**Supporting Working Parents: Pregnancy and Return to Work National Review**

Submissions from women and men who have experienced discrimination at work while pregnant, or while on or on return to work after taking parental leave

**Submission Number 313**

**Part C Submission Response**

DISCRIMINATION AND VICTIMISATION

After returning to work in April 2013, I was subjected to multiple, repeated incidences of discrimination on the grounds of sex, and on the grounds of my responsibilities as a carer to my baby daughter, as well as repeated incidences of bullying, harassment and victimisation. For example:

1. In July 2013, after I made a brief telephone call to my daughter’s daycare in order to check on her I was told by my manager that I was not to make any telephone calls in relation to my daughter from my desk, but to “*go outside*” if I needed to make any such calls. As a result, I was forced to go into the disabled toilet in order to call my daughter’s daycare centre so as to check on her. To my knowledge, no other associate at my employer had been given this directive and I felt very upset and humiliated. After I complained to HR I was told that “*a high number of personal calls in an open plan office can be distracting to other associates*”, and at that time I was also given a personal directive in writing to “*keep these calls to a minimum*”. This statement and directive were made only to me, and this was despite the fact that I had not at any time made a high number of personal calls at work.
2. On 15 July 2013 I was forced to take 1 days of carer’s leave in order to care for my daughter who was sick that day. A few days later I was told by my manager that I should not tell others within the business that the purpose of me taking leave was to care for my sick child, and I was instructed by her to just say that I was not working that day, with no explicit reason offered. My manager also advised me that it would not be viewed favourably by the business that I was on carer’s leave, and that this was the reason behind her issuing that directive. To my knowledge no other associate had been told this or given such a directive. I felt distressed and appalled by the fact that I had to take leave to care for my sick child would be viewed unfavourably by my employer, and accordingly that I was being required to treat it as “a dirty little secret”. I also felt that the implication which I should derive from that directive was that I should not be taking any further time off from work on the basis of carer’s leave as this would not be viewed favourably by my employer.
3. I was pressured repeatedly by my manager to work additional days even though I had made it clear on numerous occasions that I could only work 3 days/week.
4. On 2 August I met with my manager and during that meeting she refused to formalise my part-time employment and flexible working arrangements. My manager also said to me “*it’s clear that you’re not planning on taking on any additional days in the foreseeable future*”.
5. During that same meeting my manager also said to me “*I just keep thinking as well what’s going to happen if you go off and get pregnant again*”. I found this comment deeply offensive and discriminatory, and it made me feel extremely upset, offended, humiliated and hurt.
6. When I subsequently spoke with my manager and tried to explain to her that I was feeling extremely upset after the pregnancy comment, my manager then got very angry at me and she said, “*yes well it was out of turn but to be honest it’s perfectly natural and normal that I would think that*”. I did not believe that this was right and hearing her say this made me feel even more upset.
7. When I complained about my employer’s refusal to formalise my part time and flexible working arrangements, I was also advised by manager that approval of my part time work status and flexible working arrangements would be conditional upon her first obtaining business approval for funding to hire additional staff within the team.
8. Later on 5 August my manager then sent me an email which attached my proposed new employment agreement from my employer and a covering letter dated 5 August 2013 regarding my flexible working arrangements. Notably, the employment contract that had been provided to me was for full-time work, and amongst other things the covering letter stated that:
9. *“****my employer*** *has decided to continue your flexible working arrangements on a* ***temporary basis*** *to enable the trial to continue”.*
10. *“Your flexible work arrangements will be subject to final review by no later than* ***January 2014****. The reasonableness of the work arrangements and its suitability to both yourself and my employer will be reviewed and assessed at that time”.*
11. *“****If at any time your flexible work arrangement is no longer reasonable from my employer’s perspective, it may be varied or terminated*** *following discussion from you”.*
12. *“By no later than* ***January 2014*** *my employer (in consultation with you) will decide if it can support your flexible work arrangement request on an ongoing basis”.*
13. Again I complained about the above. On 8 August I was then advised by my manager that my employer had now decided that it would agree to formalise my part time employment and flexible working arrangements, however only provided that I first agree to comply additional conditions. My manager was fully aware however that I would practically be unable to comply with because of my childcare responsibilities.
14. I was pressured by my employer and their HR to sign the contract with these additional conditions and told on 2 separate occasions that my employment would be terminated if I failed to do so.
15. Following my return from annual leave in September, when I logged onto my computer, the first thing that I noticed was that my manager had not sent or copied me in on any work related emails during my absence, aside from approximately 3-4 emails relating to minor matters which had actually been sent by other associates and which my manager had then responded to. This has never previously occurred during the history of my employment; in fact up until 5 August my manager had always consistently communicated with me via email and copied me in all matters of significance which were dealt with by the legal team. Further, it is clear that during the period of my leave there would have been a significant amount of work undertaken by my team in relation to the a new product which is of great importance to the company, and notably my manager did not include me on any of communications related to this. I felt bullied and upset by this very obvious and deliberate manoeuvre on her part.
16. Also, on 23 September 2013, I received another email from my manager in which she expressly disciplined me for failing to complete (or failing to complete enough of) a task which she had assigned to me that morning. This conduct by her was extremely unreasonable and distressing, and clearly constituted bullying, harassment and victimisation because, as my manager was well aware:
17. I had been expressly informed by HR that the meeting on 23 September had been pushed back to after lunch in order to allow me “*the opportunity to review the contract and cover letter that morning, during business hours*”;
18. I had also had to spend considerable time that morning making arrangements for a support person to be present at the meeting. Further, my employer had failed to even advise me that I was entitled to a support person and it was only through my own inquiries that morning that I became aware of that fact;
19. Since 8 August, I had been subjected to continuous pressure from both my manager and HR to reach a resolution in relation to my employment conditions, and in fact I had been expressed advised by HR that this was a “serious matter” for which urgent action on my part was expected, and that if I did not comply then my employment would be terminated by my employer;
20. The contract documents for the task which my manager had sent through totalled 28 pages (together with several covering emails) and related to a difficult and complex matter which I had never worked on previously. Thus *even if I had been able to work solely on the matter that day* (which I obviously could not), then I still would not have been able to finish reviewing the large number of documents, let alone commence any drafting; and
21. The original instructions on the matter from the business person made it very clear that he was not expecting that the matter would completed by the end of September, and thus it was obviously not necessary that I make any further progress on the matter by the end of that day.
22. My manager’s email was also distressing to me because during the entire history of my working life (which spans over 22 years) I had never previously been disciplined by any employer (including my employer).
23. On 25 September 2013, HR then sent me an email which required me to provide my employer with written evidence from their child’s daycare centre that I had requested a change in her childcare days in order to suit my employer’s preferred days for me to work. I was also told that if I did not provide this then I would have to then provide my employer with the telephone number of my child’s daycare centre in order so that my manager or the HR director could phone the centre directly and request this information.
24. Since 5 August 2013, my manager has barely spoken to me at all, and her demeanour towards me has been extremely cold and unfriendly. My manager has also had minimal contact with me, and she has not called me at all via phone on those days that I work from home. This has made it extremely uncomfortable and difficult to work with my manager and it is a massive change from my manager’s demeanour and treatment of me prior to 5 August - up until that time my manager had always been extremely friendly and we would speak on multiple occasions during the days that I worked from home. I mentioned this to HR in a meeting with her on 9 August 2013, and told her that it has not been pleasant for me to work with my manager as a result. HR acknowledged this and told me that my manager now feels “*very wary*” of me.
25. On 26 September 2013, on the advice of my doctor I was forced to take sick leave from work due to the severe stress and anxiety which I have been suffering on an ongoing basis as a result of this appalling treatment by my employer. After I notified my employer of this fact on 26 September, I subsequently received an email on that same day sent from my manager to my home email address. In that email, my manager stated as follows:

“*[X] denies that you have been targeted, bullied, discriminated or harassed and, given the circumstances, is extremely disappointed that you have made these allegations*”.

1. Notwithstanding this denial, it is clear from the above that I have been continually targeted, bullied, discriminated and harassed since my discussion with my manager on 30 July. As a result I have suffered and am continuing to suffer significant, ongoing stress and anxiety. This has in turn greatly affected my health and wellbeing and accordingly I have been forced to take involuntary sick leave from work. I am also feeling extremely hurt and appalled at this treatment, especially given that I am a long time, loyal employee of my employer with an exemplary work history, and also given that my employer is aware that I am a first time mother with a high needs child.