



ZERO TOLERANCE FOR BULLYING – THE FIRST STEPS IN A LONG CAMPAIGN

A REPORT TO MEMBERS

28 October 2013

When the AWU Victorian Branch held its first meeting to talk to HSRs, Delegates and Members about how to stop bullying in the workplace, it quickly became apparent that everyone has seen it, tried to stop it, or been a victim of it.

The purpose of the focus group that met on 22 October was to start on the long path to meaningful solutions. The discussion flowed easily, and laid the foundation for comprehensive membership involvement in all that lies ahead.

We want to stop the rot

Harassing, nit-picking, sexist and racial taunts are just some of the things that fall into the broad category of bullying, or what can be more accurately termed 'adverse social behaviour' in the workplace. There's a growing acceptance in the community that it's not on.

It's obvious that poor behaviour is a feature of most workplaces at one time or another. Often quick action by bystanders whether they are HSRs or Delegates, or co-workers can stem abuse; but there are times when the problem is a systemic one, and the outcomes are serious for victims, and often for perpetrators as well.

AWU Organisers and our Safety Unit's Percy Pillai and Jim Ward hear about unfortunate situations most days of the week. The stories are disturbing and many people end up bearing emotional scars that don't simply go away when the incidents stop.

What is adverse social behaviour?

Bullying describes a range of unwelcome behaviour that a reasonable person would find offensive, intimidating, humiliating or in some way threatening. We want to introduce the term 'adverse social behaviour' as a means of expressing how broad that range can be.

We will still talk about bullying for ease of communication, but describing it as 'adverse social behaviour' eliminates a lot of the doubt about what constitutes a problem.



Personal comments about someone's appearance or habits, constant unwarranted criticism about work performance, exclusion, isolation, excessive monitoring, being shouted at, everyone knows the sorts of things. It would be impossible to describe all the behaviours that fall into this category, but most people know it when they see it. (What we're NOT talking about is reasonable management direction.)

It's not OK to do any of these things and follow them up with "only joking". It's not OK to tell someone you've upset that they should 'harden the f--- up'. It's not OK to simply accept that bullying happens.

Most definitions of bullying, including those used by safety regulators, describe the behaviour as 'persistent' or 'continuing', but experts and victims say that a single instance is enough to cause enduring damage.

One incident is one too many.

EA Clause to stop adverse social behaviour

In the coming weeks, the AWU will compose a model clause for Enterprise Agreements to set a code of behaviour and a response to any transgression. It is a first step and from the response of the focus group participants, one which will be welcomed.

We'll be working on all fronts to see that progress is made, but be warned, as they say in the classics, Rome wasn't built in a day. This is a long campaign, and no-one should expect overnight results, but together we can make steady progress.

For those who doubt that change is possible, remember there were a lot of people who didn't believe car drivers and passengers could be made to wear seatbelts. There might still be some out there who do the wrong thing, but they're the exception, not the rule.

In the years ahead, the AWU believes that adverse social behaviour and all its associated ills will be rare and punishable offences. Together, we can achieve this.

Too late when the damage is done

As things stand, the only time action can be taken is when the damage has been well and truly done. WorkSafe Victoria will not take up a case unless there are five substantiated incidents, but the number of complaints received by the regulator that move to the investigation and action stage are tiny compared to those received.



Maurice Blackburn's expert on bullying Josh Bornstein has taken a particular interest in this area and gave the focus group a run-down on the law as it stands, and the initiatives due to be introduced by the Fair Work Commission (FWC) from 1 January next year.

[Amendments](#) to the Fair Work Act mean that a worker who reasonably believes that he or she has been bullied at work can apply to the Fair Work Commission (FWC) for an order to stop the behaviour. The Commission must start to deal with the application within 14 days.

"It's important to remember the system is aimed at stopping future bullying, not aimed at punishment or compensation for past bullying," Josh said. This is exactly why the AWU campaign is aimed at stopping the behaviour, rather than punishing it after it has occurred.

What Fair Work will be able to do

As the Fair Work bullying measures stand at the moment, they won't apply to Victoria Police or parts of the Victorian public sector because of the requirement it must have taken place in a "constitutional corporation". (If you want to read more about constitutional corporations, you can click [here](#).)

The Federal Coalition when in Opposition said any complaint of bullying should go to the appropriate state safety regulator, in this case WorkSafe Victoria, before an application could be lodged with the FWC. The AWU will lobby against such an amendment.

In Victoria, a bullying or harassment complaint takes about six months to be addressed by WorkSafe. The situation is similar in other states. This is obviously not an effective way of dealing with an urgent problem.

Quick and ready access

Josh Bornstein has long argued for "quick and ready access" to a user-friendly process that will stop workplace problems before serious damage is done.

The introduction in 2011 of Brodie's Law, was in response to the systematic bullying of young café worker Brodie Panlock which ultimately led to her suicide. You can read Josh's comments on this law by clicking [here](#).

Basically, it makes serious bullying a criminal offence by extending the application of the stalking provisions in the Crimes Act 1958.



The evidence is there

There is no question that bullying, or adverse social behaviour, in its many and various forms is a problem in Australian workplaces. The Productivity Commission has estimated that bullying and harassment cost Australian business between \$6 billion and \$36 billion a year with an average cost to employers of between \$17,000 and \$24,000 for each case. Estimates suggest that up to 2.5 million workers suffer as a result of these behaviours.

In late 2012, the House of Representatives Standing Committee released its report *Workplace Bullying "We just want it to stop"*. Click [here](#) to read it.

If you want to read more

The Australian Human Rights Commission has some excellent advice about not getting involved in the poor behaviour of others. Click [here](#) to read the Supportive Bystander Fact Sheet.

Mental health problems have long been acknowledged as the unfortunate result of behaviour destined to victimise, threaten, humiliate and abuse others. You can see more about those effects by clicking [here](#).

Research also suggests that there can be enduring physical problems as a result of victimisation. You can [read this](#) article from Scandinavian academics who say workplace bullying weakens the body, and slows down cortisol production, which is necessary to release energy in the form of fat and glucose into the bloodstream.

Be part of the solution

We want to hear what our members have to say. We want you to be part of this important process on which we are embarking. You might have ideas for stopping adverse behaviour, you may want to share a story, or perhaps you would like to be part of future gatherings to discuss progress.

You can write to nogo@awu.net.au with your contribution to the discussion. We're waiting to hear from you. You can also talk to your HSR, Delegate or Organiser, or ring the AWU Victorian Safety Unit on 1300 362 298 (from anywhere in the state for the price of a local call).



AWU Victorian Safety Unit

I want to take this opportunity to acknowledge the energy and hard work our Safety Unit's Percy Pillai and Jim Ward have put into the campaign, and I know will continue to. They are a vital part of the AWU's service to our Victorian members.

Percy and Jim are experts in their field and are highly-respected within this state, and nationally. With their commitment and the involvement of our HSRs, Delegates and Members throughout Victoria, I believe we can make a difference.

Yours in unity

A handwritten signature in black ink that reads 'Ben Davis'.

BEN DAVIS

Secretary