Submission Number: 173
Date Received: 29/6/2012

Ms Amanda Rishworth MP
Chair Workplace Bullying Parliamentary Committee
Canberra

28 June 2012

Dear Ms Rishworth,

I thank you for this opportunity to express my experiences as a target/victim and hopefully a survivor of workplace bullying.

As I sit at my computer to write to you I feel tinge of panic in the pit of my stomach as I know with every word I write will be a stab through my heart. This is one of the most difficult tasks I have ever undertaken, but my story is important as are all stories of those who have suffered workplace abuse.

My former employer's workplace culture on the surface was one of respect, fairness and inclusion and had the polices and procedure's to deal with workplace bullying and harassment as required by law.

I relied on this, but in reality these measures were not followed or enforced. Prevention of further bullying at this point is critical and is simply achieved by implementing organisational policies procedures that already exist. Worksafe's position on this was, as my former employer had written polices on bullying that was all that was needed. It was not a breach of the Act if they failed to implement these policies.

When I could no longer endure the bullying and became too ill to go to work, I submitted a Workers Compensation Claim. My former employer's response was to 'shoot the messenger'. Three out of the four unit leaders under the supervision of the 'serial bully' had accepted Workers Compensation Claims. I did not label my former supervisor as a serial bully a Worksafe Inspector coined this phrase after an inspection of my former workplace. My understanding is that the supervisor was asked to leave after the inspection was finalised.

During the early weeks of my Workers Compensation Claim, training on bullying was provided at my workplace, but the environment did not improve it actually worsened as certain individuals simply learnt how to bully more effectively. My workplace became so toxic that I had no choice but to resign. As a side note, I was not allowed to attend this training which was a requirement for all employees. During this very difficult period I had no support other than from my GP. I believe a support network is required early to quickly develop strategies to validate the worker, determine the concerns and how best to get the worker back to work before health issues become entrenched.

Awareness raising of this abhorrent behaviour in any setting is helpful, so I would support community forums and educational programs that sincerely address this issue.

To prevent and address workplace bullying an inclusive response is required. All stakeholders, especially those who from personal experience have the true knowledge must have their views and opinions equally considered. My opinion is that regulators who will be the defendant in any legal actions have a conflict of interest and government must address this through legislation and set up a truly independent regulator. The current situation which allows the regulator to regulate itself is no longer acceptable to community expectations, expectations that demand honesty and transparency.
Worksafe use panel solicitor firms to carry out litigation on their behalf and I believe this needs to be placed under the umbrella of the Victorian

Government Solicitors Office to ensure that the Model Litigant Guidelines are followed and the Guidelines goals are achieved. Currently panel solicitor firms encourage a culture of an extremely adversarial opponent because simply this generates more funds for them. The injured worker is also subjected to the poor performance of plaintiff law firms who again use the worker as a means to funds for themselves. An excellent example of this is the Voyager Class litigation which saw huge component's of compensation go to the lawyers.

The government must ensure that a process of assessing a claim for compensation does not unnecessary exacerbate a workplace injury. I believe that statistically 90% of people are honest, but Worksafe behave as if the 90% are dishonest and that all injured workers are rorting the system. This belief is hurtful to the 9 out of 10 workers who have genuine claims and an attack on their integrity only serves to add to the burden an injured worker is already carrying. Claims should be assessed to conclusion in a timely fashion and not have injured workers languishing in litigation land for years, sometime ten years or more.

I am not convinced complaint mechanisms work when there is an imbalance of power between those making the complaint and those receiving the complaint. The word itself I feel has negative connotation and the word 'notifier' has a better sound to it. To address this imbalance of power an independent industry ombudsman should be appointed.

The existing regulatory framework does not provide a sufficient deterrent to workplace bullying, as any parent of a young child will tell you negative behaviour does not change if the child is not held accountable for such behaviour. I do not believe in corporal punishment, but guiding behaviour in a constructive way, positive role modelling and talking and listening in a manner that is sensitive to the needs of both the target and the bully. Workplace bullies are rarely held accountable for their behaviour and the effects it has on others. This denies them the opportunity to learn and grow and only creates a problem for some one else 'down the track'.

Some Facts:

Eight years of an unblemished work history, no letter of warning or any disciplinary actions.

Bullied at work and further bullied after submitting a Workcover Claim for Compensation.

During absence from work some staff participate in a 'mobbing incident' of injured worker.

Employer becomes aware of 'mobbing incident' and terminates employment of instigator, letters of warning to staff involved, but no action to protect or assist injured worker to return to work.

Claim accepted, but after employment is lost.

All Independent Medical Assessors agree injury is caused by workplace bullying.

Serious Injury Certificate granted in County Court.

After ten years claim for compensation heard in the Supreme Court, lawyers for injured worker 'throw' case on day one. Likely motive is that a barrister can paint an injured worker any colour they want and an inexperienced jury is easily swayed. Why run case to conclusion and risk getting nothing, when $150,000 is on the table. This gives the lawyers funds, but nothing for the injured worker, no validation, no vindication and no compensation. Is this really how the government wants genuinely injured workers to be treated? I hope not.

Please find attached an analysis of the judgement of my day in court; I feel I am now the criminal.

Thank you for your time.

Yours faithfully,