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# UNIONSWA

WA's PEAK UNION BODY

27<sup>th</sup> August 2012

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Inquiry Secretary  
House of Representatives Standing Committee on Education and Employment  
Suite R1-110, Parliament House  
CANBERRA ACT 2600

Dear

## RE: INQUIRY INTO WORKPLACE BULLYING – FURTHER INFORMATION FROM UNIONSWA

While attending the Perth hearings of the Committee's Inquiry into Workplace Bullying on Wednesday 8 August 2012, we undertook to provide further information on the WA Code of Practice on Violence, Aggression and Bullying at Work (2010). This letter provides the further information regarding the Code and its operation in Western Australia.

### Background on the WA Code

The WA Code began in 2003 as two Worksafe Commission 'guidance notes' on workplace bullying: one for employers and one for employees. As guidance notes they were not legally enforceable and were not required to be approved by the relevant Minister under the WA Occupational Safety and Health Act 1984.

In 2004 the Government incorporated the guidance notes into the existing Workplace Violence Code of Practice. The new Code of Practice was called Violence, Aggression and Bullying at Work and was approved by the Minister under the OSH Act in 2006. The Code was further reviewed and updated in 2010.

Overall, WA unions have found the current WA Code to be an important awareness raising tool and a useful reference for both employers and employees. As such it has made a contribution to combating workplace bullying. However, while the Code provides a good theoretical base it doesn't provide employers with adequate tools or incentives to deal with problems when they arise in the workplace.

When investigating and responding to workplace bullying complaints, Worksafe can only take action based on whether the employer or employees are complying with Duty of Care under the Act. They do not become actively involved in assisting in resolving a specific complaint. They are not there to mediate between the parties.

### Applying the WA Code Nationally

UnionsWA believes that replicating the WA Code in a National Code of Practice would be an improvement on the national status quo. However, notwithstanding its benefits, the WA Code in its current form has the following issues:

- **Enforceability:** a Code of Practice does not have the force of legislation or regulation – so failure to comply with the code is not in itself a reason for prosecution
- **Addressing management behaviours:** as UnionsWA outlined to the Inquiry on 8 August, workplace bullying does not always consist of specific acts by particular individuals. It is also caused by workplaces being placed under pressure by decisions and cultures fostered by management.

Our view is that any National Code of Practice would need to be underpinned by legislation and regulations that would ensure effective enforcement action can take place. A National Code should also address whether employers are putting in appropriate preventative measures, and providing training on effective complaint resolution procedures.

UnionsWA's view is that any National Code should provide at least the same standard as the WA Code of Practice. However, we are of the view that the Committee should recommend an improved Code of Practice that addresses the issues we have identified above. The Inquiry is in an ideal position to gather examples of best practice from all states and territories and incorporate them into a National Code of Practice backed up by legislation and regulation.

I would like to thank the Committee for the opportunity to make a further contribution to the Inquiry. Should you wish to discuss these matters further, please contact

Yours sincerely

Meredith Hammat  
President