Opportunity Commission, Sydney, p.19. Accessed online 24 July 2012 at:
http://www.hreoc.gov.au/pdf/human_rights/age_report_2000.pdf
[2] HREOC, 2012, *Violence, harassment and bullying – Children and young people*, Human Rights and Equal Opportunity Commission, Sydney. Accessed online 24 July 2012 at:
http://www.hreoc.gov.au/bullying/children/section6.html#fnB85

issues can be compounded for young people who are facing other challenges of a more personal nature, such as disability or mental health issues. As a result, many of the employment policies and conditions present in society – such as the payment of youth or training wages, and the ongoing rise in casual work – can often seem specifically designed to further disempower young people.

Youth wages

Of continuing concern to the youth sector is the maintenance of youth or junior wages, which leave young workers more vulnerable to exploitation by employers and which generally have not been found to lead to secure, full-time employment. Employers increasingly expect that young people be multi-skilled and "job ready" upon leaving school, yet they are still remunerated according to age, rather than skill level.

This is especially concerning given young workers continue to pay the same amount for everyday goods and services as workers receiving full award rates. This inequitable system puts young people at a significant financial disadvantage, often hindering their path to financial independence, which in turn increases a young person's chance of experiencing longer-term disadvantage. This is particularly the case for those young people who are experiencing social disadvantage in one or more of its many forms.

Casualisation

According to figures from the Australian Bureau of Statistics (ABS), casual workers – that is, employees who are not entitled to paid sick or holiday leave – are most likely to be young people, with 40% of all casual workers in Australia aged between 15-24 years[3]. The ABS also recognises that casual workers are likely to have less flexible working arrangements than other employees, have less certainty in terms of the amount of pay they receive from one pay period to the next, and have less consistency in the hours they work[4].

It is important to note that YACSA does not consider casual work to be a bad thing in and of itself – in some instances casual work allows young people to integrate employment with other areas of their lives, such as study or caring commitments. Rather, it is the inherent uncertainty of casual work that can present problems for young people in managing their income and planning for the future.

Casual work is often linked with reduced quality training and development opportunities, and diminished access to unfair dismissal and equal opportunity protections. Lack of access to paid leave when necessary can also have strong impacts on young people's physical and emotional wellbeing. The insecure nature of casual work may also mean young people feel

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[3] ABS, 2009, *Australian Social Trends, June 2009*, category number 4102.0, Australian Bureau of Statistics, Canberra. Accessed online July 17 2012 at:
http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/4102.0Main+Features40June+2009
[4] *Ibid*

intimidated in the workplace, and therefore unable or reluctant to report incidences of bullying.

Underpayment

As a result of workplace policies such as those above, young people occupy a distinctly vulnerable position in the hierarchy of employment, leaving them open for exploitation of various kinds. Even the most cursory search of recent media articles reveals many examples of young people's rights being ignored, often to their great financial detriment:

- July 2012: A fast food franchisee underpaid a teenage worker almost $10,000 in a "blatant and devious case of exploitation." The employee was made to sign a written agreement stating: "I get pay amount $11 per hour and I do not complain anything about my wages." The employee was a teenager inexperienced in workplace matters and an insecure casual employee[5].

- June 2012: Up to 40 underpaid casual staff in an Adelaide cafe will share $50,000 back pay after a court found against their bosses…The employees, including many juniors, were paid below the minimum casual hourly rate[6].

- April 2011: Fast food outlets audited by the Fair Work Ombudsman were caught underpaying staff. Eleven fast food outlets in Croydon, Dernancourt, Edwardstown, Fulham, Gawler, Port Adelaide and West Beach were found to have underpaid a total of 53 staff almost $13,400. Fast food outlets were targeted for attention because of the large number of vulnerable workers they employed, including young people and migrant workers… the campaign identified employers who were failing to increase pay rates for junior employees on their birthday[7].

- January 2011: Toys'R'Us underpaid more than 1000 young and vulnerable employees – some of them only 14 – a total of almost $1 million. "An extraordinary number of young and vulnerable employees were underpaid a large amount of money[8]."

To summarise: Young people are often required to work with little or no job security. They are paid less than other workers, despite there being no evidence to suggest that they are less capable of performing the same roles in the workplace – especially in the retail and

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[5] Fewster. S, 2012, 'Teen worker exploited by franchise', *Advertiser*, 2 July. Viewed online 24 July 2012 at: http://www.adelaidenow.com.au/teen-worker-exploited-by-franchisee/story-e6frea6u-1226415081861
[6] Nine News, 2012, 'SA café fined for underpaying workers', *NineMSN*, 22 June. Viewed online 24 July 2012 at: http://news.ninemsn.com.au/national/8487952/sa-cafe-fined-for-underpaying-workers
[7] Jean, D, 2011, 'Food outlets pull a fast one on staff', *Advertiser*, 7 April. Viewed online 24 July 2012 at: http://www.adelaidenow.com.au/fast-food-staff-cheated/story-e6frea6u-1226035010671
[8] Hunt, N, 2011, 'Toys'R'Us workers underpaid by almost $1 million', *Sunday Telegraph*, 30 January. Viewed online 24 July 2012 at: http://www.news.com.au/business/million-regrets-at-sorry-r-us/story-e6frfm1i-1225996806358

hospitality sectors – and even on these lower wages they are often systematically and knowingly underpaid.

Is it any wonder that workplace bullying is a significant issue for young workers? They are uniquely suited to be the targets of workplace bullying, because their contribution as workers is already devalued. In short, YACSA argues that the way young people are treated as employees reflects the way they are treated in a broader societal context. If that society routinely ignores and even denounces young people's issues and interests, as ours does, workplace cultures and environments that foster, condone or instigate bullying against young people can develop all too easily.

Responding to Workplace Bullying

Taking the above points into account, YACSA suggests that workplace bullying is simply another manifestation of the inherent power imbalance in society – young people are powerless in other areas of their life, and workplace bullying can be an extension of that.

A clear example of this is young people being bullied or mistreated as part of an "initiation" into a particular workplace. Workplaces with a history of requiring new employees to undergo a "rite of passage" are especially prone to such behaviour, encapsulated in the phrase "I went through the same thing and it didn't do me any harm." In these instances, bullying can also serve to reinforce bonding among workers other than the victim, reinforcing the acceptance and propagation of existing social norms – albeit in an extreme manner.

Challenging such social norms, developing innovative ideas and identifying new solutions to problems are all things young people do particularly well. As such, YACSA holds that the first step in any coordinated response to workplace bullying should be a comprehensive program of national consultation, specifically aimed at young people, regarding workplace bullying.

This consultation could combine with the information gathered by the Standing Committee, or the Committee's findings could be provided directly to young people for their further comment and analysis. In any case, once again YACSA argues that as young people are the experts in their own lives, it is to these experts decision-makers should turn when considering solutions to the problems young people face.

In particular, YACSA strongly advocates for young people to be consulted about the ways in which they can be individually supported to identify and report any bullying or victimisation they are subject to. We recognise that in general, workplace bullying is easy to treat as a series of discrete incidents – each case requires victims to make a complaint or otherwise come forward, with that complaint addressed only within the context of a specific workplace, and with reference only to such behaviour that is reported by the victim.

As such, even additional legal sanctions, or legislation specifically criminalising workplace bullying, still places the onus on individual victims to provide whatever information necessary to secure a conviction. Therefore, it is crucial that young people have the chance to identify exactly how they can be supported to do so, with the government committing to adequately resourcing and funding the mechanisms that young people suggest.

Without in any way reducing the primary importance of young people's feedback on this topic, YACSA would suggest that the newly-created position of Commissioner for Children and Young People would be a logical starting point, perhaps by including a specific reference to workplace bullying in the Commissioner's statement of duties.

In addition to this focus on individual young people, YACSA argues that there must also be a requirement placed on those responsible for the workplace environments where bullying takes place – employers. YACSA would suggest the most effective method would be to develop a compliance-based framework, whereby the organisation or company as a whole is legally required to have a set of policies and procedures in place to deal with workplace bullying.

YACSA acknowledges that many workplaces already have such policies in place, and we recognise that in many instances they may be effective in preventing incidences of workplace bullying. The scope of the problem, however, means that there is a role for the government to play in mandating such policies, and ensuring that significant penalties, financial or otherwise, apply to the entire organisation or company (as opposed to the bully or bullies) should these policies and procedures be contravened by their employees. In particular, such a requirement could be integrated into the upcoming Australian Work Health and Safety Strategy 2012-2022, as well as any new federal legislation arising from the Strategy.

In this way, the onus for preventing and responding to bullying would be more reasonably placed on companies and organisations to show that they have a bully-free workplace, not on the victim to come forward. It would be vastly preferable to target companies and organisations in this way, as it is they who would, given the right financial motivation, be able to devote significant resources to developing effective and meaningful anti-bullying policies in their workplaces.

Such policies would differ in some respects between different organisations and companies, however YACSA would suggest they would retain some common elements. For example, the elements below were developed after a survey of aged care workers, but would apply equally well in a range of other contexts. The key elements identified as important to an organisation or company's anti-bullying policies include:

- A commitment to organisational-wide risk management strategies;
- Implementing a 'zero tolerance' workplace violence and bullying policy supported by senior management throughout the organisation;
- Articulating and explaining the policy through ongoing and regular training and induction in a supportive organisational climate;
- Ensuring that existing and new staff are aware of their obligations under the policy;
- Undertaking pro-active prevention strategies including identification of risks, employee consultation, utilising an incident recording system, reviewing previous incidents/reports, and creating a database of those incidents;
- Training of all staff in topics such as identifying sources of bullying behaviour, providing examples of unacceptable behaviours and impact of violence and bullying on employees, and identifying the appropriate ways for managers to deal with staff, as well as how staff should deal with colleagues and clients[9].

The key to this approach is to remember that workplace bullying is a societal problem. Targeting individual perpetrators piecemeal, and relying on vulnerable, potentially traumatised and stressed individuals to come forward, does not represent a comprehensive and coordinated response from government and the community.

Ensuring the prevention of workplace bullying is in the best interests of companies and organisations, through the added power of legislative requirement, coupled with wide-ranging and in-depth community education, is potentially a much more far-reaching and long-lasting solution to this persistent and damaging social issue.

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[9] Timo, N., Fulop, L. & Ruthjersen, A, 2004, 'Crisis? What Crisis? Management Practices and Internal Violence and Workplace Bullying in Aged Care in Australia' *Research and Practice in Human Resource Management*, vol.12, iss.2, pp.57-89. Viewed online 24 July 2012 at: http://rphrm.curtin.edu.au/2004/issue2/aged.html