

To Whom it may concern,

I wish for this submission to remain confidential in regards to my name and contact details.

Two years ago, I was employed by an Employer where an incident of bullying and harassment occurred. As a course of my employment, there was a male who swore often, bullied and intimidated both myself and another female. All incidents were reported to management with no address of the employee's conduct.

On the last occasion, the male had bullied and harassed my co-worker, I went to see if she was okay. This resulted in an incident where I was physically assaulted by the male co-worker. This was reported to management in writing as it was a very serious issue.

The business did not follow it's own procedure and then the business tried to force me into an outcome of reconciliation as they needed the male co-worker to keep a lucrative contract. Due to situation, it resulted in my being placed on stress leave by my Doctor.

I lodged a worker's compensation claim that the employer/insurer didn't accept and forced myself to seek legal representation, as the business would not pay wages for the time on stress leave. Two days before a court date, the Employer/Insurer decided to settle in full and pay my wages. This was 18 months after the incident occurred. I then had to pay legal fees out of the paid salaries.

I wanted to explain the incident that occurred as it highlights many issues in the area of bullying and harassment in the workplace.

1. The formal proceedings resulting when an employee lodges a bullying and harassment claim is not independent. The business conducts the review and it wants the matter resolved with the minimal disruption to the business. This often results in a biased process. I know many people who have been bullied and harassed but don't raise the matter as they don't want to lose their employment. The reality is once you raise issues of bullying and harassment often the employee must leave the business.
2. All employers know that any admission of guilt and if a stress claim is lodged due to a bullying and harassment claim, it could result in increased workcover premiums. Once again, not in the Employer's interest.
3. There is no support for employees in the workplace when lodging a bullying and harassment claim. Every business must have a bullying and harassment policy and policy for having any grievance addressed. The problem is that businesses often won't follow their own procedure/policy when addressing these issues and there is often no other option for employees then legal options, which are very expensive.

4. The cost of legal fees is expensive when forced down that path and not an option, many people can afford. Also, the employee often has to leave and try and find employment with a bullying and harassment incident behind them, which is not their fault. The business cost is legal fees, increased workcover premiums and the replacement costs of reemploying the role.

Having had a period of time after this incident to reflect, this area of bullying and harassment at the workplace needs to be addressed.

Resolutions:

1. An independent review panel (outside both the Employer or Employee) with a no cost component for either party should be setup. This could sit as part of Fair Work Australia. I would definitely allow a review to occur at the place of employment between employer and employees but if the employee does not feel that their grievances have been addressed they can lodge for an independent review. This could be mirrored on the current process of Workcover whereby they get both parties together prior to issuing a certificate for the workcover issue to be addressed in court. If an independent review could be applied for early in the bullying and harassment proceedings (before legal action is required as a last resort by the employee), it provides an opportunity for the employment situation to be salvaged. Also, there would need to be accountability that the employer could not take any repercussions / actions against the employee for their decision to have the case heard independently.
2. A helpline to be setup for employees who suffer bullying and harassment in the workplace independent of the employer. This helpline could assist with counselling but also address the employee's options if they want to address the bullying and harassment matter formally. I know that when I was bullied and harassed in the workplace there was no options outside of personal support groups and legal representatives. I know employer's often have support services but they are appropriate in these matters as employee's need to know their options as well.
3. Mental health – This is an area that I have never heard addressed before i.e. the impact on the employee after a bullying and harassment incident occurs. Often bullying and harassment cases end in stress claims as they are very stressful to the employee. I have it on good knowledge that Insurer's (paid by the employer for their workcover cover) will never accept a stress claim as they don't know how long a stress claim will continue. It is better for the insurer to reject the stress claim and go to court. This provides them an end point to the claim. Whilst the employee has had to endure the bullying and harassment incidents, formal internal proceedings by the Employer, rejection of the stress claim by the insurer, medical appointments and legal proceedings, the impact on the health of the employee is massive. Then they have to often find another role with the stress claim following them. Often employee's haven't been paid since their stress claim resulting from the bullying and harassment occurred. Then if you are lucky enough to have it

resolved financially, legal fees then have to be paid. You always end up behind financially having done the right moral thing.

We teach our children that bullying and harassment is not acceptable under any circumstances, yet it is widespread in the workplace as an adult. Having spoke to friends, colleagues and family, everyone knows of somebody who has been bullied and harassed in the workplace. I would say less than 1 in 100 people would raise the issue in the workplace as they are concerned about their employment but even if they did raise it formally to address the matter, the system is setup so that the Employer has all the power and then you are forced down a formal legal path to try and recover an wages occurred.

I addressed the issue as I believe every employee has the right to work in an environment free of bullying and harassment behaviour. I believe not raising these issues condones the behaviour. I equally understand that not everyone is in a financial position to allow them to explore the matter future. It is a shame that the system is so weighted towards the Employer and doesn't allow the employee a cost fee and non legal option. It would be great, if a non fee independent panel could be setup that the employee could apply too to have their case heard early in the process and the panel's recommendations to be binding and not allow any repercussions against the employee for taking this course of action. Also, a helpline to be setup for employee's to call if they just want counselling or to know their legal options after experiencing bullying and harassment.

I appreciate your time and the opportunity to raise this matter. I congratulate your committee for holding a public inquiry into the matter.

Yours Sincerely,

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