

## Taking on a dysfunctional department: tips and traps

by Sylvia Survivor

*The author of this story does not particularly wish to be anonymous because she is rather proud of what she - single handedly - achieved. She is not naming any names; those who believe it is about them are probably right. Besides, this is not a saga about allegations against particular individuals, but a rather incredible account of an existing government departmental workplace. For obvious reasons (the author doesn't really want to be sued if it can be avoided), none of the settlement contents will be disclosed. That does not reflect or deflect from this story, the aim of which is to make the reader aware of attributes necessary to not only survive litigations, but to actually thrive while pursuing the quest for justice.*

*Documented whistle blowers' stories are by their very nature rather grim. Whereas this author does not disrespect individual's experiences, and fully recognises any workplace grievance to be a potential health hazard, she is aware of the humour pertaining to some of the aspects of the litigations and prefers to write the following account in that fashion.*

*It has not been easy though; what started with bullying finished with a death threat. What follows is most of the stuff in between.*

### INTRODUCTION

I am a very well educated professional. Criminologist, PhD no less. I've had the good fortune (yes, fortune!) to grow up in a highly dysfunctional family. This enabled me, from a very young age, to recognise dysfunction almost immediately, and I found myself to be very well prepared in dealings with dysfunctional colleagues whose main aim appeared to not only discredit me, but to actually force me out of their equally dysfunctional workplace by any means at their disposal.

I'm a determined sort of a person. I either do something 100% or I don't do it all. When something is wrong I try to 'fix' it. My pursuit of justice was not based because I felt *I was right*. Rather, I simply knew that *they were wrong*. Big big difference ... perhaps not so much in words, but certainly in outlook. I'm also a very focused person, which greatly helped me to achieve my goals of Justice. You see, throughout my litigations I never failed to lose sight of the big picture despite all hurdles and distractions (perhaps I should say 'destructions') carelessly or deliberately put on my path.

Possibly the most important aspect that helped me a lot during these stressful years (the saga spans nearly four years from beginning to end) was my spirituality. Please don't think I'm off with the fairies or say daily prayers in a church of your choosing. (Actually, I do attend church regularly. Some of my friends chose to get married in one, then there are church-held funerals - few and far

between - or baptisms, even less frequent. All these require my attendance). My spirituality is a mixture of belief systems, the closest probably possessing a Buddhist like detachment as well as the belief that anger is a useless act of self harm. If you do have a belief, spiritual or religious, and you are involved in workplace disputes, do whatever it takes to be *true to yourself*. Believe in yourself, in your own abilities to see right from wrong and aim to do your very best to become a better person through adversity.

This document has been written first and foremost to help and assist others who find themselves in a similar position. I will point out what to look for, what to do and what not to do. Examples are provided to illustrate some of the 'dot points'. Ultimately though, any decision you make in relation to workplace dysfunctions will be yours and yours alone.

## **BACKGROUND**

For a period of some ten years I was a permanent full time employee with the Queensland Public Services. During my employment as a public servant I successfully took my employers to the Anti Discrimination Commission twice. Later I successfully sued them at the highest level for another matter, and then, after fighting Q Compensation on three occasions, I successfully sued in the Industrial Relations Court in Melbourne (Superannuation Complaints Tribunal).

A condition of my settlements is that I cannot publicly comment on the subject of the settlements, however all the above can be verified: a rather large amount of material involving my cases has been on public record, including matters in District Court (albeit only for a few hours) as well as numerous newspaper articles.

As a consequence of having lodged complaints, a campaign against me went into full swing. Every effort was made by the Department to discredit me. This campaign to remove and discredit me was conducted at the highest levels. It was a rolling offensive of intimidation and it was rather vicious.

Most of you would be aware and acknowledge that there are three choices when involved in workplace issues. One is to stay put and shut up, another one is to resign and the third option is to stay and fight. What also became abundantly clear during my litigations is that there are two kinds of people involved in disputes: *Those who have nothing to lose* (Me me me!) and those *who have everything to lose* (them!). Both have the potential to become quite dangerous in any given workplace dispute.

I chose to remain and fight. I had nothing to lose. This paper demonstrates that for the duration of my disputes, complaints and litigations, my workplace became an occupational health hazard.

## ISSUES

Workplace bullying issues started it all. On two separate occasions, two highly dysfunctional individuals were placed in high positions. (Arguably it is *because* of the above-mentioned quality.) One of my complaints was so painfully clear; it was settled in a minimum of time, with little effort on my behalf and with maximum outcome. The other one though was an entirely different matter.

I was up against a person who had a reputation of 'sleeping around'. I say: Reputation. I never actually asked the question, however during the course of my complaint it became evident that half the females either slept with him (by own admission) or desired and aspired to do so in the very near future. Did I lodge a sexual harassment claim? No I did not. This deliberate omission puzzled them. I figured out that due to the aforementioned libidos, none of the female staff would back me up. Add to this job insecurity for most colleagues, who were waiting approval for permanency and did not want to jeopardise their chances, and you understand that the likelihood of even one of them backing me up was very slim. So instead of making a complaint of sexual harassment, I complained about everything else: bullying, intimidation, etc. The biggest mistakes I made in relation to this particular complaint:

- Trusting your witnesses would sign an affidavit
- Trusting your witnesses would stick to their story
- Trusting the departmental grievance process
- Trusting that your witnesses, and other colleagues in general, would do the 'right thing'

What happened was that my witnesses valued their job much more than their integrity. Loyalty to me sank to the bottom of their list of 'priority needs'. Some witnesses changed their story, others refused to co-operate with the investigators, and yet others simply and blatantly lied. Just like that. They L-I-E-D. With ease. (To a basically honest person, this *still* is a rather shocking revelation.)

This case went through the departmental grievance process, then to various departmental appeals forums, before it settled eventually.

### **'Leaked' report**

During this time, I was commissioned by my employers to write a report on departmental service provisions in a remote indigenous community. Based on many interviews with a large number of key stakeholders, the consequent analysis reflected on the dysfunction of services to the community. It also stated that the failure by the Department to provide services represented a serious breach of its statutory duties. Moreover, this report found that hundreds of thousands dollars had not been spent on allocated agencies and service providers within the community.

Following managerial instructions, I placed this damaging and detrimental document on the Department's data base for departmental staff to access.

What happened next is that within hours of its placement this internal report was 'leaked' to interested parties outside the Department and distributed nationwide. Recipients included major newspapers and academia, as well as radio and television newsreaders and politicians. Interested national and international parties contacted the Department and various articles based on this document appeared in numerous newspapers over a three year period.

As a direct result of this leakage, the Department spent thousands of dollars and contracted an investigator, pointing to the author (me) as the prime suspect to be interviewed. Leaking internal information is a sackable offence and even though I was the only person who could prove innocence (I was on an overseas flight at the time), the final investigative report into this leakage still cited me as prime suspect but they hastened to add that any number of people had been in a position to access the data base and subsequently leak the document.

Unable to find evidence for disciplinary action against me, and despite their efforts, the Department's inability to dismiss me resulted in an increased hostile attitude. Knowing I was innocent of this leakage, I did not experience the interview as particularly stressful and I suspect that my calm demeanour incensed my employers even further.

Even so, as a consequence of the extraordinary pressure I was put under, I was on extended sick leave for many months, citing upon workplace departure sections of the *Work Place Health and Safety Act*, pertaining to 'not to place yourself in a position of danger'.

During this time, my employer directed me to undergo medical examination pursuant to section 85 of the *Public Services Act*. This is a pretty drastic measure and relates to mental health. At this point I realised that I had really caused serious upset. The first psychiatric report was in my favour, so they simply directed me to undergo a second mental health examination. Passing this one too, I was ordered to attend a third one. This last psychiatric report probably was the most glowing one. It took ages to get hold of a copy and no wonder: Very much in my favour it suggested I should actually leave the workplace, that I was fit to work anywhere *but* in that particular workplace and that my reactions were *entirely normal* in the said circumstances.

Why didn't I lose the plot?

#### **Handy tips to prevent loss of sanity and direction whilst involved in a grievance process**

- Keep focused on the issue. Remain very, very focused.
- Be single. This is not say that married people or people in long term relationships should not lodge complaints. I have witnessed people with very solid complaints give up after months of

agonised waiting, citing spousal pressure. When it comes to a choice between your partner and fighting the workplace, the vast majority no doubt would choose their relationship.

- Retain your sense of humour. Laugh out loud and laugh a lot.
- Put it in perspective, talk to friends about it but not too much. Make sure it does not overtake your life.
- Get a hobby, become involved in things that require a completely different set of skills. For instance, I wrote and illustrated five children's books during the time of the disputes (all published). It steers your mind away from negativity and can be a very grounding and potentially rewarding exercise.

### **Money Matters**

I have met quite a few people who would like to sue someone, *anyone* in their workplace. However their financial commitments become a liability when faced with either disciplinary actions (with subsequent loss of income), or potential loss of a law suit, loss of their house, etc. Understandably, this fear overrides any potential thought of wanting to lodge a complaint.

Again I was in quite a fortunate position. I was only renting, drove a very old car and had very little money in the bank. Worse case scenario: Declare myself bankrupt. Could I live with that? Yes. Did I want to give the money matter a lot of thought? No. Maybe just as well, because read what followed.

During my absence from the workplace, Income Protection refused to pay what they owed me. With all three psychiatric reports in my favour and as a consequence of Q Super's refusal to pay me Income Protection, the Industrial Relations Court in Melbourne (Superannuation Complaints Tribunal) settled my complaints against my employers more than two years after the initial lodgment for Income Protection payments.

This was a particular tedious part of my litigious history. It dragged out for years, appeal after appeal. One day, during mediation, Q Super legal representatives challenged my lawyers to take it to highest court. They said we had no chance, no case, nothing. We were thrown by their arrogance and rather than backing off, we decided to indeed take it to the highest level. Throughout this mediation we behaved very reasonably. We even offered to settle for considerably less, but Q Super representatives blatantly refused to cooperate. In fact, they were bordering on rudeness.

I truly treasure this final court document. Not only because it was in my favour, had pretty stamps on it and I had to wait for this payment for more than two years, but more so because the rationale for paying me was outlined so neatly. For good measure, in addition to my asking amount, Q Super

was made to pay interest for the entire period of my claim. Even an outsider would wonder why I had not been paid in the first place!

### **What helped me during this fight for income?**

- Perhaps I should say: *Who* helped me. Definitely a dedicated team of community spirited lawyers. In my book they are true human rights activists and very pleasant people to work with. They simply did not give up and supported me all the way through. The best thing: They were free! (I had no source of income after all and thus I was eligible to access their services at no cost.)
- Some union activists. I am very careful here (more about that later) because the union as such was not much of a help. Rather, individual unionists provided great support and humour. It is clear to me that their support was based on their own belief systems, rather than on union expectations.
- A great network of supportive friends and family.
- My own ability to let it go (Buddhism again), to allow the case to take its natural course. (I of course had no idea that it would actually take close to three years from initial lodgment to settlement time, or I might not have been so 'easy going'!)
- My inherent optimism, stamina and resilience.
- My bank manager. I just about maxed out my credit card whilst waiting for this payout. (As I said: The optimist. I never doubted I would be successful in receiving what was due to me and I spent accordingly). The bank simply increased my credit (I know lots of people loathe credit cards, but to me they have been a life saver on more than one occasion!).

### **Private litigation**

As illustrated, my workplace did everything they could do discredit me. At the height of my various disputes, defamatory letters were sent to newspapers, placing me in a very negative light and making me probably the most controversial criminologist ever to set foot on this planet. The departmental writing of letters - subsequently published - was not only a very unusual course of action, but very dumb as well. To me it was an open invitation for litigation; I did not hesitate and engaged the services of a private lawyer.

That too was settled but only when it became clear that I was prepared to take the matter to the District Court. Because such high profile people were involved in this litigation, and for fear of losing credibility, the union stepped back. No, they did not step back. They leaped back as far and as fast as they could. Little they did they know that thanks to my friendly bank manager I used my

second almost maxed out credit card and approached a private lawyer who subsequently settled the case for me.

Yes, let's discuss the union involvement or lack thereof.

### **The Union**

From the onset, I had tremendous union support. When case after case was settled, the union was very happy to assist. However when the going went tough, the union back flipped. It no longer was their 'bread and butter' and there no longer was a certainty in victory. When the defamatory letters were written to the newspapers and I needed the union most, they were nowhere to be found. I did still receive support from individual members, but I was the one who took the risks; I paid the lawyers and I prepared the paperwork. Then, after this case was settled in my favour, the union quickly turned around and tried to claim *my* victory as a *union* victory .... Perhaps you can imagine how that made me feel. Buddhist detachments aside, I did write a letter to the union, stored in my files under the heading: Yellow Dog doc. Which says it all.

I never received a reply. I resigned from the union.

### **Agreement**

When all this happened I was still technically employed by this dysfunctional department, although I had not attended my workplace for more than two years. I did ask for a transfer but it seemed there were no positions anywhere to be found. Armed with documented proof which stated the opposite, I again had to put in a complaint based on discriminatory treatment. This was duly accepted and a part of the settlement was a letter of recommendation for future employment. This worked well, and almost three years after my initial workplace complaints I finally found myself in the position to resign. (In case you wonder: My resignation was accepted!)

(I am including this section about agreements because quite a few people have since told me that they are worried about future employment opportunities should they lodge a complaint. So, it is always very good to make sure you will get a good reference and one of the surest avenues to achieve this is a legal agreement).

### **More points to consider before lodging a grievance**

- Do not lodge a grievance when you are angry. Anger, although understandable, reflects poorly in your paperwork. Rather, calm down and then reconsider.
- Don't be vindictive. Work with justice, not with revenge or bitterness. It is bad for the soul and will not achieve a desired outcome.

- Be aware that government bureaucrats are adept at sidelining any news that they do not welcome, they will certainly want to use their own "independent" investigator, and if they were unable to control the outcome of the investigation, any new report would undoubtedly receive the desired results. For them. Not for you.
- Following the remark above, I recommend you take your complaints outside your workplace. Don't bother with internal processes. After all, if your workplace is toxic, why should their own investigative officers be any different? Go straight to outside lawyers. It not only saves time and stress, but results are usually delivered in a much more timely fashion than internal processes. In addition, taking your complaint away from the workplace is an unexpected move and does not allow your opponents much of a chance to get their papers *and* their stories straight.
- Don't assume that you have a good case. You simply may not have.
- Even if you *do* have a good case, you need to be prepared to drop up to 70% of it. Particularly if your case consists of a large number of issues. You need to remember that your credibility is at stake. If you have a huge amount of paperwork, chances are a large part will not be considered by either lawyers or investigators. A large amount of paperwork also increases the chance of being less credible. Example: I once had a colleague who had a voluminous amount of paperwork, dating back years and involving numerous workplace complaints. I handed him one single very well documented complaint, endorsed by a lawyer. Instead of using this particular complaint, he decided to add it to his already enormous list of complaints. Needless to say, this one solid complaint with documented proof became lost in the triviality of his many complaints. His credibility was gone and no action was taken. So be careful. Aim for quality, not quantity.

### **What could happen**

Some say: Prepare for the unexpected. I say: Be open to the unexpected. When you are open you have less chance of becoming paranoid. Paranoia is just not good.

One day, my home telephone rang. Not many people have my number and it is not registered in my name. In no uncertain terms, the person on the other end of the line issued a death threat. This incident was duly recorded by police. They asked me about any known enemies. I didn't know where to start! The timing of the death threat was exactly one week before my final showdown in the Industrial Relations Court. I put it down as a coincidence. It simply feels so much better than paranoia.

Evidently, whoever issued the threat didn't follow through. I'm still here. Police file is still open.



## **SUMMARY**

I'll never give up fighting for justice. It is an integral part of who I am. When necessary, I will put the Queensland State Government and other governments on notice that they can't simply cover up every small bit of truth about the government's performance that manages to get past their hyper-vigilant "risk management" apparatus.

I feel very, very good about my litigious actions, but I am sad it *had* to happen because it is evidence of highly dysfunctional workplaces. I am so happy I stuck to my principles and never lost sight of the big picture.

I believe in justice. The road to justice may not be an easy one, nevertheless justice is there. You just need to believe it.

## **CONCLUDING REMARKS**

What happened to the dysfunctional colleagues? The ones that acted out of revenge, spitefulness and those who did not think twice about telling lies? It has been awhile, but at least three 'baddies' did not get the positions they so desired. At least one 'baddie' received an involuntary transfer and yet another 'baddie' was demoted. Some might say that due to my efforts, they have learnt to cover up much more efficiently. I say I *did* make a difference.

Occasionally I encounter former colleagues. I always smile pleasantly but they either do not see me or they choose to ignore me.

So, they don't greet me. That does not impact in the least on my general happy persona.

Tis their loss.

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