

Bystander Beware

By A Bystander

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Bullying poses a major challenge for universities and the broader community in Australia and elsewhere. One of the most vexing issues facing the management of bullying stems from the potential nexus between the university and the line managers appointed by the university. The following analysis revealed four weak points in the detection, recording and management of bullying in the tertiary sector. The first of these involved the possible benefit of managerial bullying to the university, and the corresponding inability of institutions to provide independent review. A second point involves the extent to which senior staff in the unions are themselves members of the university community, compromising their ability to adopt an independent perspective. A third point involves the absence of an *independent* mechanism designed specifically to record and review bullying and predation reports across cases, targets, schools and universities. A fourth point stems from the fact that the NTEU has no interest in cases involving retired staff even when (1) the alleged event occurred while the person was a union member, and (2) the person concerned is an active member of the university community. The critical issue therefore concerns the absence of independence between the reporting and management procedures available to whistleblowers and the victims and targets of bullying on the one hand, and the management procedures available to those charged with bullying on the other. Following Caponecchia (2011), it is proposed that the Commonwealth establish an agency designed specifically to protect the victims of bullying and whistleblowers, and to achieve these objectives by creating a national review body to record and, when necessary, report on bullying and predation incidents, across cases, targets, campuses, universities and states.

1 Management as a potential beneficiary of bullying

Recent research from the UK and India has provided a new perspective on the organizational context of bullying (Beale & Hoel, 2011; D’Cruz, 2014). In these country at least, bullying of employees by managers is more common than bullying between co-workers, a pattern that has significant implications for the reporting, interpretation and management of bullying everywhere (Lewis & Rayner, 2003). Perhaps the most significant point concerns the implications for the universities and colleges that employ academic staff. While it could be assumed that university management was not *a* or *the* critical player, it could safely and perhaps conveniently be assumed that bullying had a negative value

in economic and managerial terms, and that the university and its staff were therefore on the same side, and benefiting on more or less equal terms from procedures designed to reduce bullying in the tertiary sector. However, if, as implied by Hoel, Cooper and Faragher (2001) and Rayner, Hoel and Cooper (2002), bullying is actually integral to managerial processes and performance, the university must be perceived as an actual or potential 'beneficiary' of that behavior, and the game has changed, and we are obliged to recognize and respond to that change. More generally, and as argued by Hoel and Beale and Hoel,

"When bullying is perceived in terms of managerial control of labour and the core concepts of the labour process - an approach not previously embraced in the established psychological and social psychological analyses of the issue - bullying is better understood as an endemic feature of the capitalist employment relationship"

Beale and Hoel go on to challenge two specific assumptions; first, that it is actually within the employers' ability to eradicate bullying and, second, that it is in the employers' interest to do so. Junior managers are an integral part of the collective entity of management, and they therefore share the 'expectations, attitudes, norms and internal pressures' of management, and the loyalty and compliance demands associated with managerial roles. Correspondingly, senior managers

"have much to gain either by directly lending their support and loyalty to junior managers who bully workers, or at least by doing so indirectly by condoning or ignoring such bullying behavior" (Beale & Hoel, 2011, 13).

2 Ubiquity and denial

In recent years we have been exposed to reports of bullying in the catholic school system in Victoria and elsewhere (Marr, 2013), the Chabad branch of Orthodox Jewry in Melbourne (Marr, 2015), Knox Grammar, one of Australia's most prestigious schools, in Sydney (Yoemans, 2015, February 24th; March 4th), the Australian Defence Force Academy, in Canberra (Wroe, 2013), celebrities such as Rolf Harris (Pettifor & Myers, 2015) and the late Jimmy Savile (Lorentzen, 2013), hospitals, by male medical doctors (Medew, Hatch & Lillebuen, 2015) and in universities across Australia (Martin, 2002; Nette, 2012; Steketee, 2009) and elsewhere (Legge, 2012; McConnell, 2009). The predation and bullying domains are treated as one in the following analysis because bullying is commonly if not invariably element and forerunner of predation, and the two forms of misbehaviour are therefore open to a similar range of procedures in regard to detection, classification, communication and publication, and protection.

At first glance the Savile case in the UK is far removed from bullying issues involving university staff in Australia, however it illustrates the fundamental problem associated with the absence of an agency designed specifically to

receive, record, review and when appropriate distribute and publish reports of bullying. According to Lorentzen,

“The initial results of Britain’s first comprehensive police investigation into the celebrity TV presenter’s past have uncovered more than 450 accusations of molestation and rape, mostly from girls in their early teens at the time of the assaults, but from about 80 boys and men as well”.

But the saddest and most transparent failure of due process arguably involved:

“Savile’s activities in 28 NHS hospitals, including Leeds General Infirmary and Broadmoor psychiatric hospital”, and (included) evidence that “he had sexually assaulted staff and patients aged between 5 and 75 over several decades”.

While the legal and psychological ramifications of the mass of examples and cases listed above are by no means identical, or even similar, they all appear to have one characteristic in common; the victims and the bystanders who reported bullying to the technically relevant authorities risked their reputations, their careers, their sanity and even their lives (e.g., Williams, 2012). The primary purpose of this article is to table for discussion a new agency designed to provide protection for:

- the mass of potential targets and victims of bullying, and
- the small fraction of bystanders who, naively perhaps, report bullying, and suffer accordingly

3 Gravitas

The gravity of the problem is reflected in a recent article published by Nick Cohen (2015). The underlying story involved an alleged attempt by BBC management to remove the reporters who had published Jimmy Savile’s long history of predatory behaviour from their positions in that institution (Cohen, 2015). According to Cohen, “The whistleblowers who broke the Jimmy Savile story have seen their careers nosedive while executives protect their own status”, and, elsewhere,

“Nobody from John Humphrys in the morning to Evan Davis at night dares mention a scandal at the BBC. It undermines their reporting of every abuse whistleblowers reveal. It reinforces the dirty common sense of British life that you must keep your head down if you want to keep your job”.

The significance of the problem for the university community is underlined by a comment from Weiner, quoted by Chandler (2015), that ‘university personnel engage in bullying at a rate twice that of the private sector’. Furthermore, for those of us who would like to assume that predation in the form attributed to Savile is impossible in the university sector, a quick visit to Brian Martin’s chapter on the Rindos affair is revealing because the trigger for that saga involved alleged predation by a female professor on female students.

4 A critical incident

The incident that inspired the analysis advanced in this note occurred more than a decade ago, but the gravity of the response adopted by the institution has only recently become known to the author. This article is not about the original incident, but the procedures adopted to suppress and remove the stain of bullying from a line manager and the university administration that appointed him. The following is an excerpt from an email posted by the author shortly after the original event.

'The then Head of School, Professor A, threw a temper tantrum at one of his colleagues a few minutes after the end of a staff meeting. Professor A advanced down the room shouting, and threatened the person concerned with retribution. The phrase which provoked the report was, "One day you will want something from me, and then ". The matter was further complicated by the fact that Professor B, the target of Professor A's vitriol, was and is a close friend of Professor A.

The event occurred some ten minutes after the end of a formal staff meeting. The people in the room included the (*then*) pre-teen daughter of the author. Professor B was standing behind the girl and the author, and she and the author copped the full force of Professor A's liquid and metaphorical spray as he advanced down the room toward Professor B.

The decision to report the incident reflected the author's concern at the heat and volume of the blast emanating from the Head of School, and the explicit threat to the professional standing of the target. The author was the most senior person present, and regarded it as his responsibility to bring the issue to the attention of the university. The apparent loss of control in front of a minor was a further consideration.

Several subsequent events cast further light on the incident. First, Professor A wrote to the author and apologized for behaving as he had *in front of the author's daughter*. The author did not invite his daughter to share his working day in the university again. Second, the author decided to enter into a retirement agreement with the school some six months later, following a period of illness. As the author then had seven doctoral students under supervision, with several more pending, and the completions were likely to extend over several years, he asked Professor A for appropriate reimbursement, and tabled a figure of approximately \$15,000 per completion per student. Professor A indicated that he would leave the decision on reimbursement to his successor. Had he indicated that he would not provide reimbursement *at the time*, I would not have resigned. Third, and some eighteen months after the initial incident, Professor A called the author at home, and informed him that he had been "tapped on the shoulder"; and that he knew who was responsible; and that he would be "on my case". Following that, Professor A engaged in a form of close and personal 'contempt'. All of the exchanges were opportunistic, and occurred under one-on-one conditions. Many of the comments could be construed as 'rough repartee'. But in the context of the author's known post-retirement commitment to science and writing, and

Professor A's open hostility to those objectives, such an interpretation would be generous. The substance of the abuse involved emphasis on the traditional retirement model, with repeated references to slippers, caravan trips, fireplaces, good books, BBQ's, family celebrations, sleeping, the good life, grandchildren, and so on. Denigrating remarks about the author's contribution as a scientist were embedded.

5 Secrecy, Reinterpretation and Mobbing

In 2014 a colleague of many years standing approached the author and drew my attention to the appointment of Professor A to a senior position at another university. The informant added that the university associated with the new position had been informed that the author's report of bullying had been dismissed, by reference to the counter-claim that the report was made *in retaliation for the alleged refusal of Professor A to provide reimbursement for doctoral supervision following the author's retirement.*

The alleged assertion by the university that the author's report was motivated by retaliation against Professor A is without substance. Critically the timing of the two events is inconsistent with the assertion. The original incident, and the author's report to the university, occurred in May of the year in question. The author's entirely voluntary decision to retire was not made until November of the same year. In the absence of *pre-cognition* on the part of the author, it is unclear how the author could have tabled the bullying report in retaliation for a process that was not raised or discussed by or with the author until six months later. Furthermore, if Professor A explicitly rejected the author's request for reimbursement for supervision *at the time claimed*, why did the author not defer retirement by six months, or six years come to that, and guarantee an appropriate return for supervision? The 'official' narrative includes another puzzle; if nothing much happened, why did Professor A apologize for losing his temper in front of the author's pre-teen daughter in the first place?

In a recent article Malmstrom and Mullin considered the role of 'reinterpretation' in the management of whistleblowers, and the only too real problem of retribution. The following quotation was included to illustrate the point.

"Whistleblowing is a dangerous game. Most often, whistleblowers' allegations are ignored or their motives are suspected, while whistle-blowers themselves are attacked, ostracized, threatened, and even fired. The primary reason for whistleblowers failing to report dishonesty is fear of retribution, while conscience and duty are discounted."

The counter-argument attributed to the university and adopted *in secret* effectively removed the charge and even the rumour of bullying by Professor A. Surely, under *due diligence* the university was *obliged* to place the counter-charge of 'retaliation' on the author's desk, and provide the author with an opportunity to respond to it. The fact that the university failed to provide the author with an

opportunity to answer or even consider the charge against him renders the university's alleged response to the bullying charge *null and void*, or worse, a shield to conceal *outrage* and *mobbing* (Westhuis, 2006). According to Shallcross (2015) for example,

“Workplace mobbing is a ‘virus’ or a ‘cancer’ that spreads through malicious gossip, rumour, hearsay and unfounded accusations. It is done with deliberate intent to have those targeted 'eliminated' or 'forced out' of their employment. Accusations of unsubstantiated 'bullying' can even be made against those targeted as the perpetrators realise the benefits of claiming 'victim' status. Those targeted are often:

- Change agents
- High achievers (sometimes with public recognition)
- Enthusiastic (e.g., those who volunteer)
- Whistleblowers
- Known for their commitment to human rights”

The secrecy adopted by the university individual or committee that reviewed the charge against Professor A poses a threat to all of us. Laura Poitras made essentially the same point in her Oscar acceptance speech for the film *CitizenFour*, thus,

“The disclosures that Edward Snowden reveals don't only expose a threat to our privacy but to our democracy itself. When the most important decisions being made affecting all of us are made in secret, we lose our ability to check the powers that control”.

The case has major ramifications for anyone exposed to bullying by a senior official of a university. The case *against* reporting bullying by senior staff members is overwhelming, and reporting should be avoided at all costs.

The pathway to the fiasco summarized in this note rolls all the way back to the final chapter in the so-called *Rindos Affair* nearly 20 years ago (Martin, 2002). Dr David Rindos was hired to fill a vacancy in the Department of Archaeology at UWA in 1989. In 1990, he became Acting Head of the Department of Archaeology while Professor Sandra Bowdler, took study leave. During his period as Head of Department Rindos was made aware of problems involving favouritism and affairs between students and staff. In December 1990, he wrote a memo to the relevant Dean outlining allegations of academic misconduct. On completion of his three year period of probation Rindos was denied tenure, however, in a formal review by the Government of Western Australia, it was noted that the denial of tenure failed to meet the principles associated with ‘Due Process’ in that critical issues were not disclosed to Rindos. The Western Australian Legislative Council investigated the case and brought down its ruling in 1997, one year after Rindos died at the exceptionally young age of 49. Brian Martin has provided a detailed review of the episode.

According to a note published by the Standing Committee on Public Administration, Legislative Council, Western Australia, and quoted by Brian Martin (2002),

“It is concluded that Dr Rindos did not have adequate and fair opportunities to present his case [for tenure] and has not, in all the circumstances, been afforded common law procedural fairness, due to the University administration’s apparent reliance on material not disclosed to Dr Rindos”.

The Committee finds that the procedures adopted by the University to review and determine the tenure of Dr Rindos and his subsequent appeals were ad hoc, and overall, did not adhere sufficiently to the common law rules of procedural fairness given that all relevant information was not disclosed to Dr Rindos for his assessment and rebuttal”. (Standing Committee on Public Administration, Legislative Council, Western Australia, 1997).

An approach predicated on the assumption that *reinterpretation* leading to damage to the whistle-blower provides the most satisfactory solution is abhorrent, and flies in the face of *due process*.

6 The Bystander Trap

Consider the problem from the perspective of a bystander. Assume that the bystander is a witness to only one act of bullying. According to the university policy for the *Prevention and Resolution of Campus Bullying*, a policy that details the University’s expectations around the behaviour of staff,

“This policy significantly includes the right of complaint for witnesses. Bullying has a negative effect on both recipient and bystanders who witness or overhear the behaviour. The University therefore recognises the right and responsibility of individuals to raise a complaint if they are exposed to bullying behaviour whether directly or indirectly”.

The verbal abuse described above lasted for two-three minutes with no more than two or three sentences from Professor B. The entire utterance probably included 300-400 words, of which the author reported the first and the most salient sentence. I had and have no idea what else was said during the exchange, but I wrote down the words quoted above at the time. Whether or not any of the other people listening to the exchange selected or remembered the same words is uncertain, and, they may in any case have decided that silence was the appropriate response. The author was in fact the closest person to Professor A at the time, and it is possible that Professor A’s diatribe went ballistic after this initial comment.

According to the policy statement quoted above, it was the author’s ‘responsibility’ to ‘raise a complaint if they are exposed to bullying behaviour whether directly or indirectly’, and the author did so. His subsequent treatment by the university should serve as a warning for every single member of the university community who is a witness to a bullying incident. In brief, the university, any university perhaps, reserves the right to, first, exclude you from

all subsequent proceedings associated with the report and, second, reinterpret your report so as to destroy your reputation and, potentially, your career.

Now that the consequences associated with Bystander Reports are clear, the problem is also clear; who could possibly raise a report of this type? The section under Disclosure in The University Policy on: Prevention and Resolution of Bullying on Campus is clear, thus,

“Employees or students who have been the target of bullying behaviour or who have otherwise witnessed bullying behaviour are encouraged to disclose bullying.”

A *Bystanders Beware* clause would be useful, indicating that the university reserves the right to destroy your *personal* and *scientific* reputation if it regards the behaviour of the alleged bully as beyond reproach, or if it does not like you for some reason, or if it is unwilling to acknowledge that a line manager could behave in the alleged manner. Quite how the ‘three universal ethical principles’, *Equity and Justice, Respect for People and Personal and Professional Responsibility* (all noted in the critical Policy Document of the university concerned) fit into the policy adopted to remove the stain of bullying from Professor A is unclear to the author!

7 Bullying

Ambiguity

I refer to Namie (2003) for just a hint of an answer to the first question. According to Namie,

“Targets who had reported the abusive misconduct to the perpetrator's (bully's) manager and had asked for relief, elicited positive, helpful responses in only 18 percent of cases. In 42 percent of instances the bully's boss actually compounded the problem.... Co-workers' silence makes sense in a fear-plagued environment when people are unsure if they might next be targeted”.

Namie touches on the perhaps more challenging issue of motivation as well. Thus,

“Regardless of how bullying is manifested -- either verbal assaults or strategic moves to render the target unproductive and unsuccessful -- it is the aggressor's desire to control the target that motivates the action.”

One of the most challenging questions associated with bullying concerns the sheer ambiguity of the term. It runs the gamut from the edge of rape at one extreme to passing words of indifference directed toward a lonely child in a schoolyard at the other. The sheer variety of categories is illustrated by *The Bully Zero Australia Foundation* web site where an informal list comprises: Verbal Bullying, Physical Bullying, Emotional-social-psychological Bullying, Racial Bullying, Cyber Bullying and Homophobic Bullying. But the variety of categories is in a sense irrelevant. The critical issue concerns the impact on the target,

where, depending on a host of factors, the reaction might range from utter contempt to total destruction, and the public response can vary accordingly. Furthermore, because some of us are built with 'iron' in our souls, and some of us are not, the consequences of bullying can vary across an extraordinary range, and in ways that do not reflect external or 'objective' scales in any obvious way. And, finally, a victim's visible response to bullying at the time is not a sure indicator of the gravity of the attack, as delayed responses can be lethal once the shock has worn off.

A critical problem therefore concerns the anything but linear relationship between the *observer* and *target* scales of bullying. A passing jibe of 'lesbian' might mean nothing to one target, and it might be the end of the world for another. A sustained attack on the research of a potential retiree might drip quickly off the back of one retiree, while utterly destroying the confidence of another, and the same attack mounted on a junior staff member could have yielded anything from depression to suicide. For an interesting insight into this aspect of the problem a recent article by Alexandra Tselios entitled "how I learnt the importance of reporting sexual harassment in the workplace" reflects the confident end of the spectrum. However the solution adopted by an experienced, articulate and self-employed person might not translate into the working environment of less talented persons employed by large corporations and public agencies and we, as social scientists, have to design a system that will support and protect all, the vulnerable as well as the invulnerable.

The price of reporting

I recently attended the 80th birthday party for one of my distant relatives, and, in the course of social chitter-chatter, mentioned that I was currently writing an article on bullying. My conversationist, a female in her 70s, spontaneously recounted a recent event involving herself and two of her female colleagues. According to her account, a junior manager bullied all three of them across a series of management meetings; meetings that ended in tears. The other two targets reported the incident to management however my colleague did not, even when she was approached and specifically asked to do so by management. I subsequently asked her if I could interview and record her experience, on a confidential basis. My colleague turned away, and the fear and shame were evident. We talked around the issue again later, and my colleague formally declined to be interviewed. The divide between those of us who have and who have not been subjected to personal bullying is deep and wide, and expressions of good intentions do not cover the chasm.

In a recent article entitled '*Workplace bullying litigation - a nasty war of attrition*' in *The Drum*, Luke Williams posed and answered the following question.

Question: What's worse than being bullied in your workplace?"

Answer: Making a complaint about it.

Luke Williams makes three further points of interest,

“Countless victims say that when they make bullying complaints internally, their employer has a tendency to take sides; either ignoring, suppressing or over-reacting to their complaints.”

“Employer responses to allegations of workplace bullying often become an extension of the bullying culture - exacerbating the cruel, calculating and costly behaviour which created the very problem to begin with.”

“Anti-bullying website *Know Bull Australia* says that while around half of workplace bullying complainants they surveyed complained to their workplace, 89 per cent say their workplace had not been dealt with satisfactorily.”

Luke Williams goes on to describe two recent suicides associated with bullying.

Confidentiality and accumulation of reports

I am aware of two other ‘outbursts’ by Professor A, against academic staff who were then at one or other of the local universities. Let us assume that the outbursts were aimed at Professors C and D. Two features stand out for these incidents. First, Professors C and D each conducted their research in an area of expertise not unrelated to that of Professor B and, second, they each had and have citation records superior to that enjoyed by Professor A. Is Professor A’s behaviour fuelled by ‘envy’, a concept that has been invoked to explain a range of bullying events including the teaching and research professions (e.g., Westhues, 2006)? Professors C and D recently moved to new universities far removed from the universities under review in this note. Under the current reporting model the accumulation of reports across incidents is virtually prohibited, and the reinterpretation can be adopted with impunity for individual and isolated reports.

The problem of Verification

The problems associated with both confirmation and disconfirmation are legion. Given the administrative and managerial power associated with the position of a Head of School, and the potential for support from an administration that could only be embarrassed by a report of bullying by one of its appointees, anyone making a report of bullying against a Head of School probably needs *counselling*, in every sense of the term.

The problem has been described by Caponecchia (2011) in the language of Signal Detection Theory; thus,

There can be spurious reports (“false alarms”); reports of bullying when it is happening (“hits”); no reports when it’s not happening (“correct rejections”); and no reports when it is happening (“misses”). We know that the last category - not reporting bullying - is common. People don’t report for a range of reasons,

including fear of payback and of losing their job. We know that the rate of people experiencing bullying who simply leave their job is around 40%. So to focus on spurious claims as though they are the main game is misleading.

Caponecchia goes on to propose that we – Australia – need an independent tribunal for workplace bullying, however the critical issue concerns the need to be able to report bullying ‘without fear’, and that is a task that the administration of the institution that appointed the alleged bully cannot provide. Gregor (2015) emphasized essentially the same point, in the following words,

“Establishment of a complaints mechanism whereby employees who have been bullied can make a complaint, as well as ensuring grievances are dealt with independently, timely, and kept confidential”

It is therefore essential that an independent and central agency be established to record and distribute advice from, and to, individuals, agencies and institutions including schools and universities across Australia. A if not *the* critical question concerns the proposition that bullying can only be cited when repeated observations can be proved (See Toni Mellington as cited by Grigor, 2015). But that condition can only be met if an independent agency is available, and that agency must be able to accumulate reports across different individuals, different events, different parts of the same institution, and different institutions. These criteria take the problem far beyond the capacity and capability of the typical victim or bystander, and the matter is further complicated if the alleged bully is ‘grandiose yet charming’, ‘authoritative, aggressive and dominating’, ‘fearless and shameless’, ‘devoid of empathy or remorse’, ‘manipulative and deceptive’ and ‘impulsive, chaotic or stimulus seeking’ a sample of the features attributed to ‘serial bullies’ by Keryl Egan (See Grigor, 2015).

8 A Human Factors perspective

Independence

Let us turn our collective back on the causes, motivations, descriptions and explanations of bullying. It is the author’s contention that the single most important issue in the entire bullying pantheon concerns *us*, as people. *We* do not wish to admit to errors, and, critically, *we* do not wish to admit to errors in the billion dollar organizations that *we* administer. Justice delayed or justice deferred is of course justice denied, and the cost of justice denied can be very serious indeed. The confident and articulate bully can simply move on to his or her next victim, and dismiss the earlier reported event as a fantasy, evidence of psychological disturbance in the victim, or a distortion designed to damage the alleged perpetrator. *We*, the broader community, are also disposed to accept the counter-allegations advanced by the bully because, after all, he or she spoke very pleasantly to us over wine the other day. Scientists who habitually live in writing environments that include at least an element of ethical control, by virtue of

Independent Peer Review, may not be well placed to judge the accuracy and integrity of people under scrutiny for less than ethical behaviour.

It is the author's contention that an effective approach to bullying and predation depends on the *absolute* independence of the agency receiving, recording and acting on reports, on the one hand, and the institutions responsible for the employment, management and training of teachers, historians, scientists, and doctors on the other. I have no doubt that some organizations handle bullying reports independently and professionally but I would not risk my reputation again, in another life, or the reputations of my PhD graduates or my children. The risks are too great, and the cross too heavy.

The most obvious model involves the NTEU or National Tertiary Education Union, however two considerations count against this solution. First, because many Members of the State Division Councils of the NTEU are drawn from senior staff at the local universities, it cannot be assumed that their boards are free from explicit let alone implicit pressure, so the independence of their policies, staff and councilors cannot be assumed either. Second, the issues that have engulfed the author's life since retirement stemmed from his working life and, despite the fact that the bullying report preceded his retirement, and he paid union dues for 34 years without calling on Union support, he is not eligible for support from the NTEU, and yet, as a publishing author on a range of scientific issues, he is as much a member of the university and scientific communities as ever.

The mass of problems associated with the limitation and management of bullying stand outside the type of expertise that academic staff and university administrators generally bring to the job. Perhaps the most powerful argument against an approach that follows traditional industrial lines stems from the fact that the author's original report, and the issues raised there, do not concern him as an individual, or Professor A alone, they stem from problems that involve *us*, *as people*, and the solution must therefore be found in systemic change, not individual punishment or vilification.

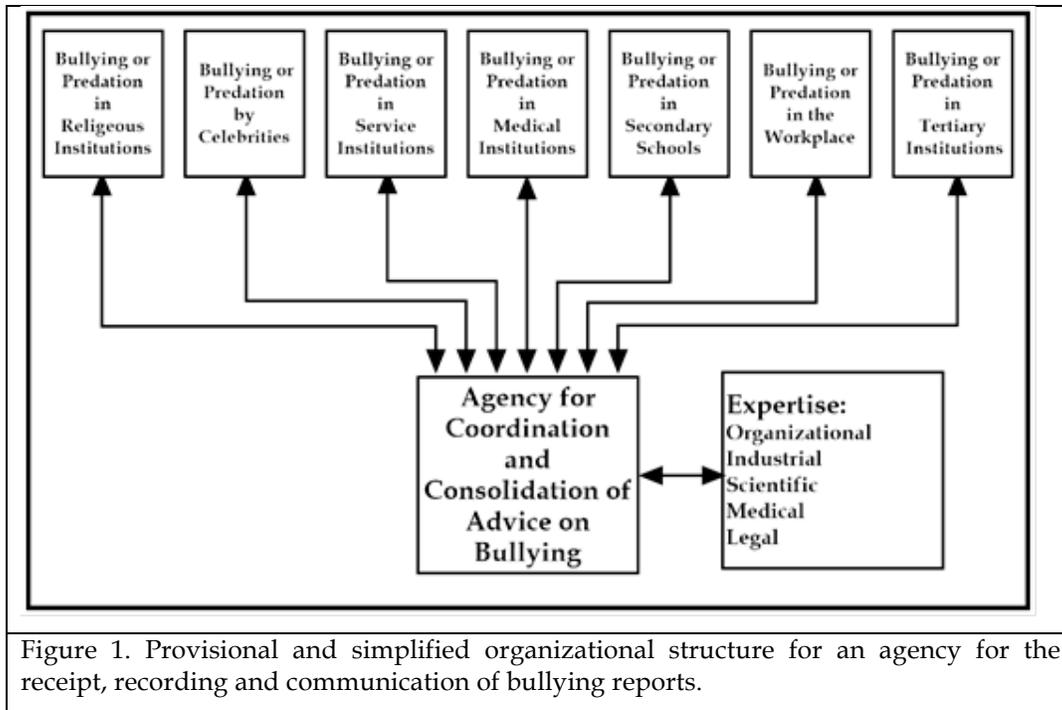


Figure 1. Provisional and simplified organizational structure for an agency for the receipt, recording and communication of bullying reports.

The model outlined in Figure 1 leaves all of the hard questions unanswered. The receipt of information should not pose a challenge. The proposed Agency for the Coordination and Consolidation of Advice on Bullying (ACAB) can of course receive reports from any individual or institution, including schools and universities. However decisions about the transmission of information to individuals, schools, universities, and scientific and legal officers will raise more challenging issues. How many reported incidents provide a minimum basis for a report to a university about an individual staff member for example? Does gravitas come into the equation? Can committees be trained to grade bullying incidents in some way? Should the ACAB provide reports to the people from whom it is receiving reports? Should the ACAB provide feedback to the people about whom it is received reports and, if so, under what conditions? When should the ACAB refer reports to legal authorities? Should the ACAB provide advice to individuals who have provided it with reports? Who does the ACAB report to when bullying or predation by public celebrities is on the table? Can the ACAB publish reviews of specific problems in the domains of its expertise and, if so, under what conditions and limitations? The questions are legion; the answers anything but obvious.

Agency to receive, record, review and distribute reports of bullying

The primary purpose of this note is to table the case for an independent agency where the primary focus is on the protection of (a) the targets and victims and (b) the whistle-blowers.

A system that focusses on the protection of the university community from bullying cannot be restricted by the niceties of who does and who does not belong to the union, and who is and is not too old to attract remuneration, and therefore union membership. The focus must be on the protection of the community of scholars and students, and not the protection of the bullies, administrators and institutions. The critical issue therefore concerns the detection and accumulation of evidence across events, reports and institutions, and a commitment to transparency!

Agency to protect line managers against malicious reports of bullying

I am not primarily concerned with the protection of the institutions including universities, colleges and schools where all the incentives favour reinterpretation and denial of responsibility and, therefore, the protection of a bullying culture. However, one of my friends and collaborators was the target of a bullying report some years ago, and I am only too aware of his pain. Critically, the procedure outlined below would also provide a layer of protection for line managers and others against malicious charges of bullying.

Summary

The logic of an informal Human Factors analysis precludes both management and the unions from an effective role in the amelioration of bullying. If, as is the case in the UK, two thirds of all bullying stems from the dispositions and behaviour of *managerial* bullying, management is precluded from review and adjudication. Furthermore, if a significant fraction of the Boards of the state and national NTEU hold positions at our universities, the NTEU is also precluded from a role in the management of bullying. The following is a brief summary of the critical issues raised in this note:

1. The challenge posed by managerial bullying, as discussed by Hoel and Beale
2. The risks associated with the absence of an independent mechanism to accumulate bullying reports across incidents and universities, the absence of which should stand as an unambiguous deterrent to bystanders everywhere. The author endorses the proposal advanced by Dr Carlo

Caponecchia, that Australia needs an 'independent tribunal' for workplace bullying.

3. The conflict of interest associated with the fact that the union leadership and policy making decisions are substantially although by no means totally in the hands of people employed by the universities.
4. The challenging example displayed by a university that ignored due process - by failing to provide the author with the nature of the counter charge brought against him, or an opportunity to respond to that charge.
5. The plight of academic staff who the NTEU will not defend despite the fact that; first, the member concerned paid NTEU dues for more than 30 years without calling on NTEU resources, and, second, the actions under review occurred during the period of tenure of the academic staff member concerned.

Biographical Note

The author retired from the position of Professor at the end of 2006. The doctoral supervisions referred to in the text were completed by him as an Adjunct Professor in another school at the same university between 2007 and 2014. He has published one co-authored book, three co-edited books, more than 100 articles in refereed journals and more than 30 chapters in edited books. The author has also supervised or co-supervised to completion more than 20 doctoral and 100 honours supervisions. The author is an elected fellow of one of the four academies and an Honorary Associate of one of the museums.

The *opportunity cost* to the school to which I had the opportunity to belong for so many years might be worth noting. In the seven years since the author's retirement from the school, he has published approximately two refereed articles per annum, one edited book or book chapter per annum, one conference presentation per annum plus one doctoral completion per annum, and the clock is still ticking.

In 1993 the author participated in the review process for the series of predatory and bullying allegations associated with an overseas deployment by HMAS *Swan* (See Australian Defence Force Scandals, News.com.au, April 7th, 2011).

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