

Inquiry into Workplace Bullying

House of Representatives Committees: House Standing Committee on Education and Employment

The Silent Epidemic: Promoting Positive Workplace Behaviours.

FARRELL, Dr Helen Jane, private capacity

Helen Farrell has a background of significant managerial experience in a range of leadership roles with high levels of responsibility within and across teams, and as classroom teacher. From the perspective of a former employee of 25+ years in the public education sector in the State of Victoria, Helen has taken a great deal of interest in the prevalence and experience of discrimination, harassment and bullying behaviours in the workplace in Australia.

Helen currently holds the position of Postdoctoral Research Fellow in the Melbourne School of Psychological Science, the University of Melbourne.

I thank the House Standing Committee for the opportunity to post a submission, in a private capacity, to its current inquiry into and report on discrimination, harassment and bullying practices in the workplace. The submission includes facts, opinion and argument relating to the eight terms of reference.

1. The prevalence of workplace bullying in Australia and the experience of victims of workplace bullying.

1. There are ever increasing demands to deliver better and more efficient services. However, every person has inherent dignity and value. Human rights help us to recognize and respect that fundamental worth in ourselves and in each other. Everyone has the right to a healthy and safe workplace that is free from discrimination, harassment and bullying practices. When people experience a fair, flexible, safe and rewarding work environment, they'll do a better job and work with pleasure. It will bring out their best. They will stay with the organization longer.
2. Unfortunately, evidence appears to demonstrate the widespread prevalence of a silent epidemic of unlawful discrimination, harassment and bullying behaviour within and across workplaces in the public, corporate and community (not-for-profit/charities) sectors.
3. Indeed, "*Brody's Law*" legislation assented to in recent years in the parliament of the State of Victoria resulted from the public attention drawn to a case of apparently extreme discrimination, harassment and bullying behaviour in a workplace in Melbourne resulting in a most unfortunate outcome for a young employee, and family.

2. The role of workplace cultures in preventing and responding to bullying and the capacity for workplace-placed policies and procedures to influence the incidence and seriousness of workplace bullying.

4. Copious volumes of international, regional and national research evidence from the disciplines of Business Administration and Organisational Psychology suggest notions of ethical excellence in preventing and responding to unlawful discrimination, harassment and bullying behaviour in the workplace, e.g., the *Australian Association of Professional and Applied Ethics* (AAPAE) in the University of New South Wales; the *Centre for Applied Philosophy and Public Ethics* (CAPPE) in the University of Melbourne.

5. For example, this research evidence has informed copious reports, reviews, guidelines and frameworks within and across Victorian public sector authorities, e.g., *PeopleMatters*, Victorian State Services Authority (2005, 2006, 2007 and 2008); *An Ethics Framework for applying to the Victorian public sector values, principles, codes and standards*, Public Sector Standards Commissioner, Victorian State Services Authority (2008). A 66 page report *Best Practice Support for Managing Difficult Behaviours: Final Report* was published by the business ResolutionsRTK for the Victorian State Services Authority in September 2010.
6. This research evidence has informed copious reports, reviews, guidelines and frameworks specific to the Victorian public education sector (*Department of Education and Early Childhood Development*, DEECD), e.g., *Report on the Review of School Governance in Victorian Government Schools*, Office of Strategy and Review, Department of Education and Training (March 2006). Similar reports, reviews and frameworks have been developed and implemented in respective Federal, State and Territory public sector authorities in Australia.
7. However, recent external appraisals of these reports, reviews and frameworks, e.g., *Office of Police Integrity* in the State of Victoria, Federal *Department of Defence* has suggested that workplace cultures are so often marked by insularity, resistance to change, and disinclination to accept recommendations.
3. **The adequacy of existing education and support services to prevent and respond to workplace bullying and whether there are further opportunities to raise awareness of workplace bullying such as community forums.**
8. In my view, existing education and support services to prevent and respond to discrimination, harassment and bullying behaviour in the workplace are woefully inadequate. Exemplary organizational practices in the workplace so often do not appear to form the fundamental characteristics of key performance indicators. Related continuous professional development is so often not embedded. In workplaces where they do overtly exist, I have observed many systemic examples of poor organizational practices entirely dismissed, indeed vigorously denied. Further opportunities to raise awareness of discrimination, harassment and bullying behaviour in the workplace need to be implemented urgently, such as community forums.
9. These reports, reviews and frameworks inform workplace policies and procedures that influence incidence and seriousness of unlawful discrimination, harassment and bullying behaviour in the workplace. These reports, reviews and frameworks suggest a range of education and support services to prevent and respond to such behaviour in the workplace.
10. Poor organizational practices in the workplace, e.g., work systems; workplace relationships and characteristics; and leadership style is now firmly viewed as risk to psychological health and safety. Unfortunately, poor organizational factors, including a range of non-verbal behaviours appear to be widespread within and across workplaces in the public, corporate and community (not-for-profit/ charities) sectors.
11. A plethora of guidelines and definitions relating to risk to psychological health and safety are published on websites of respective statutory international, federal and state authorities concerned with Occupational Health and Safety, e.g., (Victorian) *Occupational Health and Safety Act* (2004). Operational management of risk to psychological health and safety is acknowledged as not always easy.

12. Prevalent attitudes to risk of psychological health and safety appear to include "... merely personality clash ...". There is significant flow on effect of poor organizational practices in the workplace for the community and the economy. Copious volumes of international and national research evidence from the disciplines of Medicine and Health Sciences establish robust correlations that connect poor organizational practices in the workplace that so often result in treatment and monitoring of profoundly disruptive effects on health and wellbeing, work and family life ¹. Apparently, the Productivity Commission estimates cost of workplace bullying in Australia at between \$6 billion and \$36 billion annually.
13. The copious volumes of international, regional and national research evidence, and reports, reviews, guidelines and frameworks to which I have referred outline the necessity for exemplary organizational practices in the workplace, e.g., notions of collaborative approaches to reform; ways to avoid damaging miscommunications; things great managers do; best practices that lead to great corporate culture; build a team of go-to workers and then trust them; collaboration and innovation go hand in hand; inspire your co-workers; your office should be a no-spin zone; ethical leaders don't make exceptions.
14. In my view, positive behaviours in the workplace are so often not promoted. So often, there is little evidence of established, or attempts to establish exemplary governance to manage organizational practices in many workplaces.
15. Best practice in managing difficult behaviours is so often not promoted. The profound and negative impact of organizational factors in workplaces is so often not or ever acknowledged or investigated. The notion of a 'reasonable person' test is so often not applied. The newly enacted (Federal) *Parliamentary Scrutiny Act* requires legislation, e.g., (Victorian) *Education and Training Reform Act* (2006) be checked for human rights compatibility against seven main United Nations treaties. Human rights compatibility is so often not applied.
16. Confidence is damaged. Efforts to boost performance are weakened. Demeanour and intimidation is experienced. Reasonable adjustments to modify a work environment that an individual enjoy equal opportunity are so often not applied. Reasonable precautions to prevent potential victimisation, discrimination or harassment of support colleagues are so often not applied.
17. Profoundly unreasonable and repeated critical and negative interactions will often dramatically escalate contrary to that promoted in the strategic vision, culture, traditions and ethos of a workplace. Notions of collegiality are absolutely betrayed.
18. Allegations of mediocre performance very often highlight poor organizational practices in workplaces, but so often entirely dismissed, indeed vigorously denied by leadership in systems. Continued behaviours are alleged as additional proof of mediocre performance.
19. Expectations of grievance resolution systems in education and support services are not met. The stated intention(s) of monitoring and support processes are so often seriously impeded. Contrary to guidelines, sensitivity to, let alone consideration of very serious mitigating factors is not demonstrated, but very often vigorously denied. Opportunity to participate in a mediation process to consider these factors is very often vigorously denied. Perspectives are not acknowledged. Areas of common understanding are not identified. Expectations of appropriate conduct are not clarified. Effective communication mechanisms are not ensured. Agreed alternative strategies are not identified, developed or implemented.

20. Substantial error in method and reasoning so often results. Fairness, validity, quality and credibility of evidence are not examined. By definition, evidence of proof is thwarted with difficulties that so often become profoundly insulting, very personal, unedifying and damaging. In turn, attention is diverted, paralysed and destabilized from the far more important agenda of organizational change ².
4. **Whether the scope to improve coordination between governments, regulators, health service providers and other stakeholders to address and prevent workplace bullying.**
21. In my view, evidence strongly suggests a great deal of scope to improve coordination between governments, regulators, health service providers and other stakeholders to address and prevent unlawful discrimination, harassment and bullying behaviour in the workplace.
5. **Whether there are regulatory, administrative or cross-jurisdictional and international legal and policy gaps that should be addressed in the interests of enhancing protection against and providing an early response to workplace bullying, including through appropriate complaint mechanisms.**
22. In my view, evidence strongly suggests regulatory, administrative, cross-jurisdictional and international legal and policy gaps that should be addressed. Early response to unlawful discrimination, harassment and bullying behaviour in the workplace through appropriate complaint mechanisms is so often not achieved. So often, resolution is not timely. Justice delayed is justice denied.
23. My understanding is that there is no legal definition in Australia relating to unlawful discrimination, harassment and bullying behaviour in the workplace. By definition, poor organizational practices in the workplace are absolutely evident. There are established robust correlations to profoundly disruptive effects on health and wellbeing, work and family life. The “*Brody’s Law*” legislation to which I have referred - the catalyst for this House Standing Committee inquiry - may be an exception.
24. For example, that no legal definition in Australia relating to unlawful discrimination, harassment and bullying behaviour in the workplace exists seemed to be central to a decision and reasons of a panel appointed to a formal hearing in the professional regulatory authority *Victorian Institute of Teaching* following disciplinary proceedings of a teacher formerly employed in the Teaching Service of the Victorian public education sector (*Department of Education and Early Childhood Development, DEECD*) in September 2004. The Panel ultimately decided that the teacher was not guilty of serious incompetence. Perusal of the findings of several panels appointed to formal hearings conducted in more recent years has made no determinations. This evidence seems to highlight difficulties for panels to decide appropriate decisions and reasons when confronted with lack of legal definitions relating to unlawful discrimination, harassment and bullying behaviour in the workplace.
25. By definition, similar difficulties would be confronted within and across the many Federal, State and Territory professional regulatory authorities in Australia.
6. **Whether the existing regulatory frameworks provide a sufficient deterrent against workplace bullying.**
26. In my view, evidence strongly suggests that existing regulatory frameworks do not provide sufficient deterrent against discrimination, harassment and bullying behaviour in the workplace.

7. **The most appropriate ways of ensuring bullying culture or behaviours are not transferred from one workplace to another.**
27. In my view, evidence strongly suggests that appropriate ways of ensuring discrimination, harassment and bullying cultures and behaviours are not transferred from one workplace to another is urgent.
8. **Possible improvements to the national evidence base on workplace bullying.**
28. In my view, evidence strongly suggests that improvements to the national evidence base on discrimination, harassment and bullying behaviour in the workplace is urgent.

Endnotes.

1. Hassed, C (2002). *Know thyself: The Stress Release Program*. Melbourne: Michelle Anderson Publishing.
2. People and Executive Services, Department of Education and Early Childhood Development, 2006. *Guidelines for Managing Complaints, Unsatisfactory Performance and Serious Misconduct in Relation to Teachers*.

This sixth day of September, 2012.

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