

**MASTER  
GROCERS  
AUSTRALIA**

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**LIQUOR  
RETAILERS  
AUSTRALIA**  
Independent Liquor Outlets

**Standing Committee on Education and Employment  
Inquiry into Workplace Bullying  
July 2012**

## **About Master Grocers Australia**

MGA is a National Employer Industry Association, representing Independent Grocery and Liquor Retailers. We represent Independent Supermarkets in Australia, trading under brand names such as Supa IGA, IGA, IGA Xpress, Foodland, FoodWorks, Supa Barn, SPAR and Friendly Grocers. They range in size from small, to medium and large businesses. Independent Supermarkets and liquor stores play a major role in the retail industry and make a substantial contribution to the communities in which they trade.

There are over 2100 branded independent supermarkets throughout Australia and they are either single or multi store owners. The employees in these stores total more than 115 000, they hold full, time, part time or casual status and they work across a seven day working week. Independent supermarkets are traditionally community friendly entities and are committed to supporting their employees many of whom include working mothers, tertiary students and junior schoolchildren.

The employers in the independent supermarkets and liquor stores come from diverse backgrounds. Geographically, stores are located across the entire continent. They are located as far North as Dampier in Western Australia to Albany in the south of that State. There are hundreds of small independent supermarket stores scattered across all the States and Territories of Australia, in addition to metropolitan based stores

MGA members regularly provide advice to members on a range of issues and there has been a significant increase in complaints by employees on bullying issues, particularly cyber bullying. MGA members work hard at fostering workplaces that condemn workplace bullying and there is a need to foster workplace cultures that do not tolerate bullying at work.

MGA welcomes the Inquiry into workplace bullying and thanks the Government for this opportunity to make this submission.

## Introduction

The purpose of this submission is to show that although bullying in the workplace is not new, there is an increased need to stem its occurrence in order to protect both workers and employers from its adverse effects in the workplace. In recent years the monetary costs to employers of workplace bullying has grown and many workers have suffered serious emotional, social and even physical costs.

The problems for small businesses often stem from situations where managers, or even co-workers, exert pressures on weaker, vulnerable individuals. It has become increasingly important for small business owners to foster a culture that totally rejects bullying at work. This can be achieved by establishing policies which totally reject the presence of bullying at work but additionally reinforcing such policies through a worker education program. As an employer organization MGA has seen an increase in claims for workers compensation by workers who claim stress because of bullying at work. There has also been a rise in co-worker abuse through the use of social media and there has been a need for employers to enforce policies and introduce training on the non- use of social media networks that are used to denigrate work colleagues.

Although many employers have embraced educational programs for managers on their obligations to maintain a safe place of work, in respect of workplace bullying there is still a widespread lack of understanding amongst employers of these obligations. In 2012 MGA presented a nationwide series of work, health and safety training to small independent supermarkets retailers and promoted anti workplace bullying as an important aspect of that training. Nevertheless, despite the success that was achieved there is still much more that needs to be done to ensure that all workplaces are provided with the tools to ensure that bullying is not tolerated in any Australian workplaces.

The provisions in the legislation in those States that have embraced the new harmonized health and safety laws do promote the increased duty of care to employers. In other States the Occupational Health and Safety laws provide a legal obligation on employers to ensure the safety of workers. In Victoria workplace bullying has become a crime and it is yet to be seen whether this law will be emulated in other States. There are also provisions in human rights legislation and equal opportunity State laws that safeguard against bullying in the workplace.

All the legislative provisions are essential and commendable for the protection of workers but it is far better to stop the increase of such an insidious workplace occurrence as bullying than increasing

monetary penalties as a way of stopping its increase.

It is intended to consider a number of terms of reference proposed in the Inquiry into workplace bullying and provide the committee with a number of recommendations to stem the increase of workplace bullying into the future.

MGA thanks the Committee for this opportunity to contribute to the review.

### **What is bullying and what is the prevalence of bullying in the workplace?**

A bully is defined in the Oxford Dictionary<sup>1</sup> as, "a person who uses strength or influence to harm or intimidate those who are weaker" . Bullying is an activity that is widespread in schools, workplaces and in domestic situations. Whilst it is recognized that bullying can occur in many places, this submission focuses on the existence of bullying in the workplace, the adverse effects of bullying at work, the legislative context in which bullying is placed currently and suggestions as to what may be done to prevent and overcome bullying practices..

Whilst we can refer to the general meaning of "bullying" in the dictionary context, there is no clear legal definition of workplace bullying. The Law Society of NSW<sup>2</sup> commented on workplace behavior and in particular workplace bullying as follows, "unreasonable and inappropriate workplace behavior includes bullying which comprises behavior that intimidates, offends, degrades, insults or humiliates an employee , possibly in front of co- workers, clients, customers and which includes physical or psychological behavior."

There are other organizations that are fully aware of the problems associated with what is regarded as workplace bullying and they have addressed from their particular area of expertise. The Australian Human Rights (AHRC) Commission<sup>3</sup> regards workplace bullying as a breach of human rights and has published guidelines of what constitutes bullying at work, the effects that it can have on an individual and proposes a number of remedies that may be used by victims in the workplace. The AHRC refers to a number of aspects of bullying that may constitute bullying, including being given pointless tasks, providing unrealistic time lines making a worker feel less important, or not including a worker in the distribution of information. Therefore the AHRC considers bullying to be a form of harassment and consequently has published information how workers should deal with the problem in the workplace.

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<sup>1</sup> Oxford Dictionary

<sup>2</sup> "( Law Society of NSW "Prevention of workplace bullying : a tool for change to the legal workplace" February 2009)

<sup>3</sup> Australian Human Rights Commission Fact sheets Workplace Bullying 2011)

Most WorkCover organizations throughout Australia have provided definitions of what constitutes workplace bullying. In some cases the legislation providing safe workplaces provide a legal definition of bullying. For example in South Australia Section 55 A (1) of the Occupational Health and Safety Act states that .... “bullying is behavior –

(a) that is directed towards an employee or a group of employees that is repeated and systematic and that a reasonable person , having regard to al the circumstances would expect to victimize, undermine or threaten the employee or employees to whom the behavior is directed and

(b) creates a risk to health and safety”

Under the harmonized Work Health and safety laws, a new Code of Practice on workplace bullying will be developed.

In Victoria, following the death by suicide of a young worker, one Brodie Panlock , who was the victim of serious bullying at work, the Crimes Act was amended. The new laws provide an extended definition of the stalking laws in Victoria and this criminalizes additional kinds of workplace bullying. There are penalties of up to 10 years imprisonment for an offence under these provisions. As new harmonized laws for work health and safety are introduced throughout Australia there is a strong possibility that the Victorian provisions may be emulated in other States.

There are a number of social networking websites, including Facebook and MySpace, which provide opportunities for individuals to make comments and reveal information on a range of issues to numerous groups of people about their workplaces and individuals within the workplace.

Social networking is becoming increasingly common and it is not uncommon for individual employees or groups of employees to use a social networking website to make adverse comments about an employer or make statements that have the potential to damage the employer’s business or reputation.

Frequently bullying or harassment by one employee against another employee occurs as a result of one of the social networking media. Any form of cyber bullying can have serious consequences for an employer or the individual workers.

***The prevalence of workplace bullying.***

The changes that have occurred in workers compensation, health and safety and human rights laws are indicative of the need in our society to address a problem that has no doubt existed for generations. The

steps taken thus far have been needed to protect workers against the impact of workplace bullying and its growth as a problem. MGA has received an increased number of call from employers whose workers have lodged workers compensation claims for stress related bullying work injuries. The claims are not always necessarily accepted as the legislation as the laws clearly indicate that bullying needs to be repeated behavior. However, rigid hierarchical systems in workplaces, that give power to individuals to instruct and direct sometime leads to a misuse of power and it is often revealed that bullying is in fact happening at a workplace.

### **Dealing with the problem of workplace bullying**

A workplace that encourages strong communication between workers and management and that has a facility for workers to feel a connection with at least one person who will listen objectively to a complaint, will go a long way towards establishing an environment free from bullying. This is of course not the definitive solution to avoiding workplace bullying. However, having a strong anti- bullying policy that is consistently reinforced will help to establish the culture of a non- threatening workplace.

Having laws and policies are excellent tools in themselves which provide remedies in the event of a workplace issue arising from bullying. However, there are clear indications that prevention is the key to the whole issue and having a reinforcing bullying policies and fostering a culture of workplace communication is essential to stem the growth of bullying at work. There is also a need for a more widespread understanding of what constitutes bullying to prevent the growth of what can be a devastating experience for some employees, sometimes with serious consequences.

**Conclusion** MGA submits that whilst our members strive to foster workplaces that are free from bullying there is still a need to encourage a rejection of any bullying amongst workers. This may start in schools but it is also necessary to maintain and foster that culture in all workplaces. MGA believes that educational programs, coupled with strong legislative support will help to provide for the elimination of bullying in all workplaces throughout Australia.

Once again MGA thanks the Committee for the opportunity to make this comment.

Jos de Bruin

CEO

Master Groccers Australia

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