

# **IS WORKPLACE BULLYING A NATIONAL DISGRACE?**

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## Introduction

Recent publicity regarding the suicide of a young female café employee in Victoria and that of a female employee within the New South Wales Ambulance Service has highlighted the deadly and tragic implications of workplace bullying. This should have been a wakeup call to all Australian public and private agencies and businesses.

Despite legislative requirements requiring organisations and individuals to contribute towards safe working environments, workplace bullying is sometimes overlooked or tolerated. In some organisations, the tolerance level may lead to acceptability.

This article is designed to stimulate discussion regarding current progress and attitudes towards preventing, resolving and eliminating workplace bullying.

Despite extensive research that has been conducted on a national and international basis, there seems to be little progress being made at a national level. Whilst some commendable efforts are being made across all States and Territories, the public and private sector still need to come to terms with the financial implications of workplace bullying.

We really don't know how much bullying is costing the public and private sector, much less how much it is costing taxpayers or consumers. One way or the other, the cost of workplace bullying is passed on.

Consider these four statements.

- Workplace bullying incidents have the potential to create financial, physical and psychological trauma to individuals and organisations
- Individual and corporate reputations can be severely affected when allegations are ignored or are not effectively investigated
- Someone, somewhere died today (physically or psychologically) because of bullying
- **There is an increased chance that you will be held personally liable for breaches of the law**

How would you respond in a Court, Commission or Tribunal if you were confronted by a legal team representing a victim or the family of a victim who had died because of workplace bullying?

In some cases, your personal or organisational reputation will be damaged because you did not consider workplace bullying to be a risk. In some situations, the Board may be blissfully unaware of the risk exposure they are facing through inappropriate managerial actions further down the line. In some cases, some managers may choose not to pass information up the line, preferring instead to tell the Board what they think the Board wants to hear.

For some individuals and organisations, policies and procedures will be implemented on the intranet; however this may mean little when it comes time to defend an allegation.

Workplace bullying has a direct and indirect impact on victims, alleged bullies, organisations, the medical and legal professions, the family/friends and associates, the investigators and the media.

Each plays a critical role in preventing, detecting and resolution workplace bullying. You have to understand what your role is now and what it will be in the future. Plan for the day when you will be involved in a workplace bullying incident.

Everyone has a tale to tell about how they have been bullied, how a friend was bullied, how the manager was bullied and even how the client was bullied. After a while all the stories start to sound the same, only the location varies.

In this relatively short article, I want to highlight what I believe are some critical issues that need to be addressed as a matter of urgency.

We all have choices to make and sometimes it is easy to look back in hindsight and understand why a different course of action should have been taken. We only have to do a quick search on the internet to see how many people are talking about workplace bullying. It seems that hardly a day goes by without some mention of bullying being made.

Is there too much talk and not enough action?

### **National disgrace**

If a national company lost between \$3 billion and \$36 billion a year, there would be all sorts of inquiries and media attention. It would be viewed as a national disgrace and the executives of that company would be vilified.

However, various publications and media sources indicate that workplace bullying reportedly costs Australian business between \$3 and \$36 billion per year. Some data on various websites indicates that the cost of bullying could be about \$4690 per person per year.

Some of these costs to business can slip through the cracks as there is no structured approach to collecting or reviewing them. It can be impossible to attribute an accurate dollar cost to these issues when a workplace bullying incident may go unreported or undetected for a long period of time. In some cases, bullying may be reported and recorded as some other workplace behaviour or conflict.

We should not be lulled into a false sense of security and believe these costs are acceptable. We should also understand that there are numerous indirect costs involved.

The cynics might say that it is part of doing business and the costs or expenses will be recovered by increasing the price of the product or services being provided to consumers. It is also important to consider that the real cost of workplace bullying might not be known. Some victims may choose to remain silent in fear of further retribution or job loss and some organisations may have no systems or processes in place to collect data about the extent of workplace bullying.

After several years of speaking with victims, alleged bullies and managers/supervisors about various aspects of workplace bullying, I came to the conclusion that bullying is a 'real' issue and that there are many genuine cases. I also formed the view that workplace bullying incidents had occurred because of system failures. It was also apparent that the costs of workplace bullying were not really understood from an individual or business perspective. As I have indicated in my book, the costs of workplace bullying can include:

Cost	The victim	The alleged bully	The organisation	The medical profession	The legal profession	The family, friends and associates	The investigators	The media
Adverse publicity								
Criminal charges								
Vicarious liability – personal								
Disciplinary action								
Absenteeism								
Presenteeism								
Staff turnover								
Increased stress claims								
Loss of productivity								
Increased negative workplace conflict								
Poor performance								
Wasted resources								
Increased workload								
Poor motivation								
Family costs								
Medical expenses								
Legal costs								
Physical health								
Psychological health								
Sabotage								
Investigation costs								
Training costs								

Source: Althofer, B (2009) RESOLVING WORKPLACE BULLYING. Survival questions and helpful hints from cubicles to boardrooms, p. 89

At a time when Australian businesses are tightening their belt because of the international economic situation, and reviewing employment levels, improving systems and processes, it seems to be an appropriate time to be innovative and creative at a national level to reduce the overall negative impact of bullying.

Who knows, additional job opportunities might be created through the savings generated by addressing causal factors, reducing negative outcomes and creating long term strategies that create positive workplaces.

At a time when the cost of doing business is being reviewed, it is timely that bullying as a bottom line operating cost is addressed.

The negative impact of all forms of bullying has generated a growth industry. Legislators, researchers, health and safety professionals, legal and medical professionals, practitioners and consultants, victim support groups, the media and investigators all play a part, some being proactive and some reactive.

Whilst each and every person is doing something in their own way that contributes to detecting, preventing or resolving workplace bullying, there is no national unified approach. It is important to note that bullying transcends all boundaries and as bullies move from State

to State (in some organisations), the costs can be hidden and hence the Board or Executives can remain uninformed. Imagine the benefits that could flow if there was a co-ordinated and unified approach.

It also seems that there has been extensive academic research conducted to date, that the answers have already been developed, but for one reason or other are lying around to be 'discovered'. No doubt, there are many groups who have been funded for research that is conducted over a long period of time. Again, this might be a cost that could be added to the cost of workplace bullying.

It might be time to pull all the research together (irrespective of source), synthesise the findings, pull out what might work, and put it into practice. One thing that keeps coming with some of the people that I talk to is the need for simple guidelines about what works and what doesn't. Many people just say to me "Just tell me what I have to do; I don't have time to wait for all that to happen."

Academic research does have its purpose and many great results have been achieved for those involved. However, the research could be used to greater benefit if it were adopted at a national level to drive change.

Some people might believe that a proactive response should focus on the victim/s. However, if there were no bullies, there would be no costs incurred. Perhaps the real focus should be on the bully and how much they cost the organisation, the customers or clients, or even the taxpayers.

## **Definitions**

Definitions can help people understand the elements of what is and what isn't bullying. Whilst some words are consistent, there is no singular international or national definition of bullying.

Not only is that a problem for individuals who are confronted with a virtual maze of what bullying means, organisations that operate across a number of States or Territories must know each State or Territory definition.

No two States or Territory has the same approach to detecting, preventing or resolving bullying. The development of a single, nationally accepted definition of workplace bullying would provide assistance and guidance to organisations and to individuals.

Perhaps there an overemphasis on the word 'bully' and some people might wear the tag as a badge of honour. We should understand that there is considerable research being undertaken on an international level (with Australia and South Eastern Asia) being included. We should also understand that different cultures may have different understandings about what constitutes bullying, so a one size model might not be appropriate. Forcing personal views or beliefs onto another culture might also be perceived as bullying.

Definitions can be problematic if criminal charges are pursued. Each element of the offence must be present and generally there is a requirement to ensure the offence has been committed. Of course, there is no criminal offence of bullying per se and allegations into bullying only have to be proven to the civil standard of proof, not the criminal standard which requires the charge to be proven 'beyond all reasonable doubt'.

Where there is a lack of clarity about bullying, this could lead to confusion, and ultimately continued dissatisfaction with outcomes achieved.

We really do need to have a common language and understanding of what is and what isn't bullying. We also need to have a very clear understanding as to what are acceptable workplace behaviours and the cultures that support that approach. For instance, despite some executive officers being very outspoken and supportive of attempts to prevent, detect and resolve workplace, the workplace culture may be such that bullying still occurs simply because the workplace behaviours are indicative of 'the way business is done'.

However, in some extreme cases of bullying, criminal offences such as stalking, serious sexual assaults, conspiracy, perjury, or even attempts to pervert the course of justice can be committed. In these types of situations, whilst the victim may choose not to make a formal complaint about the criminal offence, the 'organisation' may decide that police intervention and investigation is warranted.

In these cases, the prosecution will be seeking to prove the elements of the charge 'beyond all reasonable doubt'.

Providing consistency in definitions of workplace bullying also means that victims have to be provided with a good understanding of what constitutes a criminal offence, and that in some cases, despite wanting no action taken, a separate investigation will be conducted.

### **Health and safety**

There is little doubt that bullying seems to be heading for the position of number one contender for the greatest negative health and safety cost in terms of physical and/or psychological hazards.

Whilst all States and Territories have been upping the ante in relation to safer workplaces, the inclusion of bullying with the same level of focus might have national benefits. Some States are adopting a zero harm approach to health and safety and this could have interesting ramifications when allegations of workplace bullying are made.

For example, if a person who has been subjected to workplace bullying provides medical evidence to support their claim; does it then mean that the 'organisation' or their employees have breached the health and safety legislation because of the zero harm approach? What penalties should be imposed for those breaches?

It is interesting to note current moves to harmonise health and safety laws across Australia. This could have interesting ramifications and implications for all States and Territories as they develop common meanings and understanding of health and safety related issues such as workplace bullying.

Changes to compliance and penalty regimes could mean that workplace bullying offences are pursued through higher courts such as District Courts, and heard before a jury. Depending on the nature and circumstances of the workplace bullying incident, there is a possibility that a person convicted under a Category One level could face imprisonment of up to five years. No doubt this will create an environment where organisations will need to think seriously about how they detect, respond and resolve bullying allegations.

If executive officers believe they are at risk of imprisonment, they might be interested in being proactive in preventing, detecting and resolving workplace bullying.

Some organisations are adopting a zero harm approach in relation to health and safety, but some may not have linked the negative impact of workplace bullying to physical injuries or harm.

What happens when a person is so traumatised by being bullied and they are involved in a physical incident that results in death or serious injury either to themselves or to others in the workplace? Will the investigation look at all the causal and contributing factors to determine state of mind and fitness for duty? What comments will be made by the Coroner, if in fact the workplace death contains allegations of bullying that lead to the workplace death?

Training to assist managers and supervisors in the identification of 'at risk' personnel may be some of the best proactive measures organisations could and should take to meet duty of care obligations in providing safe work environments.

As training budgets are cut in all areas, and particularly in the area of health and safety, it may become harder for executive officers to demonstrate their commitment to health and safety and how they are meeting their legislative obligations in relation to the provision of safe working environments.

### **Uniformity**

As indicated previously, the lack of a national uniform approach has negative impacts across business and society. Different Courts, Commissions and Tribunals are used in the resolution processes.

Given that bullying is a complex issue requiring complex solutions, Courts, Commissions or Tribunals are often required to hear 'experts' so that a determination can be made.

It is important for those involved in a workplace bullying incident understand that the legal processes may be a contributing factor in achieving a resolution. For some the resolution may not be what they want and they have to reach a compromise that they are not entirely happy with.

Bullying incidents can involve breaches of contracts, non compliance with policy and procedures, or people simply being nasty to others. It is important that individuals at all levels understand the changing trends and issues associated with workplace bullying Court, Commission or Tribunal decisions.

Disjointed approaches to sharing information in organisations and across organisations engaged in the same industry may result in information not being shared. Consequently, when a Court, Commission or Tribunal decision is made, the results might not be shared or even passed down to all levels of employees. If the information was shared, it might result in a further incident being prevented.

### **Reasonable management**

What is reasonable to one is unreasonable to another. Some management decisions can be construed as unreasonable when in reality; decisions are made in good faith.

The law in relation to reasonable and reasonableness is subject to interpretation and hence confusion on the part of managers and other employees.

Whilst Codes of Practice attempt to give guidance, other decision makers within the injury claims process may have different understandings or interpretations.

It can also become an issue when a Government Department issues a Code of Practice with an outline of what is believed to be the core components of reasonable management, only to find that another area such as one that might make decisions about workplace injury claims has a different interpretation.

It is important that when organisations provide training on workplace bullying, that some considerable time is spent creating and developing a workplace understanding of this critical issue.

Most Australian health and safety legislation, Codes of Practice or even guidelines about workplace bullying or harassment will indicate that bullying or harassment does not include reasonable management action taken in a reasonable way by the person's employer in connection with person's employment. Again, the legislation generally indicates that single incidents should not be considered to be bullying or harassment.

However, my experience indicates that this is a bone of contention with some employees.

How then do we gain a better understanding about this contentious issue? As set out very clearly in some Codes of Practice, workplace harassment **is not** and **must not** be confused with legitimate comment and advice (including negative comment and feedback given appropriately) by managers and supervisors on the work performance or work related behaviour of an individual or group. These Codes also indicate that it is not workplace harassment for managers to manage legitimately.

So what is acceptable?

It would appear that reasonable management actions include:

- performance management processes
- action taken to transfer or retrench a worker
- a decision not to provide a promotion in connection with the worker's employment
- disciplinary actions
- allocated work in compliance with systems and policies
- injury and illness processes
- business processes, such as, workplace change or restructuring

Generally, there should be no problem with these actions provided they are conducted in a reasonable manner. Once again, it is important that there is a very clear understanding of words such as 'reasonable manner'.

For example, there was a manager who said to one of his staff "As a matter of interest, what do you have on next week?" This was found to be unreasonable management much to the dismay of the manager who believed that he was asking the right question, in the right tone with the intended purpose of clarifying and nullifying rumours about staff performance (or lack thereof). Other staff in the same work unit had been asked the same question and none of them believed they had been bullied. Managers should never take it for granted that they will not be challenged.

I am regularly told of situations where many of the 'reasonable management actions' have not been conducted in a timely fashion, have occurred in front of other 'non-involved' personnel, have been 'deliberately' delayed so that there has been an impact on promotional opportunities, and a general lack of consultation or communication was present.

## **Reputations**

Workplace bullying incidents have the potential to negatively impact on individual and corporate reputations. Some individuals who are subjected to workplace bullying may find the barriers that exist make it harder for them to report the incident, let alone get an outcome they are satisfied with.

Some may be confronted with a cone of silence where organisations and work colleagues take a dim view of whistleblowers or those seeking to right workplace wrongs. Whilst some may suffer in silence for some period of time, the full impact or cost of bullying might never be known if they are not encouraged or required to report.

It should be understood that whilst some individuals take action immediately, others may think about the issues for some time. Some victims may be so traumatised by the circumstances that simple processes like dealing with the paperwork become overwhelming and increase the negative stress levels. As a result, the way in which they respond can have a negative impact on their claim process, and they may ultimately do something or take some action that impact on their personal reputation.

One only has to follow the readers' comments on various electronic media outlets to see the level of angst being vented on such forums. Skilled auditors can identify the public or private sector agency as some of the comments are not so subtle.

### **Data collection**

There is no national data collection system in place so the full extent or cost of bullying is not known. Projections on averages seem to be one way of working out costs. It is also problematic for States and Territories wanting to appear proactive.

Informed decision making is affected as the lack of data means that interventions can be developed on data obtained from a minority. Surveys can be conducted involving small data collection groups. Silo approaches used in the prevention, detection and resolution of workplace bullying sometimes mean that critical interpretation regarding the level of risk and exposure being faced by an organisation is overlooked.

The direct and indirect costs can mean that the intangible costs are not captured, not understood and therefore not considered as part of the total cost caused by the bully.

Who would think to capture costs related to resources, meeting rooms, computer storage space, stationery and the like? After all, aren't these just abundant office supplies to be used? If they weren't being used in the pursuit of bullying incidents, perhaps some of these costs could be saved along the way.

Data collection models should be carefully considered. After all, who wants to be so busy collecting data that they don't have time to do the work for which they are paid.

Some of the literature discusses average costs, but it is hard to know how this should be determined when no two allegations are identical.

### **Change**

Workplace bullying is a complex situation requiring complex solutions.

However, as with any change there is a need for a change in attitude about the short, medium and long term impacts on the physical and psychological wellbeing of individuals and organisations. There has to be a national commitment to change. Successful change has to be driven from the top and the positive messages communicated consistently across the Nation.

The power of the organisational culture should not be underestimated, particularly what happens at ground level. Executive officers can believe that they are leading a positive workplace culture, but unless this is communicated and followed through at all levels, practices at ground level might never change.

Just as other forms of physical and psychological hazards are treated as a priority, the same rules have to apply in the way organisations respond to workplace bullying.

Sometimes organisations may use financial data as a way of setting benchmarks against which performance can be measured. Imagine if your organisation was able to create change by highlighting increases or decreases in the financial cost of bullying.

### **Financial impact**

The financial impact of workplace bullying across Australian private and public sector agencies has to be considered as a critical area of improvement.

Ad hoc and inconsistent approaches, whilst providing some relief for those involved, may not provide a holistic, long term approach to problem solving.

It might also be symptomatic that whilst there is no national data collection process in place to give an accurate understanding of workplace bullying, the lack of co-ordination or financial recording of costs within individual work units contributes to a lack of organisational responsiveness.

If the average cost of one workplace bullying incident is \$20,000 and there are a number of such incidents across an organisation, how does an organisation recognise the risk exposure when the collective cost of several incidents is not recorded?

There is an inconsistent and perhaps inaccurate process in place to measure the financial cost of bullying. Some measures take prevalence into consideration and some estimates may not consider all of the indirect costs.

As far as can be determined, there is no national model that can be used to cost workplace bullying, although there are some excellent publications that can be used to form a framework under which costs could be captured.

It does appear that costs of bullying can range from as low as \$600 per person per annum to as high as \$4690 per person per annum. Some of these costs have been calculated on a prevalence rate as low as 3.5%, whilst others (the high rate) do not give a prevalence rate.

Whichever way you do the calculation, the figures are almost unbelievable; hence the reason why I indicated it is a national disgrace. If you are an executive officer, wouldn't you like some certainty about the degree of accuracy? That is not to say that the dollar costs indicated in the previous paragraph are inaccurate. In reality the costs might even be higher.

Hence the imperative to generate a model that can predict with a higher degree of accuracy, all the direct and indirect costs associated with workplace bullying.

### **Knowledge**

Currently there is a collective body of knowledge developing in Australia and much of this knowledge comes from victims, alleged bullies, organisations, medical and legal professionals, family/friends and associates, investigators and the media. There is no unified approach.

Whilst there may be some individuals and/or professional differences of opinion about the best possible solution, a national approach that allows collaboration to build on mutual respect and dignity may ultimately result in strategies or guiding principles that will benefit

all and sundry irrespective of individual values and beliefs, cultural background or other critically relevant issues.

Some literature has in the past suggested that guidelines such as those for risk management, quality management and the like be developed in relation to workplace bullying. This approach could have merit if they were developed as industry standards. They could be guidelines but not compulsory, and tied to the proposed OHS harmonisation processes.

They would be generic and allow the public and private sector to apply them, which could result in some cost savings. Licensing arrangements could allow individual organisations to use the guidelines without having to write numerous pages of policies or procedures. In some cases, the guidelines might be the extension of a Code of Practice currently owned by a State Government agency.

### **Emerging trends and issues**

Recent media sources indicate that workplace bullying is escalating. Court, Commission and Tribunal decisions are resulting in an increased need for organisations and individuals to be increasingly vigilant about issues that will impact on workplace bullying allegations.

There are also indications that workplace bullying reduces the corruption resistance of agencies, and at the very least, creates a pathway to corruption or unlawful activities.

It would be in the best interests of public and private sector agencies (irrespective of size) to develop a system or process that allows them to stay in touch with trends and issues. It could up being embarrassing for an executive officer if they are confronted in a Court, Commission or Tribunal trying to respond to something they know nothing about.

### **Deviance**

There seems to be little doubt that there is a strong link between deviance and bullying. For some, ideas about deviance or deviants create a belief it only means rapists, murderers, paedophiles, child molesters or domestic violence perpetrators.

What if bullying does not meet social norms and values (as if it ever did)? Would we as individuals or as organisations believe that workplace bullying is something to be tolerate, excused or accepted as part of the 'norm'?

If we as a society believe that workplace bullies are deviants who fail to meet community standards about treating others with respect and dignity, surely it is time to recognise the financial and societal costs and treat it as disease. Perhaps it is time that bullying, as well as being recognised as a health and safety issue, be treated as a public health issue.

### **New directions**

There has to be community debate about the acceptability of workplace bullying if organisations and individuals are expected to survive. In much the same way that informed debate lead to changes in domestic violence and in leadership, similar processes have to be started to generate understanding about the negative impact on workplace bullying on business and society.

Just because it has existed in many forms across a range of societies and communities since time immemorial, it doesn't mean that attempts should not be made at a national level to prevent, detect and resolve bullying.

After all, if State legislation places an onus or obligation on organisations, employers and employees to take all reasonable precautions to prevent a workplace injury, should this not be driven at a national level?

It is time to treat workplace bullying as a national disgrace and take positive action to create a bully free society and workplace.

All it will take is a few good people to stand up and be counted. Will you be one of them? Or, will you take the chance of doing nothing with the very real possibility that one day, you will be sitting in a Court, Commission or Tribunal responding to a diverse range of questions that you could have answered, if only you had prepared.

## **Conclusion**

Everyone in society feels the impact of workplace bullying. As taxpayers, customers or clients we experience higher costs, reduced service and increased levels of frustrations because of the bullying that occurs in some organisations.

When I wrote my book about RESOLVING WORKPLACE BULLYING, I found that there were some common issues involving the victims, the alleged bully, the organisation, the medical and legal professionals, the family/friends and associates, the investigators and the media. Everyone had a vested interest and everyone wanted to ask questions.

However, not everyone knew what the right question to ask was or why it should be asked. My practical experience in speaking with victims, alleged bullies and managers/supervisors in organisations led me to believe that whilst bullying seemed to be part of life, many people were uncomfortable with it happening.

It was a concern that whilst organisations were able to produce policies and procedures about the prevention, detection and resolution of workplace bullying, not much was being done to educate people on the basics of organisational life. It seems to me that if the complex issues of workplace bullying are to be addressed, some organisational policies and procedures relating to induction, job or position descriptions (including employment conditions) and performance management systems or processes need to be improved.

You do need to plan for the day you will be involved in a workplace bullying incident. When it does happen, how are you going to respond?

Whether you believe it or not, we are all in this together. One of the great things about treating people with respect and dignity is this. We might not agree on each other's viewpoint, but we can have some constructive discussions that might be emotive and challenging and we can still agree to disagree without humiliating, intimidating or threatening each other. It is about communication.

I have set out a few ideas that I believe if addressed not only at a National level but on an organisational and individual level, can make a major inroad into reducing the incidence of workplace bullying.

We can individually and as organisations keep treading water or going around in circles doing the same old thing, and nothing will change.

Alternatively, we can get involved, set the ball rolling and make positive changes.

## **BIOGRAPHY - Bernie Althofer AFAIM:**

Bernie is the Managing Director of **EGL I Assessments Pty Ltd**© specialising in conducting workplace bullying workshops; and working with private and public sector organisations to conduct workplace assessments and reviews, particularly in relation to workplace bullying

He self published a book about workplace bullying that looks at the questions that victims, alleged bullies, organisations, the medical and legal professions, the family/friends and associates, the investigators and the media should or will be asking.

He has since expanded those questions and developed a Personal Record Book that individuals can use as a guide to help them support their claim, defend the allegation, or simply make sure that they can respond appropriately if they have to give evidence in a Court, Commission or Tribunal.

Bernie conducts workshops designed to stimulate discussion on a range of issues including:

- Recruitment, selection and placement, and job or position descriptions;
- Induction Programs;
- Performance management;
- Culture (particularly unwritten ground rules);
- Corruption, deviance and counterproductive behaviours; and
- Workplace bullying

He respects the rights of individuals and organisations to discuss costs of training and treats these as confidential business agreements.

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