

██████████ – Submission
Inquiry into workplace bullying

Submission Number: 129
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House Standing Committee on Education and Employment
Committee Secretariat
Workplacebullying.reps@aph.gov.au
29 June 2012

Please accept the following as a private individual submission for the “Inquiry into workplace bullying”.

The attached submission focuses solely on the second term 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.

I would appreciate my name being withheld. The individual mentioned in the submission would be identified if my name is released.

Yours Sincerely

██████████

Term 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.

Workplace-based policies and procedures are insufficient to protect the welfare of workers who are bullied.

The ACT Government espouses bullying policies based on the key principles of natural justice as identified by the Commonwealth Human Rights Commission:

1. The person who is subject to a complaint must know the basis of the complaint or allegations made against them.
2. This person must have the opportunity to put their case forward.
3. All parties to the complaint must have the right to be heard.
4. All relevant evidence and submissions must be considered.
5. The employer must not take into account matters that are not relevant.
6. The person or people who lay the charge must not determine the charge.
7. The decision must be fair and just.

<http://www.worksafe.act.gov.au/page/view/1631>

However, in practice the key principles of natural justice, serve to protect the person about whom the complaint is made. In a recent ACT Government investigation into bullying, the complainant was advised they could not be informed of any information provided by the person who was the subject of the complaint because of natural justice policies. The complainant was advised that the investigation found that the complaint was proven, but disciplinary action if any, was a private and confidential matter for the perpetrator. The complainant continues to feel unsafe in the workplace because the perpetrator is still in the same position of power.

This same policy is evident in the Department of Defence. The Executive Summary of Volume 1 of the DLA Piper Report into allegations of sexual and other abuse in Defence has identified one of the main reasons complaints may not be made.

Information to complainant on outcomes of inquiries: many complainants to the Review said that one of their concerns was that they were given no information as to the outcome that followed from the complaint that they made. It appears that Defence takes the view that no information can be disclosed because of privacy issues. The Review suggests that this issue should be revisited. The Report includes advice provided to the Review on the operation of the relevant Privacy Principles.

Appropriate action would do much to alleviate victims' concerns that reporting of abuse is a waste of time because either nothing changes or

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nothing adverse happens to the perpetrator. This is a matter that should be pursued in Phase 2 of the Review.

The Executive Summary of the DLA Piper Report, Chapter 7 – Systemic Issues page XXXV.

Workplace bullying policies and procedures do not protect the complainant. Policies should be amended to protect the complainant so that they should not be expected to work with those they have accused. After investigations have been completed, complainants should be advised of the result of the outcome so that they can feel safe in their own workplaces. The psychological damage caused by bullying in the workplace may not be improved until closure has been achieved.