
The Parliament of the Commonwealth of Australia

Workplace Bullying

We just want it to stop

House of Representatives
Standing Committee on Education and Employment

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Foreword

In workplaces across the country, tragically there are too many Australians being bullied at work. This problem is not exclusive to one jurisdiction, one industry, or one 'type' of worker.

Described as a form of psychological violence, workplace bullying can result in significant damage to an individual's health and wellbeing, and in extreme cases, can lead targets of bullying to suicide. Such behaviour can also undercut the productivity of an entire organisation, which incurs financial costs to employers and the national economy. Beyond the enormous personal and organisational costs, the Productivity Commission estimates that workplace bullying costs the Australian economy between \$6 billion and \$36 billion annually.

The Committee's inquiry was announced against the backdrop of an ongoing, nation-wide harmonisation process of work health and safety legislation, the primary area of regulation of the risks of bullying at work. Since the Committee adopted this report in late October 2012, the South Australian Parliament passed model work health and safety legislation on 1 November 2012. Harmonised work health and safety laws have now been adopted in all jurisdictions, with the exceptions of Victoria and Western Australia.

In addition to harmonisation efforts, governments, unions and industry groups are collaborating to develop a nationally consistent Code of Practice on workplace bullying. The purpose of the Code is to provide practical guidance to workers and employers to tackle immediate concerns, as well as to assist them to achieve the goal of positive, functional and productive workplaces.

The Committee trusts that this report complements the ongoing efforts of the state and territory governments to harmonise work health and safety laws as well as the finalisation of the Code.

All too frequently the Committee heard about the regulatory 'minefield' that both individual workers and employers face when confronted with bullying at work. These challenges add layers of complexity to already difficult experiences.

Diverse and contrasting regulation complicates broad public understanding of these laws as well as the system which enforces their application. This is the reason why the Committee is calling for a new single national advisory service, to help workers and employers to identify what is and what is not bullying behaviour; to clarify the extent to which workplace bullying is dealt with by workplace health and safety legislation versus antidiscrimination law, industrial relations' instruments, workers' compensation schemes and, in some cases, criminal law; and to provide a range of options for resolving the problem.


Although the Committee heard that Australia's approach to addressing workplace bullying, through a risk management rubric, is an example of international best practice, the Committee believes that there is real momentum in the Australian community to do more to prevent and manage bullying, as well as better support those workers who have been bullied.

On behalf of my colleagues, I wish to thank all those who contributed to this inquiry. We are especially grateful to the hundreds of individual participants who courageously shared their personal experiences of workplace bullying. Whether a written submission was made, or an oral statement provided in a closed session, these personal accounts were deeply moving and an important component of the evidence gathering process in every state and territory.

The title of this report stems from the repeated calls from these statements and submissions where the first and foremost call of individuals was a wish for the behaviour to just stop.

A key objective of the Committee's inquiry was to enable individual Australians to come forward, tell their stories, and give some insight into the prevalence of workplace bullying. Excerpts of these powerful stories are included throughout the Committee's report and pinpoint the acute need in the community for Australians to do more to eradicate bullying from the workplace.

Amanda Rishworth MP
Chair



Membership of the Committee

Chair Ms Amanda Rishworth MP

Deputy Chair Mr Rowan Ramsey MP

Members Ms Karen Andrews MP

Mrs Yvette D'Ath MP

Ms Deborah O'Neill MP

Mr Mike Symon

Mr Alan Tudge MP

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Terms of reference

Workplace bullying can have a profound effect on all aspects of a person's health as well as their work and family life. It also has significant flow-on effects for the community and the economy, with the Productivity Commission estimating the total cost of workplace bullying in Australia at between \$6 billion and \$36 billion annually.

The terms of reference for the inquiry will focus on:

- the prevalence of workplace bullying in Australia and the experience of victims of workplace bullying;
- 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;
- 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;
- whether there is scope to improve coordination between governments, regulators, health service providers and other stakeholders to address and prevent workplace bullying;
- 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;
- whether the existing regulatory frameworks provide a sufficient deterrent against workplace bullying;
- the most appropriate ways of ensuring bullying culture or behaviours are not transferred from one workplace to another; and

- possible improvements to the national evidence base on workplace bullying.



List of abbreviations

ACCI	Australian Chamber of Commerce and Industry
ACT	Australian Capital Territory
ACTU	Australian Council of Trade Unions
AFEI	Australian Federation of Employers and Industries
AIER	Australian Institute of Employment Rights
AFP	Australian Federal Police
AHRC	Australian Human Rights Commission
AiG	Australian Industry Group
AMF	The Alannah and Madeline Foundation
APS	Australian Public Service
APSC	Australian Public Service Commission
ASU	Australian Services Union
AWB	Australian Workplace Barometer
CCIQ	Chamber of Commerce and Industry Queensland
CCIWA	Chamber of Commerce and Industry Western Australia
CCNT	Chamber of Commerce Northern Territory

CFMEU-MENDB	Construction, Forestry, Mining and Energy Union, Mining and Energy, Northern District Branch
COAG	Council of Australian Governments
CPSU	Community and Public Sector Union
CPSU-SPSFG	Community and Public Sector Union, State Public Services Federation Group
DCA	Diversity Council of Australia
DEEWR	Department of Education, Employment and Workplace Relations
DTC	Davidson Trahaire Corpsych
EASA	Employee Assistance Service Australia
ELC	Employment Law Centre of Western Australia
EOCWA	Equal Opportunity Commission of Western Australia
HR	Human resources
IEUA	Independent Education Union of Australia
ILO	International Labour Organisation
KPI	Key performance indicator
MBA	Master Builders Association
MEA	Master Electricians Australia
NNWWC	National Network of Working Women Centres
NTIBN	Northern Territory Indigenous Business Network
NTWWC	Northern Territory Working Women's Centre
PC	Productivity Commission
PCBU	Person conducting a business or undertaking
RCT Solicitors	Ryan Carlisle Thomas Solicitors

SJ&A	Sally Jetson and Associates
SME	Small and medium-sized enterprises
UMFA	United Mineworkers' Federation of Australia
VACC	Victorian Automobile Chamber of Commerce
VTHC	Victorian Trades Hall Council
WCR	Workplace Conflict Resolution
WHS	Work health and safety



List of recommendations

1 Workplace bullying: we just want it to stop

Recommendation 1

The Committee recommends that the Commonwealth Government promote national adoption of the following definition: workplace bullying is repeated, unreasonable behaviour directed towards a worker or group of workers, that creates a risk to health and safety.

Recommendation 2

The Committee recommends that the Commonwealth Government develop a national advisory service that provides practical and operational advice on what does and does not constitute workplace bullying, and offers self-assessment and guidance materials to workers and employers to determine whether behaviour meets the workplace bullying definition established in Recommendation 1.

2 Legislative and regulatory frameworks

Recommendation 3

The Committee recommends that the Commonwealth Government, through Safe Work Australia urgently progress the draft *Code of Practice: Managing the Risk of Workplace Bullying* to a final version and that members of Safe Work Australia adopt the Code in all jurisdictions.

Recommendation 4

The Committee recommends that Safe Work Australia work with all jurisdictions to actively promote and implement the Code of Practice and ensure it is embedded in workplaces.

Recommendation 5

The Committee recommends that the Commonwealth Government seek agreement through Safe Work Australia for the development and implementation of model Work Health and Safety Regulations that capture the minimum requirements for managing the risks of workplace bullying, applicable to all workplaces, as currently established in the draft *Code of Practice: Managing the Risk of Workplace Bullying*.

3 From legislation to implementation

Recommendation 6

The Committee recommends that Safe Work Australia develop advice materials for employers that provide guidance on how to maintain the confidentiality of parties when responding to reports of workplace bullying, whilst also enabling the response to be transparent, similar to the risk management responses of other work health and safety hazards.

Recommendation 7

The Committee recommends that the Minister for Employment and Workplace Relations commence a feasibility study of the Commonwealth Government providing an independent investigation referral service, and include consultation of the relevant stakeholders when conducting that study.

Recommendation 8

The Committee recommends that the Commonwealth Government:

- review how the fit for duty test under the Public Service Regulations 1999 is used to respond to bullying across the Australian Public Service and what safeguards are in place for its appropriate use;
- publish a report setting out the findings of that review for transparency and to ensure it is available to all public servants;
- make any necessary amendments to the legislation or public service policies to ensure that there are adequate safeguards in place for the appropriate use of the fit for duty test and there are easily accessible avenues for review should an allegation of misuse be made;
- require the Australian Public Service Commission to collect data about the particular grounds on which fit for duty review applications are made to the Merit Protection Commissioner to ensure accountability for the use of that power; and
- encourage its state and territory counterparts to similarly ensure there are safeguards in place in regards to the comparable provision in their public service legislation.

Recommendation 9

The Committee recommends that the Commonwealth Government, through Safe Work Australia, develop advice materials for employers that detail appropriate responses to and outcomes for reports of workplace bullying.

4 Workplace cultures

Recommendation 10

The Committee recommends that the Commonwealth Government, through the Centre of Workplace Leadership and in conjunction with industry and employer groups, work to promote the economic benefits of positive working environments that are free from workplace bullying.

5 Enhancing tools for the prevention and resolution of workplace bullying

Recommendation 11

The Committee recommends that the Commonwealth Government, in consultation with stakeholders, establish a new national service to provide advice, assistance and resolution services to employers and workers. Its activities should include:

- a hotline service to provide advice to employers and workers alike on a variety of topics including:
 - ⇒ practical, preventative and proactive steps that employers can take to reduce the risk of workplace bullying;
 - ⇒ empowering workers to respond early to the problem behaviour they encounter;
 - ⇒ provide advice to workers who have been accused of bullying others in their workplace;
- providing downloadable training packages for employers to tailor to their industry and size;
- a proactive, onsite and ongoing education service targeting specific industries where bullying is known to be particularly problematic;
- resolution assistance services including information about how and when to engage mediation sessions between the workers concerned; and
- collating information when providing the above services, and contributing to improving the national evidence base in Australia on workplace bullying.

Recommendation 12

The Committee recommends that the Commonwealth Government, through Safe Work Australia, develop an accredited training program for managers and health and safety representatives to equip them to deal with workplace bullying matters.

Recommendation 13

The Committee recommends that the Minister for Employment and Workplace Relations develop a trial mediation service for resolution of conflicts where there is a risk of bullying arising out of poor workplace behaviour, prioritising small and medium enterprises, and where employers and workers jointly request the use of the service in an effort to resolve the matter.

Recommendation 14

The Committee recommends the Commonwealth Government work with its state and territory counterparts to develop better cross-agency protocols in respect of workplace bullying, to allow for better information-sharing, cross-jurisdictional advice and complaint referrals across the following areas of regulation:

- work health and safety laws;
- industrial relations laws;
- antidiscrimination laws
- workers compensation laws; and
- relevant criminal laws.

Recommendation 15

The Committee recommends that the Minister for Employment and Workplace Relations consider implementing, in conjunction with stakeholders, a voluntary national accreditation system to recognise and award employers who achieve best practice and meet defined standards of psychosocial health and safety.

Recommendation 16

The Committee recommends that the Minister for Employment and Workplace Relations work with state and territory counterparts to specifically recognise good practice in workplace psychosocial health and safety through instituting annual employer awards in all jurisdictions throughout Australia.

Recommendation 17

The Committee recommends that the Minister for Employment and Workplace Relations commission research into the prevalence and long-

term trends of workplace bullying in Australia using the definition provided in Recommendation 1.

Recommendation 18

The Committee recommends that Safe Work Australia issues an annual national statement which updates any emerging trends of its collated data from each of the state and territory regulators, and the Commonwealth, with respect to psychosocial health and safety generally and workplace bullying specifically.

Recommendation 19

The Committee recommends that the Minister for Youth and the Minister for Employment and Workplace Relations work with their state and territory counterparts to develop targeted initiatives for young Australians undertaking the transition from school to work, about their rights and responsibilities at work.

6 Enforcement and remedies

Recommendation 20

The Committee recommends that the Commonwealth Government, through Safe Work Australia, develop a national accredited training program for all work health and safety inspectors that equips inspectors to identify and address instances of workplace bullying.

Recommendation 21

The Committee recommends that the Commonwealth Government seek agreement from the work health and safety regulators of each jurisdiction through the Safe Work Australia process, for the development and endorsement of a uniform national approach to compliance and enforcement policy for preventing and responding to workplace bullying matters.

Recommendation 22

The Committee recommends that, through the Standing Council on Law and Justice, the Commonwealth Government:

- encourage all state and territory governments to coordinate and collaborate to ensure that their criminal laws are as extensive as Brodie's Law; and
- encourage state and territory governments to consider greater enforcement of their criminal laws in cases of serious workplace bullying, regardless of whether work health and safety laws are being enforced.

Recommendation 23

The Committee recommends that the Commonwealth Government implement arrangements that would allow an individual right of recourse for people who are targeted by workplace bullying to seek remedies through an adjudicative process.