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Employers push to force bullying victims to suffer longer

An employer push to stop the Fair Work Commission (FWC) from considering bullying claims that occurred before the new laws came into effect demonstrates heartless disregard for workers and lets employers off the hook, said unions.

ACTU Assistant Secretary Michael Borowick said the new laws – which came into effect on January 1, 2014 – meant a worker could now lodge an application with the FWC seeking an order that bullying stop. Fair Work has to start to deal with an application within two weeks of an application being lodged.

“It’s in everyone’s interest to stop stressful, damaging and sometimes deadly workplace bullying as soon as possible,” he said.

“However what employers are now pushing for would mean that bullying victims would need to endure months more abuse.”

“A worker would need to continue to be bullied for some time into the new year before they could try and prove the behaviour is repeated and ongoing and seek the assistance of the FWC to have it stopped.

“Bullying creates a risk to health and safety and should not be tolerated.”

“Employers want to white wash any incident which occurred prior to the new laws so that even if the incidents have been going on for months, they would not be admissible as proof that urgent action is needed.”

“What unions will be pushing for is that if a worker has experienced bullying at least once since the new laws came into play and there is a risk that it will continue, then previous incidents should be admissible simply to demonstrate that this is ongoing, damaging behaviour and the FWC needs to order it to stop.”

Mr Borowick said the only benefit of whitewashing illegal previous incidents of bullying was to let employers off the hook.

“Any employer who oversees a workplace where bullying is occurring already has a responsibility to do all they can to make that workplace safe. They have had this responsibility under existing Work Health and Safety laws, independent of the Fair work Act,” he said.

“This would have the opposite affect by prolonging the issue and ignoring all the previous incidents.”

“Employers claim that the bullying laws would have retrospective operation if bullying that occurred last year were able to be taken into account by the FWC,” Mr Borowick said.

“That’s simply not true. The laws do not have retrospective operation and are intended to make bullying behaviour stop as soon as possible. Anything that gets in the way of this outcome is unacceptable.”

“The new bullying laws contain appropriate checks and balances that empower the FWC to dismiss vexatious claims.”

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