

Report



# Towards Dignity & Respect at Work: An exploration of work behaviours in a professional environment

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## Executive Summary

1. In order to address issues associated with workplace bullying it is necessary to fully understand the nature, causes and consequences of the behaviour in each setting. This study was designed to gain an understanding of such issues faced by lawyers in the legal environment in Western Australia (WA). This Study was jointly funded by Edith Cowan University (ECU) and the Law Society of WA.
  2. A common theme in most definitions of workplace bullying is the experience of negative behaviours (Rayner & Cooper, 2006, p. 124) and detrimental effects on the victim. There are also clear indications of an imbalance of power, and the use of a wide range of techniques and behaviours to bully.
  3. Bullying has been reported in legal workplaces. The New South Wales Law Society's 2002 Remuneration and Work conditions Survey indicated that bullying behaviour by bosses and co-workers was a serious problem in the NSW legal profession. In particular, over one in five respondents (22%) reported that they had experienced workplace bullying (Strategies to help eliminate bullying from the NSW legal profession, n.d.).
  4. The Law Society of WA study used two main data collection instruments: a survey and stories to assess the nature, causes and consequences of the behaviour in the legal environment in WA.
  5. The study findings indicated that bullying in the legal context is a complex behaviour with multiple interrelated antecedents and consequences. Effective preventative strategies therefore need a multi-pronged approach involving organisational leaders, managers, policy makers, Human Resource (HR) practitioners, and the involvement of employees at all levels. There is also a need for congruence between anti-bullying policies and other regulatory mechanisms within organisations, including HR policies. The recommendations below aim to provide a way forward in ameliorating workplace bullying in the legal environment in WA.
- 6. Recommendation 1: Raising awareness**
7. A significant first step will require publicising the findings to the membership of the Law Society of W.A. to raise awareness of the prevalence, nature, causes and consequences of workplace bullying. Awareness may be raised through the dissemination of the findings of this study through presentations, articles in the Law Society publication/s, distribution of this Executive Summary and/or full report to the managing partners of law firms, and workshops with Human Resource Managers of firms.
  8. It is also suggested that the WorkSafe WA booklets on the Anti-bullying Code of Practice and the rights of employees and employers be distributed to all members and law firms. The electronic link to the publication can also be included in the Law Society publications. In addition, it may be beneficial to obtain relevant posters from WorkSafe and provide these to law firms for display in appropriate common areas.
- 9. Recommendation 2: Call to action/Building support**
10. Once the findings of the study are publicised within the Law Society and its membership, the Committee, through appropriate channels and forums may lobby firms and partners to commit to action to remedy the situation. For example, it is important to link bullying behaviour to the codes of conduct and values required of legal practitioners as members of the Law Society of WA. Personal and professional integrity must not only be reserved for interactions with clients, it should be extended to the workplace (if not already done) to cover behaviour and conduct towards colleagues.
  11. Bullying is not limited to work settings but can also occur off-site, in public or private locations, through communication media such as the telephone or email. Anti-bullying policies should therefore be integrated with broader organisational policies on communication outside the office.

## **12. Recommendation 3: Developing leaders/Role modelling**

13. Many individuals are placed in leadership or supervisory roles with little/no training or support. It is recommended that the Law Society source or recommend appropriate management and leadership training to its membership, and those in managerial position. The Law Society can play a leadership role by also providing support structures to leaders and managers, and perhaps devising a network of mentors to assist in the development of a new generation of effective managers.

## **14. Recommendation 4: Developing and reviewing policies and practices**

15. The nature and environment of work can be antecedents for bullying. It is important for firms to review their strategies, policies and practices to ensure all staff conduct themselves appropriately. A recurring theme in the findings was the sheer volume of work, and expectations that work would come first with an employees' personal life taking a back seat to the requirements of the firm.
16. The current workplace in most settings would include at least three generations. It is important to acknowledge that the values and expectations of the baby boomer generation would be different to Generation X and Y. Organisations who wish to attract the best and brightest talent would need to ensure a values match with the target group. This includes appropriate workplace policies and practices.
17. A tense work environment was seen to cause loss of control, leading to psychological disengagement, lower performance and greater turnover. The solutions to such complex interactions are never easy, but require a strategic and integrated approach to addressing the root causes of bullying.
18. Workplace (HR) policies and practices including contracts, conditions of work, expectations, etc would need to be reviewed to ensure employees are treated with dignity and respect. For example, are clear organisational performance management systems in place? Have these been articulated to all employees? Are they applied consistently? Are employees with a history of poor performance made aware that they are under performing and managed with respect and dignity? Such questions must be addressed by HR practitioners, policy makers, line managers, and the leadership in the organisation in order to ameliorate bullying.

## **19. Recommendation 5: The provision of training**

20. Power is at the heart of workplace bullying scenarios. Most respondents reported bullying by supervisors, it is suggested that the Law Society consider a series of workshop (mandatory as part of membership or optional) to develop the supervisory and generic skills of those in positions of power. These workshops can include but are not limited to:
  - Managing conflict/Effective communication skills
  - Provision of feedback/Managing staff performance
  - Anger management/Stress management/Emotional regulation
  - Diversity management
  - The need for work/life balance

## **21. Recommendation 6: Monitoring progress**

22. This study has provided an important benchmark. In future, the rates and incidents of workplace bullying within the legal community in WA may be monitored to measure success. Comparisons can be made in different ways against this benchmark. For example, a repeat of the full or modified version of the survey in 18 – 24 months time, and/or once the intervention strategies have been enacted and sufficient time has passed for changes to have taken place. Law firms may also monitor changes through the provision of a question on workplace bullying in staff satisfaction surveys or exit interviews.

23. Organisations often only take on the call to action where there is a threat of negative publicity, legal action or financial losses. It therefore becomes important to acknowledge the direct costs of absenteeism and turnover as a result of workplace bullying. The behaviour also carries indirect costs such as tarnishing the image of the organisation.

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## Introduction

24. Workplace bullying is a newly recognised, though long extant, workplace safety issue involving a wide variety of negative behaviours. Definitions and descriptions of workplace bullying vary according to the country and nature of study. One of the earliest definitions of workplace bullying (from the 1970s) defines it as “ ... persistent attempts on the part of one person to annoy, wear down, frustrate, or elicit a reaction from another” (Brotsky cited in Mathiesen & Einarsen, 2001). Another more recent definition describes bullying as “Behaviour that is unwelcome, inappropriate in the given context, and causes distress to the recipient” (Omari, 2007).
25. During June 2010, the 7<sup>th</sup> International conference on Workplace Bullying & Harassment (in Cardiff, Wales) attracted over 230 delegates from 30 countries. This conference occurs every two years and brings together those interested in the area including: academics, researchers, legal practitioners, regulators, activists, counsellors, human resource personnel, union leaders, therapists and others with personal and professional interest in negative workplace behaviours. Over three days, the conference delegates pooled their information and collective wisdom to discuss the nature, causes, consequences and interventions for the behaviour with the hope of contributing to the body of knowledge, and further assisting those subjected to workplace bullying.
26. There is consensus in the literature (e.g. Langan-Fox, Cooper & Klimoski, 2007) that great inroads have been made in identifying and addressing workplace bullying since the early 1990s when Heinz Leymann started his pioneering work in the area. Countries such as Sweden, Norway and Canada have enacted legislation to prevent the behaviour, others such as the UK and US continue to persist. There have been a number of successful prosecutions in Australia under the health and safety legislation; the most recent, the high profile case involving Café Vamp in Melbourne (2010). This tragic case caused the suicide of a young 19 year old waitress as a result of sustained and systemic workplace bullying. Worksafe Victoria has reported a significant increase (almost 4 fold) in workplace bullying enquiries and requests for action since the successful prosecution of the Café Vamp, its directors and employees.
27. Bullying has also been reported in legal workplaces. The New South Wales Law Society’s 2002 Remuneration and Work conditions Survey indicated that bullying behaviour by bosses and co-workers was a serious problem in the NSW legal profession. In particular, over one in five respondents (22%) reported that they had experienced workplace bullying (Strategies to help eliminate bullying from the NSW legal profession, n.d.).
28. In order to address issues associated with workplace bullying it is necessary to fully understand the nature, causes and consequences of the behaviour in each setting. This study (The Study) was designed to gain an understanding of such issues faced by lawyers in the legal environment in Western Australia (WA). The Study was jointly funded by Edith Cowan University (ECU) and the Law Society of WA and received ethics clearance from ECU’s Human Ethics Committee in 2009.

## Background

### *Workplace bullying*

29. A common theme in most definitions of bullying is the experience of negative behaviours (Rayner & Cooper, 2006, p. 124) and detrimental effects on the victim. There are also clear indications of an imbalance of power, and the use of a wide range of techniques and behaviours to bully.
30. Heinz Leymann, a psychologist often regarded as the founder of research on workplace bullying, described bullying in graphic terms as: "... ganging up on someone or psychic terror ... schisms, where the victim is subjected to a systematic stigmatising" (Leymann, 1990, p. 119). Leymann identified adverse outcomes of bullying on multiple levels: social issues (e.g. isolation); socio-psychological factors (e.g. loss of coping resources); psychological issues (e.g. helplessness, anxiety, and despair); and psychosomatic and psychiatric problems (e.g. depression and suicide).
31. Psychological safety is increasingly a business issue for organisations as they face the challenges of today's complex and dynamic environments. External forces such as globalisation, technological change, changing legislation, increased emphasis on ethical conduct and social responsibility, and the shift to a service economy exert great pressure on organisations to increase competitiveness (Davidson & Griffin, 2003).
32. Quality of work-life affects the satisfaction, productivity and efficiency of employees (Stone, 2006, p. 168). Working conditions can be seen as part of the 'psychological contract' (Davidson & Griffin, 2003, pp. 492-493) linking employee contribution to work conditions. Similarly, many theories of worker motivation show a fundamental need for security in the workplace (McShane & Von Glinow, 2000, p. 68).
33. Bullying is increasingly seen to have legal consequences for organisations. Australian employers have a legislative duty of care to provide employees with a safe work environment that requires them to identify and control psychological injury, whether real or implied. It appears that courts are increasingly willing to consider psychological injury as a workplace issue (Timo et al., 2004).
34. Sheehan (2004, p. 6) points to the 'hidden' costs of bullying for organisations, in terms of adverse client and industry perceptions, loss of investor confidence, and loss of 'knowledge capital' as staff leave or withdraw their commitment.
35. Bullying may not be evenly distributed across industry. Zapf et al (2003, p. 118) consider bullying to be especially a problem among white collar workers, service employees and their supervisors, with the risks higher for those in social, health, public administration and education sectors.
36. While the exact causes of any bullying incident may be difficult to determine, a number of factors have been found to promote bullying. Leymann (cited in Einarsen, 2000) identified four: "(1) deficiencies in work design, (2) deficiencies in leadership behaviour, (3) socially-exposed position of the victim, and (4) low moral standards in the department".
37. Much has been written on the nature, causes and consequences of workplace bullying in recent years, however, there is consensus in the literature that this is a behaviour that is context specific (e.g. Rayner, Hoel & Cooper, 2002). Factors such as national culture, diversity tolerance, the nature of the work and workplace, the culture of the organisation and management and leadership behaviours and role modelling all play a role in the labelling of certain behaviours as workplace bullying.
38. It is therefore necessary to have detailed knowledge of the given context, prevalent issues and those of concern within a particular sector (i.e. the legal environment), in order to be able to establish acceptable norms and therefore inappropriate conduct in the workplace.

## ***Workplace Bullying in the legal environment***

39. In 1999 the Law Reform Commission of Western Australia conducted a review of the criminal and civil justice system in WA. In the report the Law Reform Commission made numerous recommendations, including some in relation to increasing the amount of training in ethics to lawyers. The following is an excerpt from the report:

"The issues relating to legal ethics require thorough examination. They arise, in part at least, as a result of the failure of the legal profession to give sufficient weight to ethical issues. There is a need to review ethics in light of the changing circumstances and values of our society. Legal ethics currently have only a minor place in the initial and continuing education of lawyers, although the review of continuing legal education proposed in the Law Society of Western Australia's strategic plan for 1998 to 2000 illustrates the increased emphasis on continuing legal education within the profession itself. Significantly, in light of recommendations made throughout this Report, continuing legal education can also serve the important function of informing lawyers of their changing professional and ethical obligations."

40. The following reference to bullying behaviours appears in the form of a public submission to the Law Reform Commission's website:

"A large number of participants report negative experiences and express anger at treatment received during their involvement with the legal system. The complaints concern inappropriate and unnecessary delay, overcharging, intimidation, untruthfulness, harassment, and inappropriate advice designed to lengthen rather than expedite legal processes. It will take a long time to stamp out ... delinquency, neglect, undue delay, overcharging, bullying and intimidation in the legal industry."

41. The above reference presumably is made by a member of the public in relation to their experiences with legal practitioners. The comment may be seen as reflective of a culture that exists in some corners of the legal profession, as well as a statement of how the culture is perceived by clients.
42. In 1999, another report by the Law Society of WA considered challenges faced by legal practitioners in the workplace relating to quality of work life issues, organisational culture and the legal environment in general. Findings of this report pointed to difficulties experienced at the workplace which in turn affected quality of work life issues, and therefore exit decisions. This seemed to be more pronounced for female practitioners. In particular, the management practices of workplaces and the high pressure environment were recurring themes.
43. The Law Society of Western Australia Strategic Plan 1 July 2010 – 30 June 2013 makes special mention of the requirement for safe workplaces under Key Result Area 1 (High Value Membership), Objective 1 (Maximize Membership Across the Profession), Strategy 3:

"Foster more supportive and healthier workplaces across the profession:

- The Society supports profession-wide initiatives to create healthier workplaces (Psychologically and Physically)

-The Society website provides up-to-date information and links for who to contact for further information/support relating to mental health, workplace bullying, etc ."

44. The above references to mental health are of significance in that clear links have been established between workplace bullying and psychological injury, including Post-Traumatic Stress Disorder (e.g. Coyne et al, 2000; Lewis, 1999; Mikkelsen & Einarsen, 2002; Omari, 2007).
45. A NSW study titled: 'Courting the blues: Attitudes towards depression in Australian law students and lawyers' (Kelk, Luscombe, Medlow, Hickie, 2009, p. 42) had the following major finding:



"The primary finding of this Australian survey is to confirm the view, originating from international research, that law students and members of the legal profession exhibit higher levels of psychological distress and depression than do community members of a similar age and sex."

46. The above report sees the highly competitive nature of the profession, which in turn is a proven antecedent of negative workplace behaviours (including workplace bullying) as a cause of psychological illness.
47. In summary, there is longstanding evidence and recognition of the prevalence of inappropriate workplace behaviours (e.g. workplace bullying) within the legal environment. It is important to point out that this is not unique to the legal environment, however, the competitive and high-pressure nature of the profession place the industry at further risk.

## **Methods**

48. The Study used two main data collection instruments: a survey and stories. The former had already been tested through a pilot study, and another much larger project involving 11 Australian Public Service (APS) agencies in WA. The stories provided the respondents with the opportunity to document stories of their experiences of workplace bullying.
49. The survey was dispatched to all members of the Law Society in WA, 2688 in total; 327 completed forms were returned yielding a response rate of around 12%. Although the response rate was low, the number of returned surveys (at 327) was significant allowing for representative statistical analysis. A number of surveys were also returned to sender, whilst others were returned but not completed. The survey was divided into three main sections: the first collected information on the organisational culture and context; this was followed by a range of questions relating to whether the respondent had been bullied in their current place of employment, and if so, through what behaviours and under what circumstances. The final section of the survey collected demographic and occupation related information from the respondent.
50. In addition to the survey, 71 stories and additional comments were also received providing further insights to experiences of workplace bullying in the legal environment.

## **Findings**

51. The data provided a wealth of information that provided insights into bullying behaviours in the legal environment. Findings indicate that in many cases there is a fine line between managerial prerogative; operational efficiency; performance driven cultures; competitive work environments and workplace bullying. Organisational history, context and background act as backdrops, and set the scene for acceptable/unacceptable behaviours and conduct in any given workplace. National culture is also an important indicator. As a result of Gert Hofstede's work, it is widely accepted that Australia has an individualistic culture, characterised by intense competition and a concern for the 'self' (as opposed to concern for the 'group').
52. The legal environment by nature is one that is commercially based and competitive. Competition in the workplace necessitates a 'win-lose' scenario; conflict is inevitable in such settings. Conflict in itself may be used as a competitive tool; functional conflict allows for problem solving and better, more innovative ways of attaining goals. Dysfunctional conflict, however, may result in employees resorting to inappropriate and unacceptable strategies to win. It is well recognised in the literature (e.g. Salin, 2001, Zaph, 1999) that workplace bullying is prevalent in competitive settings which have a high potential for conflict. There is strong evidence suggesting that the negative behaviours are culture (and organisation) bound.
53. The most significant finding of this study was: that the existence of anti-bullying policies had a significant and positive impact on the prevalence of workplace bullying. Such policies and clear codes of conduct

would be a first step in addressing associated issues. Of note, is also the requirement to have a third party (perhaps external) review of the complaint.

**Descriptive statistics**

54. This section will detail the demographic variables from the study.

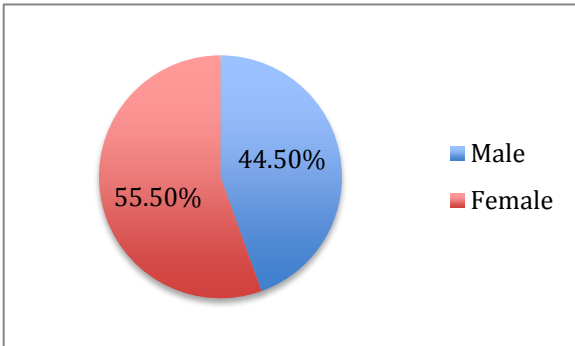


Figure 1 - Gender split of respondents

55. The gender distribution of the respondents was roughly split in half with 44.5% of the respondents being male, and 55.5% female (Figure 1).

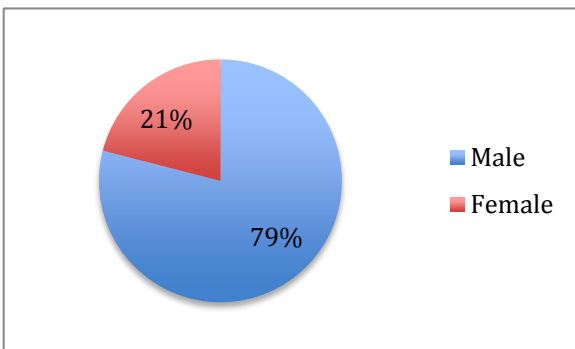


Figure 2 - Gender split of perpetrators

56. Survey respondents reported that 79% of the perpetrators were male and 21% female (Figure 2).

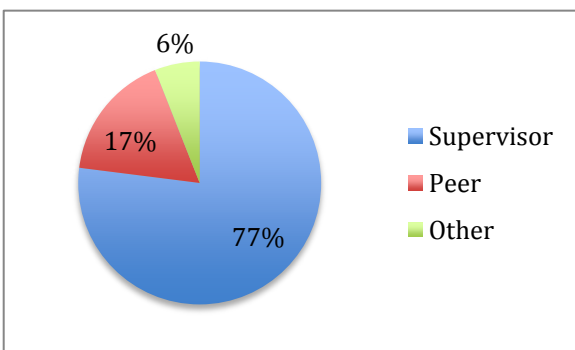


Figure 3 - Perpetrators' position

57. 77% of the perpetrators were reported to be supervisors, with 17% as Peers and 6% as 'other' including subordinates (Figure 3).

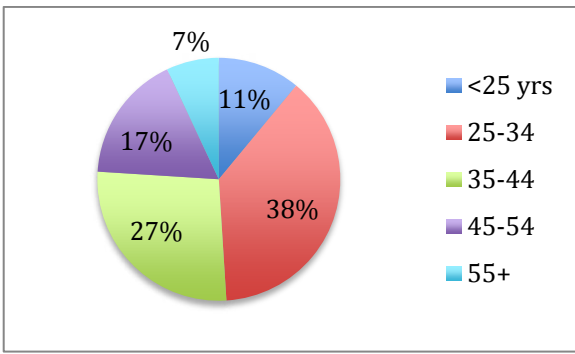


Figure 4 - Age bracket of respondents

58. 65% of the survey respondents were in the 25-44 age group, the full breakdown of the age group of the respondents can be seen in the above chart (Figure 4).

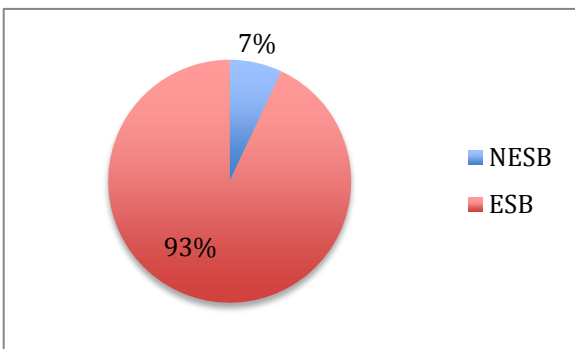


Figure 5 - First language of respondents

59. Respondents from non-English speaking backgrounds constituted 7% of the survey respondents (Figure 5).

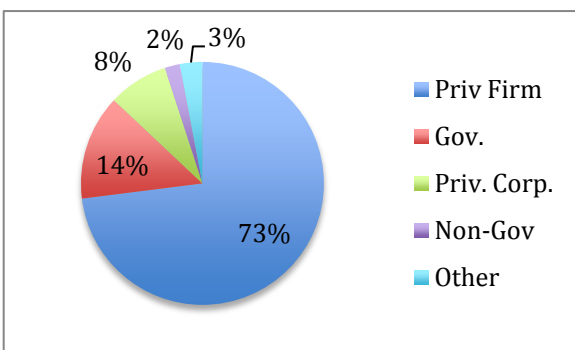


Figure 6 - Employment sector of respondents

60. The majority of the respondents (73%) were from private firms, followed by 14% from the government sector. The remaining proportion were made up of those in private corporations, non-government organisations and those who identified their sector as 'other' than the ones listed (Figure 6).

61. The average number of years of post admission experience of respondents was 9.4 years. The full range of experience spanned 0-52 years.

62. Respondents had been in their current place of employment from 0-30 years with an average of 4.8 years.

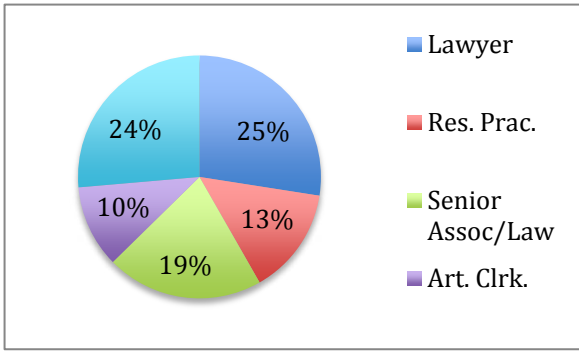


Figure 7 - Role of respondents

63. Just under half of the respondents (44%) were either Lawyers or Senior Associates/Lawyers. Around one quarter (24%) of the respondents self identified as being in the other categories (Figure 7).

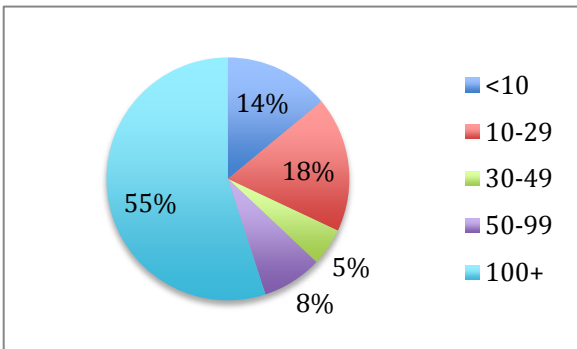


Figure 8 - Size of organisations

64. Over half of the respondents (55%) worked in organisations of over 100 employees, 32% worked in settings of less than 30 employees (Figure 8).

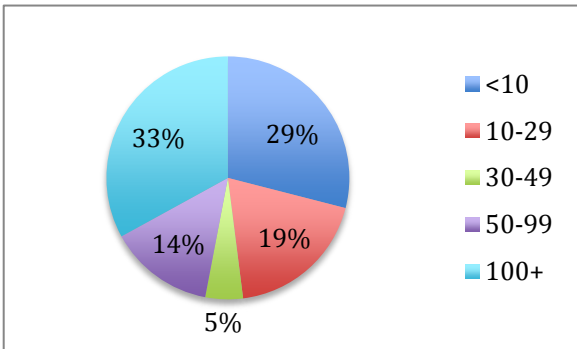


Figure 9 - Legal practitioners in organisations

65. One third (33%) of respondents worked in organisations comprising over 100 legal practitioners, 48% worked in organisations of less than 29 employees (Figure 9).

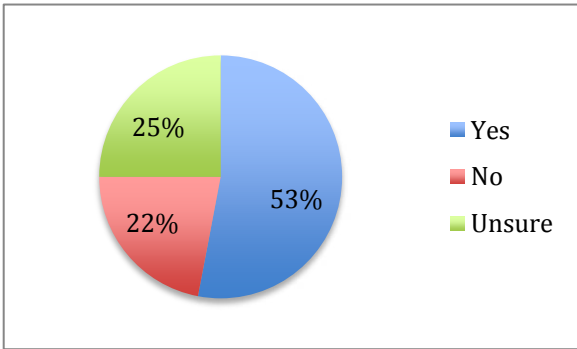


Figure 10 - Anti-bullying policies

66. Over half the respondents (53%) indicated that anti-bullying policies existed in their current workplace (Figure 10).

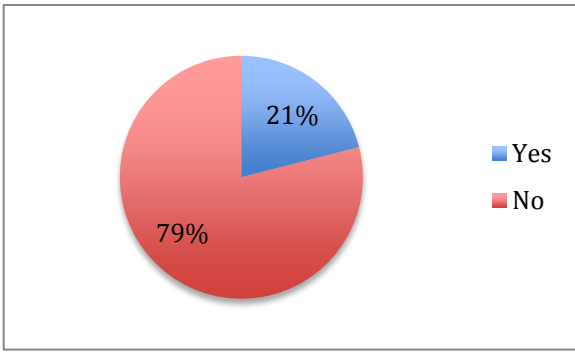


Figure 11 - Reported bullying

67. Around one fifth (21%) of respondents reported that they were bullied at their current place of employment. This figure is very similar to the (22%) figure reported in the earlier 2002 NSW study (Figure 11).

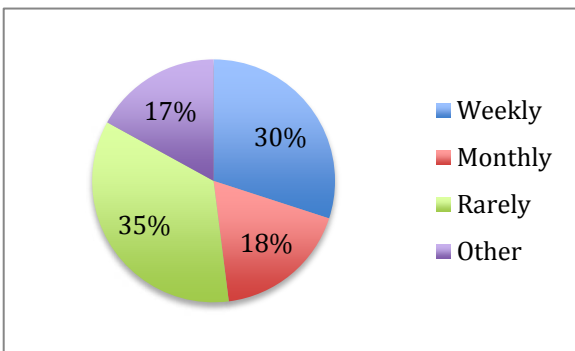


Figure 12 - Frequency of bullying

68. 30% of victims were bullied on a weekly basis and 18% on a monthly basis. Some of the respondents choosing the 'other' category indicated that they were bullied on a daily basis (Figure 12).

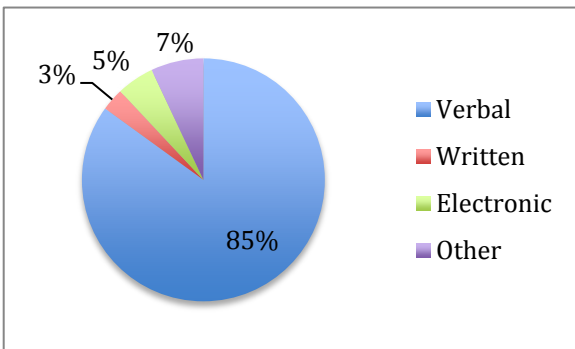


Figure 13 - Nature of the bullying

69. The majority of the bullying (85%) took place via verbal means (Figure 13).

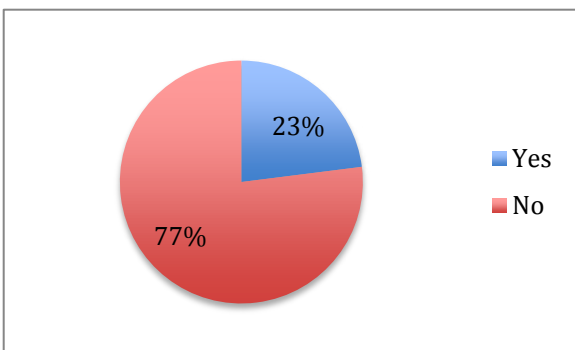


Figure 14 - Bullying complaints

70. Less than one quarter (23%) of those respondents who indicated that they had been bullied at work made a complaint (Figure 14).

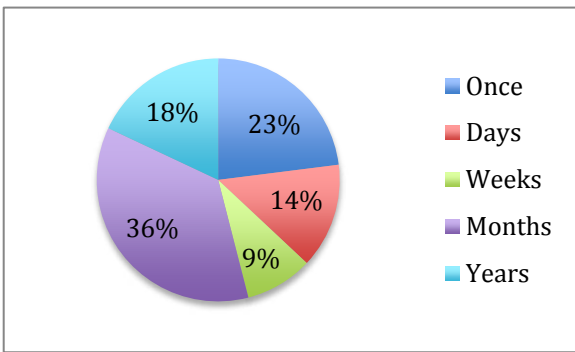


Figure 15 - Duration of bullying

71. Over one third (36%) of the bullying cases went on for months (Figure 15).

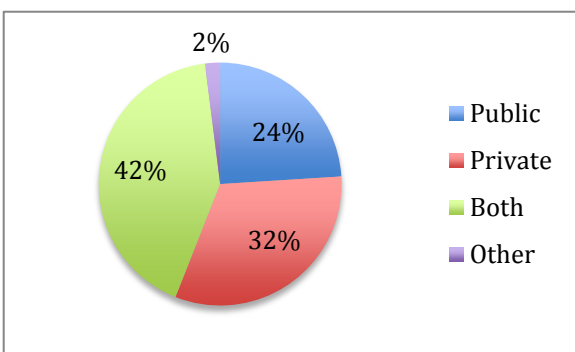


Figure 16 - Location of bullying

72. Around one third (32%) of bullying incidents were reported as taking place in private settings (e.g. offices)(Figure 16).

73. The number of perpetrators for any reported incident ranged from 1-7, with a mean of 1.5 indicating that bullying may be to some extent ‘group’ based in the legal environment.

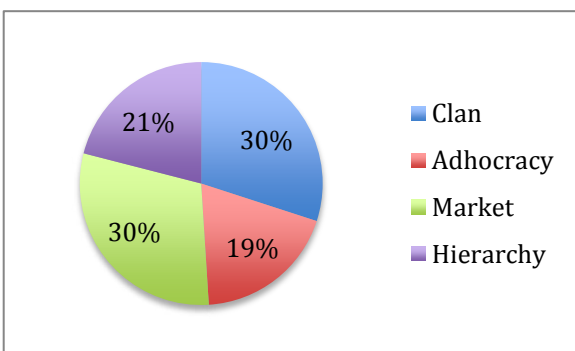


Figure 17 - Reported organisational cultures

74. Reported organisational cultures (Figure 17) were almost evenly split – each culture typology has a different focus:

- Market (30%) - market share, goal achievement and beating competitors
- Clan (30%) - cohesion, high morale, and development of human resources
- Hierarchy (21%) - efficiency, timeliness and smooth functioning of operations
- Adhocracy (19%) – cutting edge output, creativity and growth

75. The main organisational climates were reported as being based on:

- Commitment (3.2/4) - a sense of pride, belonging and loyalty
- Standards (3.0/4) - feeling of pressure to improve performance
- Structure (2.9/4) – well defined roles and responsibilities
- Support (2.9/4) – feelings of trust and mutual support
- Recognition (2.6/4) – being rewarded for a job well done
- Responsibility (2.2/4) – risk taking and testing a new approach

*(Scale: 1 = definitely disagree, 2 = inclined to disagree, 3 = inclined to agree, 4 = definitely agree)*

## ***Inferential statistics***

76. There was no statistically significant relationship between reported workplace bullying and:

- The number of years of post admission experience
- Years in the current place of employment
- Gender of the respondent
- Type of employer
- Level of job
- Number of employees in the organisation
- Number of legal practitioners in the organisation
- Age
- Being from a non-English speaking background

77. The two main statistically significant findings were:

- Organisations with anti-bullying policies had significantly lower reported incidents of workplace bullying.
- Bullying is more prevalent in organisational climates where there is low 'structure' (i.e. poorly defined tasks, roles and responsibilities).

## ***Qualitative data***

78. Workplace bullying is generally seen as "unwelcome and inappropriate conduct" (Omari, 2007). This includes a range of behaviours from those that are direct and intentional through to indirect and inadvertent. There is consensus in the literature that the behaviour is gender-based and influenced (Hutchinson & Eveline, 2010; Salin, 2010). One of the survey respondents had the following to say in relation to accepted gender-based norms of behaviour.

*"It's like going back to the 1950s. If you're assertive, strong and opinionated – you're a pushy bitch. If you're male, it's considered perfectly normal or a non issue."*

79. The survey respondents reported and identified the following behaviours as **workplace bullying**:

- Intimidation, insults, verbal abuse and hostility
- Silent treatment, being sidelined and ignored
- Pressure to conform, shifting goal posts
- Unrealistic deadlines and unreasonable demands
- Withholding information and taking credit for the victim's work
- Abuse of power, threatening with the sack and use of a patronising tone
- Sarcasm, being made fun of and being sworn at
- Dressing down in public and whiteanting
- Comments about gender, weight, race and sexuality

80. The quotes below are a sample of what the respondents saw as workplace bullying:

*"I was told in a threatening and aggressive way that I needed to change my personality to suit the firm's style of marketing and mould, for my apparent level of shyness."*

*"Blame shifting senior staff, when a junior makes a mistake that was not picked up by the solicitor/partner setting the work."*

*"Being told that I had to swear an affidavit I didn't agree with."*



*"I was sworn at every time I spoke to my supervisors ... left abusive voice messages ... leave was cancelled at 5 pm the night before I was to be leaving for no reason."*

*"My supervisor/partner withheld information, gave misleading information, fabricated incidents and took credit when it was not due. It was intentional and systematic."*

*"The scenarios range from; giving no work or work in excess of legitimate expectations of the person concerned without any/adequate support; not speaking to the person; raising performance management issues without warning or apparent cause; removing invitations to client functions or other events organized by the person; extreme moody behaviour."*

*"Their actions included hiding mail belonging to my files, the silent treatment, inviting everyone out except me and the new PA, nasty comments and trying to make me look stupid "talking down" to me etc."*

81. Some of the victims of workplace bullying complained about the behaviours directed at them, however, not all of those subjected to the behaviour felt empowered to do so.

82. Some of the **reasons for not complaining** included:

- Career repercussions and fear of being seen as a trouble maker
- Everyone having high stress jobs
- No faith in the complaint process
- The boss was the bully
- The bully being valuable to the organisation
- Need to maintain relationships at work
- The firm would back its partners
- Difficult to prove, having no power
- Fear of being 'labelled' and not being hired by anyone if complaint was made to the Legal Practice Board

83. Quotes from the survey respondents:

*"I have been bullied before and I almost left the law as a result of the way I was treated, which resulted in depression, feelings of helplessness and misery. When I have been bullied, it has almost invariably been male, older than me and people who have been demoted/not promoted. I made a complaint because I want to see a change. People who are confident in themselves and happy how they are and their professional achievements generally don't employ the 'shit down' technique. In my experience the managers who are involved in bullying resolution processes are generally primarily concerned with keeping the senior staff happy and new junior staff as largely expendable. "*

*"Behaviour which would result in sacking in junior staff is ignored it's indulged in by senior management and you get labelled as someone to be 'dealt' with, they want people who will 'shut up and bill'."*

*"No [will not complain]. Others had made formal complaints to the Committee but were victimised. No point."*

*"The bully was a senior partner who was know within the firm to be difficult to work with. However, no one makes complaints against the bullying partner because you know that nothing will come of it. Partners who make lots of money for the firm are tolerated and are effectively immune from the firm's bullying policy."*

*"If the complaint is made to the Legal Practice Board there is a risk no-one will hire you again. They won't hire someone known to take on management."*

84. The antecedents of workplace bullying were reported at the individual and organisational levels. It is important to differentiate between these two causes as the remedies will need to consider a targeted approach for success.

85. **Causes of workplace bullying** were reported as:

- Insecurity and incompetence of bully, envy
- Lack of diversity tolerance (racial, gender, homophobia, etc.)
- No social, management and communication skills
- Lack of ability to deal with stress
- Sociopathic personality
- Boss not liking to be questioned
- Aggressive, ambitious manager, macho culture and competitiveness
- Politics, wanting to assert authority and exploitation
- Poor organisational culture, ethics and morale

86. Quotes from the survey respondents:

*“Financial systems in organisations create behavioural issues. Having come from one of the largest law firms in Australia in my view the behaviour was counterproductive. All forms of financial performance were monitored. People became individually focused and lack of trust was high. In a new firm where this doesn’t happen, it is surprisingly refreshing. People enjoy coming to work and it achieves better results because of the commitment to each other. Interestingly, it is more profitable.”*

*“I was in a law firm (top tier) for the first 5 years of my career. In my opinion if you wanted to design a workplace to get the worst out of people, you should start off with a major law firm as your base. The ridiculous hours you are expected to work mean it is just not possible to have a balanced work life. The people that thrive in that environment, and hence become partners and managers of other people, generally have “abnormal” personalities and as a result perpetuate the miserable working environment. I knew it was time to leave when at my annual performance review I was told that the quality of work was excellent, the turnaround time on my work was great and the clients enjoyed dealing with me BUT it had been noted that I left work most nights before 5.30 pm and I “should try and spend a bit more time in the office”.”*

*“[cause is] high demand of the job. The culture of constant pressure from one’s supervisors.”*

*“It is part of the aggressive hazing that some male partners believe that you need to go through. They consider that you need to be ‘broken in’ to the job.”*

*“The partner thinks he is sharing his wisdom perhaps (couched in this way anyway) but really he was bolstering his own ego by putting me down. He was obviously insecure in some way about his own experience or ability.”*

87. **The consequences of workplace bullying** were found to be diverse and include impacts at the individual, work and organisational levels.

88. **Personal consequences** of workplace bullying were reported as:

- Attempted suicide
- Diagnosis of clinical depression
- Stress, anxiety attacks, headaches and hair loss
- Low confidence commitment, wanting to quit job
- Working long hours which led to burn-out
- Anger, frustration, hating to go to work, teary

- Reverse bullying, complaint against the 'victim'
- Deep emotional impact
- Hating job and occupation

89. Quotes from the survey respondents relating to personal consequences:

*"The bullying in my workplace was so severe that I attempted suicide on two occasions and have been chronically depressed for 3 years."*

*"I grew ill, developed diabetes, hypertension and stress related ailments. As I was a single parent from a non- English speaking background, I accepted the bullying until I was dismissed under John Howard's unfair dismissal laws in 2006 (after 10 years of service). I took my case to the industrial court and won and now am in a much happier work environment. As the saying goes 'one door shuts and the other opens'."*

*"I find that I have a lot of anger toward this person now, I was previously very depressed, I want to quit my job everyday, I hate going to work each morning."*

*"I couldn't sleep, cried a lot ... very agitated. Headaches."*

*"Extremely stressful. Hair loss. Health issues. Anxiety attacks. Hospitalised briefly for chest pains."*

*"I lost confidence and became withdrawn at work. I also withdrew socially."*

90. **Work consequences** of the bullying were reported as follows:

- No consequence
- Go slow attitude
- Worked harder
- Inability to perform, paralysed
- Anxiety, lost concentration
- Productivity the same, job enjoyment low
- Feeling incompetent and inadequate
- Double and triple checked everything, lost time and productivity

91. Quotes from the survey respondents relating to work consequences of bullying:

*"Dynamics between teams and individual practitioners are very poor and there is a lack of respect for one another (this is even evident between the partners in question). This makes for a far less pleasant, more competitive environment for employees as teams actively compete against each other, and do work within another team's area of specialisation, on a regular basis rather than working together for the benefit of our client. Accordingly little trust exists between those teams. This contributes significantly to employee stress and even seems to have an impact on loyalty to the firms."*

*"Spent time worrying about bullying and so often spent time working longer hours to keep up with his demands."*

*"Output was hopeless as I couldn't concentrate."*

*"It caused me to second-guess myself, do work which I should have been able to delegate to non-legal staff (i.e. administrative staff), thereby increasing the cost to the client"*

*"I hated going to work"*

92. **Organisational consequences** of workplace bullying were reported as:

- Lost money, reports and oversight
- Reputational damage, losing good people
- Lack of innovation, low morale and loyalty
- Culture of narcissistic aggressive bullying
- Lost billing time/productivity
- Loss of trust and respect for the organisation
- No effect, bullying is the norm

93. Quotes from the survey respondents:

*“All of my work experience in private practice had been difficult where I have experienced mild bullying to some degree. I found working in-house far more enjoyable and rewarding. The whole idea of billable hours results in practitioners ultimately becoming enslaved in an unhealthy work-life balance that is unavoidable. It is my sincere belief that any practitioner in private practice needs to work a 12 hours day in order to bill the required 6.5 – 7 hours per day. That is on the basis that you still have weekends, take the odd day sick leave, go to the odd seminar and attend the required amount of marketing functions and keep up-to-date with the law. I also believe that being a lawyer has taught me to be negative and has entrenched this thinking. I am looking to change my career in the near future.”*

*“Morale is very low here. There is one bullying incident after another.”*

*“It [the workplace] is not running as efficiently as it could have been because everyone is chronically depressed. 5 of the 8 lawyers are on antidepressants solely due to the work environment ... both my psychiatrist and psychologist describe the work environment as ‘extremely toxic.’”*

*“[The organisation] Is plodding along where it could be racing along and has very high staff turnover.”*

*“We almost lost an important client who observed what was happening.”*

## **Discussion**

### ***The current state of play***

94. Workplace bullying has consequences at individual, work and organisational levels; each are interconnected and of concern. Workplace experiences often permeate an employee’s private life, in turn affecting ‘significant others’ and therefore society as a whole. It is important to have avenues for redress to ensure the adverse behaviours are dealt with at the earliest possible stage, and prior to escalation and wider involvement of others at work; this will carry costs, financial and other, for all players. Organisations strive to be seen as ‘employers of choice’ to attract the best and brightest talent. Inappropriate workplace behaviours may label them as ‘toxic’ and therefore undesirable workplaces.
95. An important first step in addressing the issue of workplace bullying necessitates the ‘mainstreaming’ of the concept. That is, a need for awareness raising and sensitising the workforce in order to identify inappropriate behaviours and therefore take steps to remedy the situation. This applies to both organisations as well as employees. It should, however, be noted that the objectives of the parties may be different in addressing the issue; organisation may focus on self-preservation and their image; individuals, on their basic human rights and expecting fair and equitable treatment.

96. Many observers of the phenomenon are of the opinion that the advent of reality TV has been detrimental to advances in recognising and addressing workplace bullying (as discussed repeatedly at the recent 7<sup>th</sup> International Conference on Workplace Bullying & Harassment in Cardiff, Wales). Programs such as Survivor, Master Chef, Australian/American Idol, Hell's Kitchen, Tabatha's Salon etc glamorise the abuse and torment of others to obtain entertainment for the masses. Other popular drama series such as House and NCIS also have lead actors who use physical, verbal and psychological tactics in intimidating their direct reports in order to obtain desired 'results'.
97. Bing (2002, p. xi) author of 'What would Machiavelli do: The ends justify the meanness' in the Acknowledgements page of his book writes:
- "I'd like to thank the Business pages of the New York Times, for keeping the abuse of power always in vogue by infallingly extolling the virtues of gigantic Machiavellian monsters that shape our working environment in every industry on a daily basis".*
98. As well as the terms used in the academic literature (e.g. mobbing, negative behaviour, psychological abuse etc) bullying behaviour has been given alternate labels including: 'subtle artful deception' and 'subversive acts' (Namie, 2010). In at least one study there has been reports of people not being in tune with the 'corporate sense of humour'. It is widely accepted that a range of behaviours on a continuum can constitute bullying. These can range from inappropriate behaviour to escalated cases of violence at the extreme. It is interesting to note that passive aggressive actions, such as isolation may also constitute workplace bullying. Isolation is widely accepted as being a torture and punishment tactic by security and the armed forces (e.g. solitary confinement).
99. The US is the main source of management theory and practice in popular and academic literature. However, it is interesting to note that inroads into the acknowledgement and study of workplace bullying have been very slow to emerge from this front. The US is significantly lagging behind Scandinavia, the UK, Canada and Australia in workplace bullying discourse. Many advocates of employee rights who have attempted to mainstream the concept have been labelled as "socialists", "job killers" and supporters of "delicate tea cups" (Namie 2010; Yamada, 2010). Such active resistance to the acknowledgement of the issue poses significant barriers to building coalitions of support, and finding remedies for people and organisations.
100. There is consensus in the literature that the organisational context plays a significant role in bullying scenarios (see earlier in this report). The culture establishes accepted norms of conduct and behaviour; role modelling by organisational leaders perpetuates and reinforces these norms
101. Power may emanate from positional or personal sources and may be a by-product of a hierarchical culture that creates settings with large power imbalances. Organisations seeking to reduce bullying must therefore be cognisant of the significant role of power differentials in bullying, and should seek to reduce it by training managers, and supporting them to deal more appropriately with power. Such a model would be based on leadership. Here, unlike traditional management, power is less based on formal positional or expertise power and more on power 'authority' and human relationships resulting in respect.
102. Whether leaders are born or made has been a longstanding debate dating back to Aristotle's time. There are many who argue that the traits required of an effective leader are either in the genetic make-up of an individual or not, and that no amount of instruction or training would result in a true change if those innate traits are not already present. Of course, there are others who argue that basic skills or abilities may be fine tuned and sharpened through training.
103. It is argued that the role modelling for a nation commences with its politicians and their standards of conduct. For many decades, society has been critical of the public and private behaviours of Australian politicians. It is against this backdrop that we seek behaviours that preserve the right of workers to dignity and respect at work.

104. Leadership and role modelling are significant in establishing organisational cultures and norms. The concept of management by definition focuses on 'effectiveness' and 'results'; the question should be asked, at what cost? The Blake and Mouton grid (Figure 18) of Management has on its two axis focus on 'task/production' versus 'people' (McShane & Travaglione, 2003). In competitive environments, the former may take precedence to the latter, creating situations where results must be obtained at any cost. Such managers and leaders have been given many labels including: narcissistic leader, toxic leader, abusive supervisor, petty tyrant, intolerable boss, brutal boss, psychopath, evil leader, etc. Most of these labels or the implications of the labels have been closely associated with bullying scenarios, including in this study.

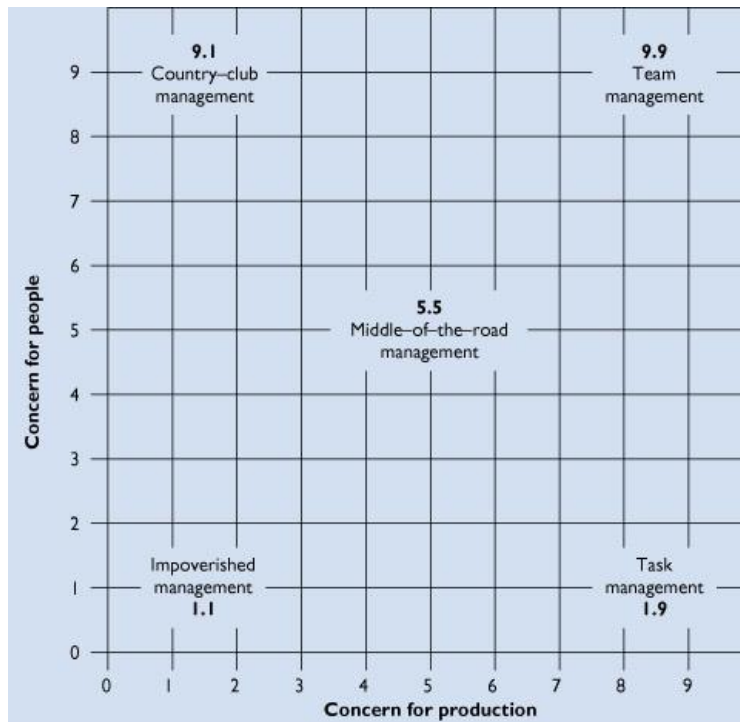


Figure 18 - The Blake & Mouton Grid

105.

Bullying is more prevalent in hierarchical settings and in contexts where there is significant competition. Power differentials are more pronounced in hierarchical settings, and competitive environments necessitate a 'win at all cost' mentality. The degree of work intensification was also found to relate to workplace bullying, this applies to the detrimental effects of both extremes. Where the volume and pace of work is high, there is increased work pressure, however, when both factors are very low for example in shift work, there is 'down time' which would result in employees finding alternate ways to keep busy (e.g. engaging in rumours, gossip and picking on others) (Jones, 2010). Service orientated occupations, which by nature deal with 'clients' (i.e. people and their emotions) have also been found to be breeding grounds for bullying behaviour.

106. Intensification of work can often result in long hours. A common theme in many responses to the survey related to the difficulties associated with long working hours (including late nights and weekend work). Porter (cited in Burke & Cater, 2007, p.155) proposes two explanations of the motivation to work long hours. The first one borne of engagement and enjoyment, the second not so positive:

*"A person can also put in long hours in a compulsive, perfectionist fashion, driven to achieve unrealistic standards. Such individuals react to criticism with hostility and resentment, experience frustration from failing to meet superhuman standards, and express anger and*

*competition with colleges in the workplace. These individuals may also experience the adverse impacts of stress and burnout”*

## **Recommendations**

107. Recent research (e.g. Salin, 2010) has found that perceptions and therefore remedies for workplace bullying have a gender bias. For example, female employees perceive bullying as social manipulation, whereas their male counterparts see the behaviours as work-related, rational-appearing acts. Women are more likely to seek help and use avoidance strategies, men are more likely to use assertive strategies. Both responses can result in the escalation of the behaviour in different ways. Gender differences do not only relate to victims. Male HR managers are more likely to refrain from action, and third parties are less likely to believe that men can suffer health consequences and therefore offer professional help. These points indicate that a range of intervention strategies must be made available to the targets of the behaviour.

108. An understanding of human nature provides an important backdrop to the remedies. Lazio-Lockett (1995) writes:

“The involvement of people within an organization, people with different attitudes, values, and beliefs, seems to create a “natural” environment for conflicts to break out, as there will be “naturally” a difference of opinions, a competition for power and territoriality, jealousy, prejudice, envy, and problematic group dynamics.”

109. Bagshaw (2004) and Kaukianinen (2001) concur, stating that conflict is an inevitable part of human relationships. Keashly and Nowell (2003, p. 348) further contend that even when conflict is dissipated, a psychological “residue” may remain, preventing complete resolution of the issue. It may therefore be overly ambitious to expect the eradication of workplace bullying, as it is a by-product and integral part of the fabric of our making. We can, however, work to significantly reduce the occurrences of the behaviour and its impacts. The following recommendations seek to achieve such an end.

### **110. Recommendation 1: Raising awareness**

111. A significant first step would require publicising the findings of the Study to the membership of the Law Society of WA to raise awareness of the prevalence, nature, causes and consequences of workplace bullying. Awareness may be raised through the dissemination of the findings of this study through presentations, articles in the Law Society publication/s, distribution of the Executive Summary and/or full report to the managing partners of law firms and workshops with Human Resource managers of firms.

112. It is also suggested that the WorkSafe WA booklets on the Anti-bullying Code of Practice and the rights of employees and employers be distributed to all members and law firms. The electronic link to the publication can also be included in the Law Society publications. In addition, it may be beneficial to obtain relevant posters from WorkSafe and provide these to the law firms for display in appropriate common areas.

### **113. Recommendation 2: Call to action/Building support**

114. Once the findings of the study are publicised within the Law Society and its membership, the Committee, through appropriate channels and forums may lobby firms and partners to commit to action to remedy the situation. For example, it is important to link bullying behaviour to the codes of conduct and values required of legal practitioners as members of the Law Society of WA. Personal and professional integrity must not only be reserved for interactions with clients, it should be extended to the workplace (if not already done) to cover behaviour and conduct towards colleagues.

115. Bullying is not limited to work settings but can also occur off-site, in public or private locations, through communication media such as the telephone or email. Anti-bullying policies should therefore be integrated with broader organisational policies on communication outside the office.

### **116.Recommendation 3: Developing leaders/Role modelling**

117.Many individuals are placed in leadership or supervisory roles with little/no training or support. It is recommended that the Law Society source or recommend appropriate management and leadership training to its membership and those in managerial positions. The Law Society can play a leadership role by also providing support structures to leaders and managers, and perhaps devising a network of mentors to assist in the development of a new generation of effective managers.

### **118.Recommendation 4: Developing and reviewing policies and practices**

119.The nature and environment of work can be antecedents for bullying. It is important for firms to review their strategies, policies and practices to ensure all staff conduct themselves appropriately. A recurring theme in the findings was the sheer volume of work, and expectations that work would come first with an employees' personal life taking a back seat to the requirements of the firm.

120.The current workplace in most settings would include at least three generations. It is important to acknowledge that the values and expectations of the baby boomer generation would be different to Generation X and Y. Organisations who wish to attract the best and brightest talent would need to ensure a values match with the target group. This includes appropriate workplace policies and practices.

121.A tense work environment was seen to cause loss of control, leading to psychological disengagement, lower performance and greater turnover. The solutions to such complex interactions are never easy, but require a strategic and integrated approach to addressing the root causes of bullying.

122.Workplace (HR) policies and practices including contracts, conditions of work, expectations, etc would need to be reviewed to ensure employees are treated with dignity and respect. For example, are clear organisational performance management systems in place? Have these been articulated to all employees? Are they applied consistently? Are employees with a history of poor performance made aware that they are under performing and managed with respect and dignity? HR practitioners, policy makers, line managers, and the leadership in the organisation must address such questions in order to ameliorate bullying.

### **123.Recommendation 5: The provision of training**

124.As power is at the heart of workplace bullying scenarios, and most respondents reported bullying by supervisors, it is suggested that the Law Society consider a series of workshop (mandatory as part of membership or optional) to develop the supervisory and generic skills of those in positions of power. These workshops can include but are not limited to:

- Managing conflict/Effective communication skills
- Provision of feedback/Managing staff performance
- Anger management/Stress management/Emotional regulation
- Diversity management
- The need for work/life balance

### **125.Recommendation 6: Monitoring progress**

126.The current study has provided an important benchmark. In future, the rates and incidents of workplace bullying within the legal community in WA. should be monitored to measure success. Comparisons can be made in different ways against the benchmark. For example, a repeat of the full or modified version of the survey in 18 – 24 months time, and/or once the intervention strategies have been enacted, and sufficient time has passed for changes to have taken place. Law firms may also monitor changes through the provision of a question on workplace bullying in staff satisfaction surveys or exit interviews.



127. Organisations often only take on the call to action where there is a threat of negative publicity, legal action or financial losses. It therefore becomes important to acknowledge the direct costs of absenteeism and turnover as a result of workplace bullying. The behaviour also carries indirect costs such as tarnishing the image of the organisation.

## **Concluding Comments**

128. It is important to recognise that the concept of workplace bullying is highly subjective in nature. Behaviour that may be unwelcome or unwanted by one person, may be seen as benign by another. The context of work and the general environment are also critical. Certain behaviours may be seen as acceptable in one setting (e.g. shouting in the military) but inappropriate in another (e.g. shouting in an office environment). It is therefore essential that anti-bullying policies and codes of conduct be context specific.

129. Bullying is a complex behaviour with multiple interrelated antecedents and consequences. Effective preventative strategies therefore need a multi-pronged approach involving organisational leaders, managers, policy makers, HR practitioners, and the involvement of employees at all levels. There is also a need for congruence between anti-bullying policies and other regulatory mechanisms within organisations, including HR policies. Such policies should form the framework for implementing anti-bullying strategies.

130. A policy in itself will not be a panacea for all workplace issues. A more holistic approach is recommended. This includes: raising awareness of employee rights; greater open debate and discussion of the issues; positive leadership styles; the provision of (generic/soft skills) training and support; and more open organisational cultures. A strategic and integrated approach is necessary to address the problem of workplace bullying, and move towards dignity and respect for all employees at work.

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