

MANAGEMENT ... OR BULLYING?

Performance managing a lecturer after complaints about her teaching and her relationship with colleagues led to her making allegations about bullying. Paul Robertson takes a look at what went wrong.



A RECENT DECISION OF THE Employment Relations Authority emphasises that dealing with poor performance can lead to allegations of bullying.

Dr Inglis joined Massey University in 2006. Almost immediately there were complaints about her teaching from students and in relation to her relationship with her colleagues.

Managing performance

It fell to her head of department (HOD) to manage this perceived performance problem. The head of department found it very difficult to deal with Dr Inglis and took this as evidence of her unwillingness to take responsibility for the complaints about her teaching.

For her part, Dr Inglis complained that her HOD applied standards to her that were not applied to other academic staff, made unreasonable demands on her and was personally threatening and abusive causing Dr Inglis

to "fear for [her] personal safety".

The battle lines were drawn over Dr Inglis' performance review and planning (PRP). She adopted some of the recommendations in the PRP made by her HOD, but not others.

Over 2006 and 2007, Dr Inglis received nuisance telephone calls in her office. She accused her HOD of making those calls. Dr Inglis was also upset about comments made by her HOD about her fondness for working late at night.

Finally, Dr Inglis lodged a complaint alleging that she had been bullied. An investigator was appointed and there was a lengthy meeting where the allegations were aired.

The HOD refused, on advice, to participate in the investigation, indicating only that her exchanges with Dr Inglis were about performance management.

The investigator reported that he had been unable to reach any view in respect of the allegations

of bullying. Dr Inglis left the university in 2008 and raised a personal grievance.

Was there bullying?

The ERA reviewed all the allegations of bullying. The specific allegations were found to be unfounded. For instance, the HOD's concerns about Dr Inglis working late were found to be appropriate. The HOD was trying to protect the health and safety of her staff and thought that having a senior faculty member working alone late, on a relatively deserted university campus, was potentially unsafe.

There was also not a shred of evidence to support the allegation that the HOD had made prank calls. The Authority accepted that there had been a series of complaints about Dr Inglis and that the university had taken appropriate steps to address the serious performance failings of a senior academic.

The investigation was in-

conclusive. The investigator acknowledged that Dr Inglis had a genuine belief that she was being bullied, but that there was no independent corroboration of the alleged bullying behaviour and a categorical denial of that behaviour by the HOD.

The tribunal accepted that it was open to the HOD not to cooperate with the enquiry, and to rely on her blanket denial of any bullying.

The ERA accepted that the HOD had tried diligently to performance manage Dr Inglis, but that a consequence of those continuing efforts was to create in Dr Inglis' mind a belief that she had been bullied.

The investigation was found to be "fair, balance and satisfactory". Dr Inglis' claim failed in its entirety. **et**

Paul Robertson is an associate with Heaney & Co in Auckland.

HEANEY & CO
BARRISTERS AND SOLICITORS

SCHOOL TRUSTEE LIABILITY & EMPLOYMENT SPECIALISTS

We are a service organisation dedicated to achieving positive results for all clients.

Contact: Paul Robertson

Phone: (64-9) 3030-100 Fax: (64-9) 3677-009 PO Box: 105391 DX CP18503 Level 17, ANZ Tower, 23-29 Albert Street, Auckland, New Zealand

www.heaneyco.com