

Inquiry into Workplace Bullying

This submission contends, based on the experience gathered by Workplace Conflict Resolution, that workplace bullying happens because employees bring with them into the workplace strategies and behaviours (that have been developed since childhood) designed to protect themselves and meet their needs. On its own, the existence of a written policy does not stop behaviour that stems from reaction and habit. What is required to prevent bullying behaviour is for managers to create a workplace culture where bullying is not accepted. This requires consistent action on behalf of all managers within an organisation and not just reliance on a few words written in a policy.

Submitted by:

Workplace Conflict Resolution specialising in helping Australian businesses create and maintain a harmonious working environment by providing training, consulting, preventative measures, conflict coaching, mediation and grievance investigation services. www.WorkplaceConflictResolution.com.au

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Catherine has a special interest in conflict prevention, advanced communication skills and high conflict personalities.

She provides a holistic view to conflict in the workplace advising on employee relations, human resources and leadership to resolve systemic issues that impact on conflict, culture and performance.

Confidentiality:

The information in this submission is not confidential

Witness:

Catherine is prepared to appear as a witness at a Parliamentary Committee Hearing

Terms of reference: *'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.'*

Anecdotal evidence from the Director of Workplace Conflict Resolution.

'Bullying happens in workplaces because management allows it to.'

In my experience as a grievance investigator and workplace conflict resolution consultant, the existence of a workplace policy does not stop employees from displaying behaviours that might be considered to be bullying. Though a policy might provide a framework for grievance or disciplinary procedures, it does not necessarily prevent the bullying behaviour from occurring in the first place. I doubt that the existence of a workplace policy on bullying would have prevented the death of Brodie Panlock.

The foundation for a person's behaviour is laid from an early age and has been developed through many millions of interactions and incidents from which the consequences have unconsciously shaped that person's values, beliefs and behaviours. The existence of a policy does not inhibit the subconscious reactions that lead to the exhibition or outward display of our behaviours. This can be verified by the number of cases presented in courts where organisations have relevant, clearly articulated and highly visible policies in place but employees have still behaved inappropriately (the employee has either filed an unfair dismissal claim because they have been dismissed for inappropriate behaviour or an employee has sued their employer and/or colleague for damages in relation to that colleague's inappropriate behaviour).

The three single most important factors that prevent the reoccurrence and escalation of bullying behaviours in the workplace are:

- 1) The ability of each manager to be conscious of and notice incidents of subtle bullying;
- 2) The ability of each manager to speak up constructively in that moment; and
- 3) Managers that take complaints of bullying seriously.

Most managers struggle with the challenges associated with delivery in each of these areas.

Usually employees are promoted because of their technical skill or specific industry knowledge and because they show a higher level of resilience compared to their peers. Employees are promoted into management roles because they are believed to be more likely able to manage the tasks and stress levels that come with higher volumes of work, more complex work tasks and working longer hours. They are not necessarily promoted because they have the interpersonal and leadership skills to be able to appropriately manage people.

Because these managers themselves are more resilient (and because they are usually very busy people preoccupied with their own tasks, deadlines, managing upwards, etc), they are less likely to notice the subtle acts of bullying amongst their staff and less likely to understand that such acts can be hurtful and inappropriate.

Even when managers do notice inappropriate behaviour, they are fearful of saying something to the perpetrator. Most people see these types of conversations as 'difficult'. Lacking confidence in what

to say and how to say it means managers avoid entering into such conversations. Managers lack confidence to hold this conversation because:

- 1) Sometimes they are not 100% sure whether the behaviour was inappropriate or not.
 - i) They have not been set the example by their manager (or past managers) to have enough evidence to quickly make this decision; and
 - ii) Time has not been taken, nor have managers been encouraged, to have discussions about behavioural issues in an effort to develop a shared understanding of and 'an across the organisation' consistent approach to which behaviours should be addressed and which behaviours are OK 'to let go'.
- 2) They are not sure how to approach this conversation and what to say.
 - i) There is resistance because the employee may get emotional or argue with them;
 - ii) They don't want to be accused of bullying that employee; and
 - iii) They are not 100% sure of the internal process they should be following.

Take, for example, the activity of gossiping. Gossiping is a very subtle form of bullying behaviour in which people talk about (or write about) others in a manner that is negative, hurtful and belittling. Humans have a natural tendency to defend themselves and seek retribution when they feel they have been aggrieved in some way. Gossiping is taken to be an 'apparently harmless' mechanism that meets this need. However, over time this behaviour can be replaced with more overt forms of bullying. It is not difficult to imagine that every Australian worker would spend at least 10 minutes per day or approximately 1 hour per week on activities related to gossiping (face to face – such as talking and/or listening or typing/reading on social media). This means that organisations could be paying \$18billion¹ per year for staff to spend time gossiping. Imagine if managers themselves chose not to participate in gossip and actively discouraged their team members from gossiping - instead focusing on building a constructive and open communication culture.

Gossiping can be very covert and therefore not a behaviour that can be easily detected. In my experience, managers lament that so much gossiping does occur and despair at the destructive effect it has within their teams. Sadly, many managers are not even noticing and speaking out against the overt displays of bullying behaviours that happen within their teams. This is where the greatest changes in workplace behaviours (the role modelling by managers) needs to occur for there to be a significant impact on the reduction of the number of incidents of workplace bullying.

In addition, most managers do not take complaints of bullying seriously. Most managers lack skills in active listening, appreciative inquiry and positive regard and so when listening to complaints managers can be quick to make assumptions and interpret incidents through their own reality/perspective and experiences. Not emotionally affected by the alleged bullying incident, managers tend to take a logical approach and are uncomfortable with hearing about the emotional periphery in the complainant's story. Instead, managers tend to take a 'you need to grow up' view of the situation and prefer to tell the complainant how straight forward and easy it is to cope with or

¹ Based on 11.5 million workers earning an average of \$30 per hour working a 38 hour week

avoid another incident. Even if the manager tells the complainant 'they will look into it' – this rarely does happen because the manager is too busy and is not confident to speak to the alleged perpetrator. Employees 'give up' raising complaints and instead 'leave' the organisation - resigning, putting in a workcover claim, showing signs of 'presenteeism' or being absent on a regular basis or for longer periods of time.

Case law is littered with examples of employees raising complaints (to their manager about a colleague or raising a complaint about their own manager to a more senior manager) and the complaint being ignored or investigated poorly. It takes strength of character and conviction to conduct a thorough and unbiased investigation into allegations made against managers or against other employees who are deemed too valuable to the company or well-liked by more senior staff.

Having a sound and detailed policy is important and the existence of such has two main applications in a workplace:

- 1) If the policy is kept 'alive' and the main objective of the policy is regularly brought to the attention of employees, there is an increase in the organisation's awareness of bullying behaviours. A policy may be kept alive via posters, email reminders, training and workshop sessions– (face to face, online, video presentations, quiz format).
- 2) If an employee is found to have displayed bullying behaviours, a good policy provides an objective framework for the next steps that must be taken by the organisation. That is, there should be no subjective or inconsistent decision making applied to situations where bullying has been substantiated.

However having a policy, on its own does not reduce the incidents of bullying in a workplace. A policy needs to be seen in action, consistently applied and integrated into the workplace culture.

Team members look to their manager's behaviour to learn what culture is expected within the team and what behaviours will be allowed and rewarded. When a manager doesn't speak out about incidents of inappropriate behaviour that happen in or near their presence or when the manager doesn't take a bullying complaint seriously, this sends a very clear signal to all team members that inappropriate behaviour is condoned. This signal is amplified when the manager themselves displays bullying behaviours (without the self-awareness to notice this and apologise or change) and the manager up line does not act to address this situation.

If a manager will not speak out against inappropriate behaviours then team members will feel inhibited from also speaking out – fearful that they will be labelled or become the next target of the bully. If no one is able or prepared to speak up about inappropriate behaviours, such behaviours are perpetuated and appear to be condoned. By-standers, aware of what is going on, become angry and resentful that nothing is being done. Employee engagement and productivity declines and the potential for further conflict and stress claims increases.

Such behaviours are alive and well in Australian organisations even where policy exists. Organisations need to be made to do more work in regards to holding all employees accountable for their behaviours and all managers accountable for being vigilant in noticing and addressing any bullying behaviours within their teams.

I propose four solutions:

Preventative:

1) Organisations need to be encouraged to invest more time and money in training employees.

Relevant and important topics include:

i) For all employees:

- Bullying including:
 - The definition for bullying and possible workplace examples;
 - An explanation of why bullying in the workplace is not acceptable;
 - An individual's responsibility in terms of acceptable behaviour;
 - The expected processes that should be followed if someone believes they are being bullied or witnesses a situation of bullying type behaviours towards a colleague, contractor, volunteer or customer. This process should include self-management as the first step and the need for confidentiality (i.e. report the situation to an appropriate person but do not gossip/discuss the situation with others and do not label a person as a bully);
 - An individual's liability should an allegation of bullying against them be substantiated (e.g. warning, disciplinary process, dismissal, summary dismissal) and possible legal ramifications (e.g. if convicted of a crime – fines/ jail or civil remedy if sued for damages);
 - Internal support systems e.g. Employee Assistance Program; and
 - External agencies that can be contacted.
- How to self-manage a situation where it is safe to speak up; and
- Constructive conversation skills and 'I' statements.

ii) For managers;

- Bullying including:
 - Vicarious liability;
 - Agreement about what type of behaviours are/are not appropriate (including subtle behaviours)
 - Modelling appropriate behaviours;
 - How to speak with team members (during informal and formal meetings) to minimise the risk of being accused of bullying;
 - Legal and practical costs/implications for not managing bullying in the workplace:
 - Legal and practical costs/implications for not taking complaints seriously;
 - Complaints handling and informal investigation skills; and
 - Understanding the organisation's disciplinary process.
- Improving mindfulness and awareness in managers in relation to noticing behaviours and actions by their team members or other employees affecting their team member/s;

- Improved interpersonal skills such as:
 - Active listening;
 - Appreciative inquiry;
 - Coaching; and
 - Mediation.
- 2) Australian employees, when gaining a sense of culture, may look further than the workplace and take in examples provided by role models presented in the media. This exercise does encompass the role provided by public figures and as such, politicians who are constantly in the media, should also consider the behaviours they display. Making disparaging and sarcastic comments or using ridicule (whether these comments are made in or outside of Parliament) only sets the example for employees and managers to follow suit in the workplace – and yet to do so, could be considered bullying behaviour. I call upon our politicians to set the example for the standards of workplace behaviour that we all should abide by.

Reactive

- 3) Each State and Territory Workcover Authority to follow the lead of Victoria Worksafe in authorising workplace inspectors to investigate allegations of bullying (<http://www.worksafe.vic.gov.au/wps/wcm/connect/wsinternet/WorkSafe/Home/Safety+and+Prevention/Health+And+Safety+Topics/Bullying/What+to+expect+from+WorkSafe/>); and
- 4) Each State and Territory Workcover Authority to appoint a 'Bullying Department'. The role of this Department would be to provide services as per suggestion 2) and could be broadened to include that of a central agency where all workplace bullying complaints are lodged either instead of or in conjunction with lodging a complaint with HR or a Senior Manager at the workplace. This Workcover Authority group would then notify the workplace 'Bullying Officer' of the complaint raised by their employee and impose a time frame in which a report must be provided back to the Authority in regards to the investigation and outcomes.