



Brodie's Law

By: Sean Gleeson

A tragic harassment case in Victoria has highlighted the need for HR professionals to remain vigilant on the matter of workplace bullying.

In September 2006, 19 year-old Brodie Panlock threw herself off the top of a multi-storey car park in the inner-eastern Melbourne suburb of Hawthorn, around the corner from the cafe where she had worked for the past 18 months. She succumbed to her injuries in hospital three days later. Speaking to the ABC last year, Brodie's mother Rae remembered her as "my little ray of sunshine, a very compassionate, loving kid and a very pretty girl."

There are currently 2000 estimated deaths from self-harm each year, with suicide second only to motor vehicle accidents as the leading cause of death for people aged between 16 and 25. Legal restrictions on the media's reporting of suicides, while necessary from a privacy perspective, mean that the context and motivations behind these heartbreaking deaths are rarely canvassed in public.

Brodie's tragic end might have gone similarly unremarked were it not for a 2007 Coronial inquest held into her final months, which exposed the traumatising and relentless bullying she suffered while working at Hawthorn's trendy Cafe Vamp. Details of the inquest have been made public in a subsequent workplace harassment case brought against members of the cafe's staff in the Melbourne Magistrates Court.

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Soon after being hired at Cafe Vamp, Panlock entered a brief sexual relationship with front-of-house manager Nick Smallwood. Despite this intimacy, Panlock was soon subject to increasingly regular humiliation and ridicule by Smallwood, as well as fellow waiter Rhys MacAlpine and chef Gabriel Toomey.

Coroner Peter White said that Panlock's "low self-esteem, age and inexperience" made her emotionally vulnerable. According to a former workmate's testimony at the inquest, Panlock tolerated this harassment because she yearned for acceptance, and she believed that a more serious romantic relationship with Smallwood would eventuate despite these abuses.

Over time the harassment of Panlock increased in severity, and the inquest's reports of the physical and emotional abuse she suffered are utterly harrowing. Smallwood, MacAlpine and Toomey regularly made derogatory comments about Brodie's appearance and intelligence. She was spat on while working. On several occasions she was held down in the kitchen while



fish oil or chocolate sauce was poured over her. After Smallwood found out about an earlier suicide attempt, she was given rat poison and told to “do it properly”.

Most disturbing was the utter indifference shown by Marc Luis Da Cruz, the owner of Cafe Vamp. Evidence presented to the Coroner states that Da Cruz told Smallwood to keep the harassment of Panlock “out the back” in order to hide it from the cafe’s customers, and seemed to find Smallwood’s suicide jibes amusing.

Speaking outside the Magistrates Court last year, WorkSafe Victoria’s Stan Krpan told the media: “The offending in this case was of the most serious nature, the most serious category of offending. The culpability was high. The culture at this workplace was vicious and it wasn’t acceptable.”

Legislative Change in Victoria

After the Coronial inquest, Da Cruz, Smallwood, Toomey and MacAlpine were prosecuted under the Occupational Health and Safety Act. The individuals were fined a total of \$115,000 for their culpability in Panlock’s death, and \$210,000 was levied against Cafe Vamp’s holding company.

Brodie’s parents were rueful outside of court. Addressing the media outside the court, Rae Panlock said that as far as she was concerned, her daughter’s tormentors deserved to go to jail.

The OH&S Act did not carry the possibility of jail terms for perpetrators of workplace harassment. Accordingly, in April of this year, the Victorian Government legislated to make serious cases of workplace bullying subject to the stalking provisions of the Crimes Act, and thus make perpetrators subject to possible imprisonment if found guilty.

Panlock’s family were consulted by the Victorian Government for the legislative changes, which were so closely identified with the Cafe Vamp case that they were dubbed “Brodie’s Law” by the media. Highlighting the importance of public interest in the Panlock case for the legislative reform, Attorney-General Robert Clark told the media that Victorians were “entitled to be confident” that children would not fall prey to bullying when starting out in the workforce.

Workplace Bullying and HR Obligations

What lessons are to be learned from Brodie Panlock’s death?

It goes without saying that bullying is a major challenge for HR professionals in workplaces across the country. The HR consultancy Drake International recently surveyed 800 Australian employees and found:



- One in four employees had experienced workplace bullying, while 50 percent of those surveyed had witnessed bullying in the workplace;
- 70 percent of victims and 50 percent of witnesses were unhappy with management's response to instances of bullying;
- The most common forms of workplace bullying – silence, sarcasm, isolation and verbal insults – are also the most difficult to detect.

RTW Matters has [previously highlighted](#) the potential consequences of workplace bullying, including:

- Increased risk of cardiovascular, immune, anxiety and stress-related illnesses;
- Psychological injuries delaying return to work and reducing the likelihood of durable return to work;
- Work disruptions due to claims investigations and the potential for costly compensation claims or legal action.
- Poorer business outcomes, including drops in productivity, higher staff turnover, increased absenteeism, low morale and bad PR.

It remains to be seen whether the Victorian Government's introduction of possible jail terms will be an effective deterrent for workplace bullies. Some commentators, including The Australian's [Helen Trinca](#), have been sceptical about the ability of courts to resolve issues of workplace bullying through the legislative changes.

Certainly, the Panlock case has been the talk of the hospitality sector, where HR practices are often shambolic compared to the rest of the workforce. The Coronial proceedings acknowledged that a lack of formal inductions, combined with a generally young and inexperienced workforce unaware of both their rights and formal grievance procedures, made hospitality employees particularly vulnerable to victimisation.

Nonetheless, it would be wrong to dismiss Panlock's experience as a unique product of the hospitality industry. More than ever, HR professionals need to be mindful of their responsibility to do everything within their power to prevent workplace harassment before it escalates to mediation, a legal dispute or worse.

For more information on combating workplace bullying and harassment, Insight Service Group's director Greg Barton has written a [definitive guide](#) for Return to Work Matters.