

**INQUIRY INTO ALLEGATIONS OF BULLYING IN
WorkCover NSW**

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Partially Confidential

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TO THE NSW PARLIAMENT, LEGISLATIVE COUNCIL
GENERAL PURPOSE STANDING COMMITTEE NO. 1

INQUIRY INTO ALLEGATIONS OF BULLYING IN WORKCOVER
NSW

Summary of submission

I have experienced workplace bullying, which left me seriously psychologically injured. I have also experienced WorkCover's failure to properly respond to a complaint I made about a workplace that had a culture of bullying. In this submission I outline my experience of workplace bullying and the impact on me. I seek to provide a victim's perspective; a personal and psychological perspective on the tragedy of workplace bullying. I also outline my complaint to WorkCover, and what WorkCover did, and did not do, when I complained about the particular workplace where I was bullied. Based on my experience with WorkCover, I conclude by submitting that WorkCover are failing to meet their regulatory and legal obligations.

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My experience of a culture of workplace bullying

1. I am a solicitor, having been admitted to practise in July 1998. As at June 2012 I held a position as employed solicitor and Principal/director of a small, incorporated legal practice at ("the firm"). I was the only solicitor, supported by one full time secretary and one part-time secretary. I was one of two directors. The other director had the role of managing director ("the MD"), but was not a solicitor. The law firm shared offices with an associated, small mercantile business, (hereafter referred to as "MC"). The MD was also the managing director of MC.
2. I tried to maintain a pleasant and friendly workplace, and treat people with respect. MC was managed in an autocratic style by the MD. His management style was not politically correct. I contend, and will show in this submission, that certain individuals at MC caused the workplace to be toxic, with what was a culture of bullying.
3. The MD, and a MC Manager, (hereafter referred to as "the BDM") regularly had loud discussions about work and non-work related topics, which could be heard by the other staff at the law firm and at MC. They swore profusely in the office, and regularly expressed derogatory remarks about various social, cultural and racial groups. They would, at times, also express crude, judgmental and unfairly critical comments in the office, of a personal or work related nature, about staff behind the back of the particular staff member.

4. At times, and without my knowledge at the time, the BDM also represented herself as being an employee or agent of the law firm, which is evidenced in, inter alia, some email correspondence. That person had no law degree nor or any other degree.
5. The MD refused to have staff training on the topics of anti-discrimination nor anti-bullying. During my time with the law firm, I saw and heard employees of MC being bullied by the MD and/or by the BDM. For example, over a period of time the MD had been saying to a mature, female clerical employee at MC, that she was a “cock sucker’s daughter” [I feel uncomfortable repeating this, but that is what he said]. The employee had requested that he cease saying that to her, but that did not stop him. Another staff member of MC and I intervened, after-which I understand those comments to that employee ceased.
6. In about 2010 and 2011 the employee referred to in paragraph 5 approached me on some occasions, out of ear-shot of the other staff, and she was crying. She would tell me how she was picking on her unfairly again.
7. I also witnessed other instances of bullying by the MD and/or the BMD over the years. I am aware at least one of those employees put a complaint of some kind in writing, but I did not see the contents of that complaint.
8. In late 2010 an employee of MC, who I will refer to as “S”, lodged a claim with MC’s then worker’s compensation insurer, QBE, in respect of psychological injury from workplace bullying and discrimination. There was no allegation that I had been involved in the bullying of S. Soon after S lodged her claim I heard the MD on the

phone to the insurer, QBE, threatening to cancel all his various insurance policies with QBE if they accepted liability for S's claim. QBE accepted liability, and S was not able to return to employment with MC, and I believe she was on worker's compensation for a period of at least about six months. The MD subsequently changed the firm's and MC's worker's compensation insurer to Xchanging.

9. Several months after S ceased working at MC, news in the office was that person may now be off worker's compensation and have commenced other employment. The MD stated, within earshot of all staff at the law firm and MC, that he wanted to find out where S was now working. He wanted to contact the new employer and warn them she was what he termed "a worker's comp malingerer", so that the new employer could terminate S before her probationary period expired. I do not know if he ever found out where S was working, but his comments were, to my mind, a clear warning to all staff of the possible consequences of pursuing any course of action such as that taken by S.
10. After the matter with S, the MD continued to refuse to have any anti-bullying training or policy. The way he managed MC and the law firm made it impossible for me to override his decision in that regard.
11. I thought I could protect my two secretaries from the bullies in that workplace. I thought I could keep myself safe and not become a target of the BDM. I had previously worked for the law firm for 4 ½ years, before it became an incorporated legal practice, when it had been a business under the proprietorship of another solicitor. At that time the law firm had more autonomy from MC, and the current MD

had no ownership or managerial role with the law firm. I was head-hunted back to a position with the firm after it became an incorporated legal practice. The firm had made a profit during my previous employment, but, after that time, when I was not with the firm, things had not gone well, and the firm had been running at a loss. After my return in March 2008, the firm became profitable, and remained so for the further 4 ¼ years I was with the firm.

12. I was good at my job, and, I believe, well regarded by my peers. I got on well with other staff. The firm was well regarded also, in its area of debt recovery litigation. I was the only staff member doing billable work, and as at June 2012 I was billed out at \$350.00 per hour. The income I generated for the firm paid for, inter alia, the wages of the two secretaries and the substantial overheads associated with running a law firm. Others individuals, such as the MD and the share holders (I was not a share holder) of the incorporated legal practice benefited financially from the income I generated.

13. Like many employees, I relied on my employment to pay bills and to pay a mortgage. My income was the primary source of income in my household. I had a hobby, horses, about which I was passionate. Work came first, but I spent much of my non-work time with my horses. I cared for them, rode them, trained and competed with them. I lived a normal, honest life, worked hard, and loved my family and friends. I believe that I was resilient and pleasant to work with. I had worked hard to complete two degrees, establish my career and buy my dream acreage property to live with my horses. In June 2012 I finally finished paying back to the government expenses

associated with undertaking my law degree. All these facts were within the knowledge of my work colleagues.

14. My experience of the bullies at MC was that it did not always appear they would have a reason for deciding to bully a particular individual. The head bully seemed to attack one target, and, when finished with that individual, move onto the next. She would also, somehow, manipulate and distort rational thinking of other staff and a mob mentality would ensue. In the eyes of that mob, a good and decent person was dehumanised and became a hated individual with no rights whatsoever. The target had no hope in those circumstances, and would be slandered personally and professionally, and lose their job by some means. The MD would allow the BDM to do whatever she pleased, and she did not appear to be accountable to anyone.

15. One of the comments the MD said to me, on several occasions and in front of other staff and on various occasions was: "The trouble with you is you are too honest".

16. I felt increasingly concerned about what I saw occurring in the office, and had tried to protect staff, including one of my secretaries, who I shall refer to as "A", from the head bully. Unknown to A, the head bully had A in her sights soon after A commenced employment with the firm. I found A to be a good secretary and managed to keep her out of the direct line of fire whilst I was at the firm.

My experience of being bullied at work

17. In late 2011 I had become increasingly concerned my authority and position as

solicitor was being undermined and I was being unfairly criticised by the MD and the BDM. In early 2012 I realised I had become the next target of the head bully. The ongoing attack was intentional and cruel, and intensified over time. My two secretaries also took part in an increasingly vicious psychological attack on me. I could not believe what was happening, and there was nothing I could do to protect myself - nothing. Days became hell for me.

18. Over a period of at least several months the attack on me escalated and included, but was not limited to, the following:

- I was repeatedly criticised unfairly, including in front of other employees at the firm and MC;
- I was repeatedly humiliated and belittled, including in front of other employees at the firm and MC;
- My position and authority were repeatedly undermined;
- My responsibilities and legal obligations as a solicitor and as a legal practitioner director of the firm were repeatedly undermined and threatened;
- My work and duties were repeatedly interfered with.
- The MD and the BDM engaged in conduct that put my Practising Certificate under threat;
- My personal items and computer were interfered with when I was not in my office;
- I was the subject of malicious gossip, which included lies and misrepresentations about me personally and professionally;
- I was ostracised and excluded from office activities;

- My sense of self worth was repeatedly undermined;
- The work I had done for the firm and for MC was no longer acknowledged;
- I was unfairly criticised by some of the employees, including my two secretaries, to seek to have me dismissed;
- I was subjected to repeated rude and aggressive behaviour;
- Unpleasant and humiliating remarks were made about my personal appearance in front of other staff;
- My authority over my support staff was removed, without me being informed;
- After I complained about the bullying, unreasonable demands were made on me to do work for the firm outside normal working hours;
- I was repeatedly denied any procedural fairness;
- The bullies conspired against me to seek to have me lose my job;
- The workplace was made an unsafe place for me to be;
- I was constructively dismissed.

19. In reply to my attempts to discuss and resolve the situation with my secretaries, I was now met with aggression and contempt, much to my disbelief and shock. I had previously had a good and friendly working relationship with those staff and never imagined that they would betray me as they did. They even falsely alleged that I had threatened their jobs, and then they conspired to seek to have me lose my job.

The impact of the workplace bullying

20. The bullying caused me to suffer major psychological injury in the form of major depression with anxiety and panic attacks. I became suicidal. I do not know how, but somehow I managed to stop myself from slicing my wrists with a knife I used each

day to slice carrots for my horses. Those same horses I can no longer afford to have shod. I have not ridden for over 14 months, let alone train or compete. My life blood was taken by those bullies. My world and the things that meant so much to me were unravelling around me as the bullies intensified their attack. The psychological pain I experienced was excruciating. It was something I had never experienced in my life before, yet the bullies had made it my reality. I did not deserve what was done to me, and I had done nothing wrong.

21. Whilst I was working at the law firm and being bullied, I saw a doctor and got a referral to a psychologist who was experienced with patients who had been bullied.
22. I expected one of the secretaries, who I had previously tried to protect, would be the next target, after the bullies were finished with me. When I was being bullied I tried to warn her, but she would not hear my concerns for her at the time and continued to participate in the attack on me.
23. When I complained about the bullying to the MD I was further bullied and threatened by him and further traumatised. He asked me to resign, but I refused. He protected the head bully, which I understand, to my shock, regularly occurs in such situations of workplace bullying.
24. Unless someone has personal experience, it may be difficult to understand the psychological pain associated with bullying of the kind to which I was subjected to. It may be difficult to understand the trauma and fear associated with being totally innocent of outrageous and slanderous allegations, yet deemed to be guilty by a

lynching mob (your work colleagues) who no longer adhere to notions of justice, truth, fact, nor a civilised concept of what is right and wrong. No only was I being bullied, but it was apparently decided by the head bully and the mob that I was guilty of some heinous crime and I deserved to be punished severely. These same individuals still appeared, on the outside, as ordinary people; mums and dads going to work in an office to make a living. What they did has resulted in my life history now including experiences and dimensions I never thought would be part of my life. I have felt the experience of part of me feeling lost and distorted from the trauma and psychological pain. The rug was well and truly pulled out from under me by those bullies. Those bullies do not just set out to get rid of someone from a workplace; they seek to destroy who and what you are and what you have.

25. Part of the narrative of my life now includes the experience of living with days that do not pass normally. Instead, I have experienced each minute as a challenge – a challenge to get through that minute to the next minute, then to the next. Feeling like if I just turn my head it will all go away, but, of course it does not, and I continue to find it so hard to believe that this is my life now. The faces of those bullies continue to haunt me. Somehow, it is not enough just to say what they did was insidious and reprehensible.

26. I lodged a claim for worker's compensation in late June 2012, for which the insurer accepted liability. I have not been able to work since, and remain unfit to work. I am under the care of a Psychiatrist and a Psychologist. The impact of the bullying has been devastating to me psychologically, emotionally, career wise, and financially. The world as I knew it is not the world I know now. My beloved horses seem like

strangers to me now. The connection I had to going to my job, helping clients, going to Court and so forth – gone; taken by the bullies. Were they jealous? Were they envious? Were they hateful? In a sense it does not matter – they did what they did, and they should not have done it.

27. I currently receive a weekly statutory rate of worker's compensation in the sum of \$447.70 gross. That hardly covers the mortgage. I no longer have the company car I had as part of my package at the firm. I cannot afford to buy nor maintain a vehicle. I live in a semi-rural area, with no public transport.

28. The attack on me did not cease after I was unfit to work and on worker's compensation. Individuals at the firm and MC continued to raise false allegations about me of a serious nature both personally and professionally, which were devastating to me. The MD threatened to inform any future potential employer that I had been on workers compensation.

29. My life became days of hell during and after the workplace bullying. I wish what is in my head now, which was not there before the bullying, was not in my head. Preparing this submission has been difficult for me to do, and very distressing.

30. As I indicated earlier in this submission, there did not seem to be a time when the head bully did not have a target in sight. Early this year I was informed that the secretary I had predicted would be the next target, was bullied late last year, and that she had applied for worker's compensation for psychological injury from workplace bullying. I understand she is unable to return to her position with the firm. I am

informed she wants to apologise for what she did to me, but I have not had any direct contact with her since I was last in the office in June 2012.

My complaints to WorkCover

31. Last year, before I had knowledge of the further bullying involving the secretary, I contacted WorkCover to lodge a complaint about the workplace bullying.

32. On 10 September 2012 I phoned WorkCover to complain about the workplace bullying. I confined my complaint to the law firm, as that was my employer. I was concerned about what had happened to me and about other staff at the law firm and at MC.

33. When I phoned WorkCover on 10 September 2012 I spoke with a pleasant man who sounded concerned about my distress. He took a lot of details from me over the phone, and informed me an Inspector can go out to investigate about the bullying and ensure an anti-bullying policy is in place. I was then transferred to the Duty Inspector. I gave him a lot of details during a lengthy phone conversation, including the fact mine was the second worker's compensation claim for psychological injury from bullying in the same office (the shared office of the law firm and MC), and both cases involved the same bullies, and that in both cases the insurer had accepted liability. I expressed my concern for the safety of employees at that work place. I confirmed the "boss" had refused to have in place any anti-bullying policy or training. The Inspector assured me my complaint would be logged on to the system, and an inspector would be allocated to attend that workplace, and that I would be contacted after that occurred. I left my contact details.

34. I heard nothing more from WorkCover by 18 October 2013, so I phoned WorkCover on that date. I was given the name of the Inspector dealing with the matter, who was the same Duty Inspector I had spoken to on 10 September 2012. I was directed to his voice mail, and left a message and my contact details on his voice mail.
35. I had still heard nothing further from WorkCover by 1 November, 2012, so phoned the Inspector on that date. He said he recalled speaking with me in September, but he had not contacted my employer. I recall he took a lot of details from me during our phone conversation in September, but during our 1 November 2012 phone conversation he said he had no case notes. The Inspector did apologise for the matter being “missed” [his words]. I provided some details again, which was distressing to have to do. He also stated that the risk to me was over, as I was no longer in the particular workplace. I tried to explain I had also been bullied after I ceased being in the office. He did confirm he would now do an inspection of the workplace in the next few days, and contact me afterwards.
36. By 13 November 2012 I had heard nothing more from the Inspector nor Workcover, so I phoned the Inspector on that date. He confirmed having attended the workplace, and being informed there was an unwritten anti-bullying policy in place. He indicated to me Workcover had no power to make the workplace have a written policy, but that he had suggested to the employer that the policy be put in writing. He was to follow up with a further inspection. I was not contacted by Workcover nor the Inspector after that phone conversation on 13 November 2012.

37. On 15 January 2013, after I became aware about the secretary being bullied, my partner contacted the WorkCover Inspector. I was too distressed to make the phone call. The Inspector confirmed that the employer had up-graded their anti-bullying policy and procedures to a written document after the intervention of WorkCover, following my complaints. The Inspector also indicated that if the most recent target of the bullying lodges a complaint with WorkCover, then the employer would be in breach of their own policy, and WorkCover could take the matter further.

Conclusion

38. I felt disappointed and concerned about Workcover's failure to take a pro-active approach to the workplace bullying. The impact of the bullying was clearly devastating on the various targets/victims, such as myself. I was concerned that someone may end up self harming due to the psychological injuries being inflicted on employee after employee in the particular workplace.

39. Workcover could have further investigated taking action against my employer for breach of its anti-bullying policy and/or breaches of applicable occupational health and safety legislation, regardless of whether the employer's policy was in a written form. The employer apparently represented to the WorkCover Inspector that it had a policy in place, written or otherwise. There was, clearly, evidence of repeated and blatant breaches of work health and safety obligations. WorkCover failed to act to prevent those breaches from continuing. WorkCover failed to take action that may have prevented further workplace injuries. The bullies remain unaccountable and, presumably, undeterred. It is, in my submission, reasonable to assume that another preventable workplace injury is waiting to happen at that workplace.

40. WorkCover is not taking a sufficiently pro-active approach to reports of workplace bullying. I respectfully submit that in, failing to do so, WorkCover are not fulfilling their regulatory nor statutory responsibilities.

Vicki Pepyat *B.A. (Hons) LLB*

Dated: 21 August 2013