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# Wired for sound and fury

When a Legal Aid manager thought she was being bullied and isolated at work, she took the law into her own hands to gather evidence. **Hedley Thomas** reports

**S**OMETIMES the mini-cassettes, their spools of tape rolling silently and secretly in a recorder in a pouch strapped around her abdomen, stopped with an audible click.

Sharnie Makinson would stiffen in her chair, worried her covert mission to gather evidence of bullying at the highest levels of Legal Aid Queensland was about to be exposed.

The diminutive middle-aged widow and mother of two had a ready excuse for the muffled click.

If her boss, John Hodgins, the chief executive of Legal Aid, or senior colleagues appeared suspicious, she would explain that her "overactive stomach urgently needs food".

Makinson, a senior manager responsible for change and development in Legal Aid, would then steal away from the executive meetings to insert a new cassette, press the red "record" button and return to pick up the threads of the conversation.

"I am not a 'serial taper' of conversations and I only taped meetings which I perceived were potentially threatening to my credibility and honesty," she tells *The Courier-Mail*.

"In such situations I felt unprotected because whatever was discussed in those meetings could be denied or misinterpreted and the word of a senior executive or the CEO would be accepted over mine."

Legal Aid exists to deliver justice to Queenslanders in hardship. Subsidised by taxpayers, it is the largest criminal law practice with more than 350 staff in 14 offices from Southport to Cairns.

Its work ranges across family, civil and criminal law matters.

As the platitudes in the PR material attest, Legal Aid's values are to "strive to ensure people receive fair treatment. We value collaboration and treat with respect those with whom we work."

Makinson, however, tells a different story about relationships. But unlike most employees who feel harried by the boss, she has a suitcase full of material: transcripts from her taping, several thousand e-mails and hundreds of pages of detailed diary entries.

Collating the material was a mammoth task. After every meeting, she would go home and, after dinner with her daughters, stay up until the early hours of the morning transcribing in her own hand every spoken word — even mundane utterances by other managers about interior decor.

Obsessive? Makinson agrees some might think so, but she sees it as a case of survival.

Her diary entries, sometimes several on the same day, illuminate her perception of an ugly atmosphere in which she felt bullied and marginalised.

On January 22, 2002, she writes: "I had given some thought to the behaviour I had experi-

enced prior to Christmas and decided that it was a concerted effort to manage me out of my role by isolating, humiliating and intimidating me into resigning, so I decided to selectively tape record some conversation where I was distrustful of the motive."

In May 2003 she wrote about the impact on her health. "Doctor put me on stomach ulcer medication and ordered endoscope during next two weeks which confirmed a badly ulcerated oesophagus ... lost a great deal of weight ... obviously the stress of the last few months of being excluded and isolated from information had affected me more than I had acknowledged."

There are references to "full-scale e-mail barrages" and "open attacks" until, on August 26 last year. Makinson was asked to meet Hodgins for a "fireside chat". Tape rolling, she was asked "whether or not you have run your race as (organisation development coordinator) here". In a wide-ranging discussion, Hodgins told his \$70,000-a-year manager she was operating at "5 per cent throttle", universally disliked and "piss (colleagues) off with your attitude and approach". Makinson heard how she was "not liked, had no capacity to be liked and the situation is irretrievable".

"When I stated to him that I had no intentions of moving on, the series of meetings then escalated and the content of those meetings once again confirmed my perceptions about the purpose of the meetings and it wasn't about 'building relationships'," she says.

"The sole purpose of this behaviour is aimed at harassing, intimidating, isolating and personally and professionally belittling the credibility of the person until they leave."

**S**HE took her material to the Crime and Misconduct Commission late last year because, she says, she believed it could show official misconduct and wanted it to stop. A CMC officer advised her to continue taping as it was lawful and yielded potentially helpful evidence.

Makinson wanted her case to be aired during the election campaign. She wrote to Premier Peter Beattie's office warning it was to be made public. Part of her grievance is that despite the Government forming a bullying taskforce and guidelines for the public sector, "no action is taken to protect my most basic employee rights under Queensland legislation".

Hodgins, who learned during a meeting in late December that he was being taped then and had been on many previous occasions, told *The Courier-Mail* Makinson's actions were deceitful and had distressed many colleagues in the top echelons.

This week, after the CMC referred her complaint and much of the material to Legal Aid



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chairman Brian Kilmartin to resolve, Hodgins was asked to read the transcripts and diary entries and prepare a report for the board.

"For one staff member to do this is pretty devastating," Hodgins says.

"I would never expect a staff member to tape. I'm pretty full and frank and open with staff and I had no inkling. I just don't know why she would feel the need to go to that depth of deceit.

"I find it incomprehensible that a dossier is kept of every interaction a person has from the first day. I have never seen it before in all the hundreds of people who have worked for me. It is unusual."

Asked if he thought other staff members in Legal Aid or other workplaces would start taping after reading this article, he says: "I would think that most people would say that's not a proper way to operate. It's not an honest way.

"It would never be suggested by any of my staff that I bully or harass.

"In no way was there any bullying or intimidation of her at all."

Hodgins says his comments to Makinson in a meeting about having "run her race" were meant to "provoke her on issues of performance and to test whether she had a desire to keep going in the organisation".

"The perception I had formed was that her relationship with senior managers and other staff was not good," he says.

"The actions I have taken are normal managerial-prerogative actions that any CEO trying to drive an organisation to improve

performance would have taken.

"When you have a full and frank discussion with someone about the future of their position, it's a fairly open conversation and it is not one where every word should ever be public."

As for the future, he says they will continue to work together.

"There will be difficult roads ahead, I suspect. I will have to try to overcome the breach of trust that's occurred.

"I have to move forward and she has to move forward."

According to Linda Shallcross, a public sector management researcher at Griffith University who has been investigating "workplace mobbing", false accusations (including being a bully) are rife in the workplace and have led to many people being unfairly ousted from jobs.

Shallcross says secretly taping conversations to prove a complaint is "very sensible, otherwise she would no doubt be worn down until she was forced out of her job".

But she cautions that "managers are particularly vulnerable to accusations of bullying and the spate of false accusations against managers has led to the situation where anyone can be accused of being a bully for the most ludicrous of reasons.

"While it may seem ridiculous to have to gather recordings and keep e-mails which might seem to some to be going to extreme lengths, there appears to be no other way to prove your case in our legal system," she says.

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## CAUGHT ON TAPE

**The secret taping came to a head on December 11, when Legal Aid Queensland chief executive John Hodgins asked Sharnie Makinson for the first time if she had been recording their talks. This is an edited transcript.**

**John Hodgins:** Are you taping this meeting?

**Sharnie Makinson:** Yep.

**JH:** Right, you don't have permission to do so.

**SM:** Well, could you tell me why?

**JH:** Have you taped meetings we have had?

**SM:** I have.

**JH:** Right, OK, so you have been taping secretly conversations between yourself and senior management?

**SM:** Correct. Because I've felt under threat.

I've been told that wasn't improper and it's not illegal.

**JH:** I realise that but it's deceitful.

**SM:** Well, I view the contents of the discussions you've been having with me quite threatening and quite deceitful.

**JH:** Our relationship — it's at a pretty low ebb, isn't it?

**SM:** Very low ebb.

**JH:** By the way, I did ask you to turn off the tape, turn off the tape.

**SM:** Well, I would also like to say that I can't do that.

**JH:** I think we should end this conversation.

**SM:** I agree. I respect your wish to say 'turn it off'. You must respect mine to say no.



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